

**Review of the Charter of Victim's rights answers to the
detailed paper questions.**

Submitted by

**Fighters against child abuse Australia [FACAA] for the
Office of the Victim's Commission**



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About the author:

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Adam has a Diploma of Community services (Welfare) specializing in child trauma counselling and has worked in the field for the past 13 years since completing his degree. Adam is also a martial arts instructor and has been teaching children how to defend themselves for the past 18 years.

Adam has worked for various community centres, mental health facilities and martial arts schools but currently counsels for FACAA and teaches for KMA martial arts in Liverpool Sydney, one of Australia's premier martial arts schools.

This submission was prepared by Fighters against child abuse
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About Fighters Against Child Abuse Australia

Our mission is to end child abuse once and for all within Australia.

Our vision is to make Australia the only nation on the planet that does not suffer from the scourge of child abuse.

Our guiding principals are to remain completely non-denominational and non-political to achieve our mission of ending child abuse once and for all by whatever means are required (within the laws of the land). If a program does not exist to meet the needs of our clients, then we will make one to meet their needs.

FACAA has been working actively for the past 15 years to end child abuse within Australia. We are currently running a survivor's healing programs, educational and legal reform programs, domestic violence programs, anti bullying programs and a social media awareness campaign which has over 250,000 combined followers making it the single most successful social media campaign of its kind in Australia.

FACAA is a national organisation that has full charity status with the ACNC. We have lived experience volunteers working and clients from every part of Australia.



Introduction

In the opinion of Fighters Against Child Abuse Australia the Charter of Victim's rights is one of the most important documents in our legal system.

Currently most victim-survivors of child abuse do not believe that we have a justice system nor is the system there to help them. We at FACAA believe that by emboldening and empowering the Charter of Victim's rights, we can help bring the justice back to our legal system. To collect the responses for these questions we surveyed our social media followers, who total over 250,000 likes and follows. We also asked our court support volunteers, who not only have lived experience themselves but have also attended courts and police interviews with victim-survivors and heard their survival stories and stories of them navigating the legal systems.

We hope our responses can help strengthen the Charter of Victim's rights for the betterment of victim-survivors of not only child abuse but any crimes.



Responses to questions

1. Yes, the needs of victim-survivors and victims' alike are not being met under the current judicial system even slightly. We see stalkers and domestic abusers who make their victim-survivors lives hell, walking away with suspended sentences despite the pain they have inflicted. We see child abusers and groomers walking away from court with no convictions recorded, who go on to re-offend, only to walk away free from court yet again. Perpetrators like Jacob Andrew Woodcock for example, a repeat child grooming offender who walked away from court after not only grooming but actually meeting up with and sexually abusing an underage girl, once again walking away from court a free man.

I could be here all day giving you literally dozens of examples of cases like Woodcock's where the judicial system has horrendously let down victim-survivors, however this will serve no purpose. The point is, that the system itself lets down victim-survivors who are brave enough to come forward and face the re-traumatisation of a court process, only to watch as the person who perpetrated against them walks free from court.

Victim-survivors need to feel a sense of justice, or at the very least have a sense that the justice system will protect them. The current system does not do this, with most victim-survivors that we speak to refusing to even use the word justice system. Instead preferring "legal system" over any suggestion of a system that delivers justice.

The charter of victim's rights needs to include a specific section regarding a victim-survivors rights to getting the justice they deserve and to seeing their perpetrators get a decent sentence,

not only for them, but also to see the crimes that occurred against them be used as a deterrent against future crimes. These should be main pillars of the victim's rights charter and they need to be enshrined into the key wording of the charter itself. However, when you read the charter, there is currently no mention of a victim-survivor deserving justice at all. This is wrong and needs to be rectified.

2. No, they need to go further. Most people we talk to about sentencing and the administration of justice in any state of Australia, QLD included, tell us how disillusioned they are with the sentences being handed down. We have talked to dozens of victim-survivors from QLD who have spoken of the unfairness and duality of the sentencing of their abusers. For example, one victim-survivor spoke of their abuser receiving a wholly suspended sentence, while in the next case to appear before the court someone caught with multiple train ticket infringements was sentenced to 4 months in prison, with a minimum sentence of 12 weeks. Yes, the second sentence was quite mild compared to much larger crimes, but one was for the grotesque and life changing rape and abuse of a child, and received zero prison time, and one was for the victimless crime of not paying for a train ticket.

The concept of justice through appropriate sentencing needs to be enshrined and empowered in the charter of victim's rights. Without these ingrained protections for victim-survivors to receive justice for the crimes perpetrated against them, the victim's rights charter is not fit for purpose.

3. We at FACAA believe that a more “plain English” approach should be taken to the language used, making it more accessible and inclusive of those in the community. For example -The phrase “affected victims” is rather ambiguous and unclear to someone without a background in social work. Perhaps an amendment explaining clearly in plain English exactly who qualifies as an “affected victim” would help clarify.

4. While we at FACAA do not believe The Charter of Victim’s Rights should be expanded to include other crimes, we do believe the definition of violent crime should be expanded to include all crimes of a sexual nature. By this we mean any crimes of CSAM and CEM, “revenge porn” and deep fake pornography. Also, those neglected or emotionally abused need to be included under the violent crimes umbrella. The reason for these additions is often the judicial system sees the victim-survivors of digital crimes as not being as affected as those who were physically abused. Currently in QLD Prisons, sexual abusers are being released early due to “overcrowding”. It is abhorrent to FACAA that anyone charged with a sexual offence is considered non-violent. We believe that this classification should be changed and anyone committing any sexual crime should be immediately classed as a violent criminal. This would help empower the charter of victim’s rights by significantly fortifying the number of victim-survivors affected by the charter.

5. Absolutely yes, why is this even a question?

6. We at FACAA believe Yes, as the word dependants we believe, is encompassing enough to include different cultural background definitions of family.

7. No, as no crimes affect just one person, especially not violent or sexual crimes.

8. No, we at FACAA believe the inclusion of NGOs receiving government funding sends a powerful message that all victim-survivors deserve correct treatment even if they can't directly access assistance from government agencies.

9. While we at FACAA believe all definitions could be clearer and less jargon filled, in this case we can't see how it could be cleared up.

10. FACAA believe that anyone who could potentially work with victim-survivors of crime should be encompassed under the Charter of Victim's Rights. We also believe that should an organisation work with victim-survivors of crimes covered by the Charter of Victim's rights they should also undertake and implement trauma informed training.

11. Yes, we would like to see the definition expanded to any organisation that receives referrals from government agencies and not just funding as several NGOs (such as FACAA) receive regular referrals from government agencies yet receive no funding to assist these referrals. These agencies need to be governed by the charter of victim's rights to protect the people being referred.

12. No, that language needs to be much clearer. Perhaps an example might help?

13. Good question, this made very little sense to us at FACAA and was rather ambiguous. It appears to read that anytime someone has any interaction with a victim-survivor. Perhaps it should be clarified to "in a professional space? "

14. While the words "*treated with courtesy, compassion, dignity and respect, taking into account a victim's needs*"

are written into the charter of victim's rights. It is often not adhered to and cannot be policed. We at FACAA have dealt with other NGOs who were quite dismissive. Even some "awareness" campaigns have appeared dismissive of victim-survivors and in popular news articles. Both are incredibly damaging to victim-survivors of child abuse or any crime for that matter and directly circumvent the charter of victim's rights.

15. YES !!! Far too often we receive complaints from clients about their personal information being shared with other agencies without permission, or even other clients. The excuse always used is “administrative error” which while we do acknowledge this happens occasionally, some agencies such as Centrelink, are repeat offenders who face no consequences for these “errors”. Law firms dealing with victim-survivor compensation claims often send details of claims to other clients, or other law firms, and state “administrative error” in doing so, and once again face no consequences for these mistakes. What these organisations don’t realise is the lasting trauma of having their status as victim-survivors revealed to those that simply should not know.

16. We at FACAA believe that it is an easy fix for the information about services and remedies to be strengthened, simply have designated information officers assigned to cases that request a review empowered by a mandate to ensure that client is getting the maximum services they are entitled to be receiving. This could also serve to save the government money by possibly finding clients who are on services they are not entitled to be on. This service already exists but the information officers use the lens of looking for clients on services they are not entitled to, rather than finding other services the clients could potentially access.

17. As soon as possible and practical

18. Yes, prioritise any services that directly deal with the client's needs and wants followed by government services then funded by government services second in order of funding provided then finally volunteer run services.
19. We at FACAA believe that anyone dealing with victim survivors of crimes covered by the charter of victim's rights should all be held to the charter without exception. In the case of witness services and services where the security of the client may be at risk control needs to be given to the client when it comes to privacy and sharing of information. All this of course is superseded by the crimes act and if a crime is being committed or is of risk of being committed then whatever is needed to ensure client safety needs to be prioritised (ie forgoing of clients wishes not to share information regarding their victim-survivor status)
20. YES ! in particular who made decisions and why, when a case is closed or filed due to "lack of sufficient evidence" even after a victim-survivor has bravely given a statement, the often the only form of explanation given is "administrative decision" often accompanied by "backed up by". This is not an explanation nor is it a reason to a victim-survivor who has overcome their fear and trauma to give a detailed explanation of the very cause of their trauma. Victim-survivors have a right to be heard and feel like the justice system is in their favour (despite the fact that most victim-survivors agree that it simply is not) and given the excuse of "operational reasons" is a direct slap in the face. When Centrelink make a decision regarding payments they do so with an explanation and an appeals process, this same courtesy and respect is not granted to

victim-survivors by our legal system. We believe that giving victim-survivors an legally trained (to save costs this advocate should be legally trained NOT a lawyer and having lived experience would also be a huge advantage where feasible) advocate which is enshrined in the charter of victim's rights will greatly improve not only the victim-survivors experience with the legal system but also increase the conviction rates of child abusers (which currently stands woefully low, for every 1000 cases who come forward 100 will be charged and of those 6 will be convicted, of those 6 3 will successfully appeal.) This conviction rate is a national shame and needs to be directly addressed in the charter of victim's rights.

21. Absolutely YES ! please see response to question 20 as this combined with the legally trained advocate would greatly increase victim-survivors agency over the charges and also allow their voices to be better heard. If they had the right to affect if a charge was about to be dropped or not, then there is no doubt in our minds at FACAA fewer charges would be dropped leading to a better conviction rate (as sighted above).
22. Yes, we believe any and all decisions pertaining to their cases with emphasis on if charges are being dropped and why. Also see previous to answers regarding victim-survivor agency.
23. YES ! currently FACAA are involved with a court case where the accused abuser is legally able to sue his alleged victim-survivor for defamation despite the case not

being closed but rather filed pending more information. We have had several legal experts look it over and they all agree while it is not in the spirit of the law it is sadly entirely legal. The alleged abuser has dragged his victim-survivor and several people who dared to try and help support her through the district court in QLD for 6 years costing her tens of thousands of dollars that she does not have. How is this legal loophole still available to alleged perpetrators. This loophole makes an absolute mockery of the public having any faith in our legal system. The worst part is this is not the first case we have heard of this happening, in fact it is becoming an all-too-common occurrence putting victim-survivors through more living hell than they have already had to endure at the hands of these perpetrators (allegedly).

24. Currently character reference seems to hold more weight in QLD courts than a victim impact statement. This is the exact opposite of the way it should be. FACA have sat in QLD courts and heard harrowing victim impact statements read out to see the judges appear to be hearing a shopping list, yet those same judges perk up when they realise the character references presented were “quite glowing”. It shouldn’t matter what nice things people say about a criminal under the charter of victim’s rights, once they are convicted, they simply are not a person of good character. The victim’s impact statement needs to be heard and understood by all in court including the accused. It needs to possess the power to add more time to the convict’s sentence and should lead to a recommendation of compensation to the victim-survivor as set by the judge. These rights could easily be enshrined in the Charter of Victim’s rights.

25. When it comes to the return of property owned by the victim-survivors absolutely it needs to be much faster as they did nothing wrong and to lose property as well as suffer the trauma associated with the crime they absolutely need to get their property back in a speedy manner. In the case of disputed property, the judge should air on the side of the victim-survivor as once again they did nothing wrong so why should they lose property ?
26. Yes ! as with most government decisions an appeals and complaints process is enshrined in every process and decision. As with number 20 the example of Centrelink Is appropriate in this case. Sadly, our legal system (in particular judges) has zero accountability so therefore a complaints process goes literally nowhere. This is absolutely wrong and every decision maker including judges should answer to someone in order for victim-survivors to have actual agency and some faith in our legal system.
27. While victim-survivors who commit crimes always fall under a category that should have a level of compassion due to their circumstances, we at FACAA believe that any victim-survivors who go on to offend in later life and land under the victim's rights charter should not be granted such compassion. This is due to hundreds of interviews conducted with victim-survivors of child abuse who all say the same thing "No way would I ever inflict this pain upon my worst enemy".

28. YES ! the NSW charter has a “complaints against the charter of victim’s rights update at all interagency meetings provided by Victim’s services. I am unsure as to why the QLD Charter of Victim’s rights does not have the same mechanisms.
29. YES ! we at FACAA have seen repeatedly the defence for alleged child abusers claim that their client “has a right to a speedy trial without delay” when trying to have a victim-survivors victim impact statement hurried or in the case of the witness intermediary program just taking too long. Why then is the accused allowed to delay cases again and again in some cases (often a tactic utilised by the Catholic church to avoid paying adequate victim’s compensation) causing delays to wait out the life expectancy of the accused, thus avoiding trial and justice all together. It should be enshrined in the victim’s rights charter that those protected by the charter should absolutely not fall victim to these tactics as those under the charter should be classed as special victim-survivors due to the traumatising nature of the crimes they have endured, and every effort should be made by the legal system to not re-traumatise them.
30. Of course, why is this even a question. Automatic protections such as non-contact orders (that don’t name the victim-survivor’s location overtly or inadvertently) need to be enshrined into the charter of victim’s rights as a standard. Victim-survivors also need legal protections such as listen in response number 23. Perpetrators should not have the right to sue their victim-survivors for defamation for merely speaking out about their abuse. Defamation

cases costs tens of thousands of dollars to defend even if the defence is truth and can be proven.

31. Once again one would think this provision would have been standard since the inception of the charter of victim's rights and can easily be achieved by giving victim-survivors a legally trained advocate so they not only understand every step of the legal process and also be understood by those in power as victim-survivors often tell us at FACAA that they were not understood clearly due to the legal system quote "speaking an entirely different language" .
32. Answer as above
33. Yes , if possible, victim-survivors should have their agency over the legal process increased by being able to simply select the gender of the person they are revealing their greatest trauma to. It is an easily achievable yet incredibly powerful gesture for victim-survivors.
34. Yes , as with previous questions we are unsure as to why this wasn't enshrined in the original charter of victim's rights. Victim survivors should not be out of pocket seeking the justice they deserve. This should include but not be limited to being refunded for all travel costs, time off work, lost income and any other out of pocket costs they may incur. To protect the system receipts should be provided.

35. We at FACAA feel the charter for victim's rights is not an appropriate place to deal with adverse employment actions. We believe this should be enshrined in the anti-discrimination and unfair dismissal acts.
36. Yes, but why stop there ? why shouldn't the Charter of Victim's rights not include a standard for victims of crime compensation paid by the perpetrator and not the state which includes access to the perpetrator's superannuation fund (under the super for survivor's campaign currently aiming to change access to superannuation funds for victims of crime covered by the Charter of Victim's rights)
37. We at FACAA believe that the Charter of Victim's rights should include an ability to bias the ODPP into an appeal if a sentence is deemed inadequate by the victim-survivor. Far too often we see particularly child sex offenders walk away with wholly suspended sentences and despite pleas from the family and the victim-survivors themselves and vast public outrage, there is no mechanism to help compel the ODPP to launch an appeal against the inadequate sentence. Leaving the victim-survivors and their families feeling a deep sense of injustice which can be very re-traumatizing and the general public losing even more faith in our judicial system.

38. YES !!!!! Absolutely YES !!!! – Police decisions to file cases or to label victim-survivors as “coached” completely destroy any hope of that victim-survivor receiving any justice for the crimes committed against them. These decisions are rarely if ever explained as the investigative officers just label them as “operational decisions” and point to being overworked and not having enough time to revisit filed cases. We have seen civil suits fall apart by these decisions to file cases or to label victim-survivors who have bravely come forward to seek justice as nothing more than “money hungry” or “coached”. This is insane and flies directly in the face of known facts such as the fact that children are telling the truth 98.5 % of the time (Some secrets should never be kept – Jayneen Sanders)

39. Yes as per 37

40. Yes as per 36 and 38

41. No, we at FACAA have had clients go through “restorative justice” and they were left with a feeling that the entire process was all about the perpetrator. About their rehabilitation (sorry but child abusers cannot be rehabilitated) about their guilty and their shame being alleviated. We at FACAA stand firmly against restorative justice as it is not about the victim-survivors it is entirely about the perpetrator and helping them but leaves the victim-survivors with feelings of more alienation more trauma by the system that is supposedly set up to help them.

42. The Charter of victim's rights as previously stated should be the governing document for any and all organizations that deal with victim-survivors. It should be a guideline on how to deal directly or indirectly with victim-survivors. It should not be needed but sadly it is. It should include principles of general compassion and trauma informed practices.
43. Yes, the charter needs to be a living document that keeps up with the latest technologies such as deep fakes, AI fake child abuse images and videos and so forth.
44. As per 28 the QLD Charter needs a "complaints made against the charter" listing to be kept in order to accurately work out if the charter is practical and fit for purpose.
45. As per 44 and 28
46. No, FACAA do not handle international cases as we are already overloaded with domestic cases.

47. We at FACAA believe that if the charter is enshrined with the powers we have suggested then there should be no reason why it shouldn't sit above legislative framework.
48. If those matters are dealing with victims of crime covered by the Charter of Victim's rights then in our opinion at FACAA the charter should supersede the mental health act. When NSW did an inquiry into the dealings with forensic patients, FACAA were heavily involved in ensuring that the rights of victim-survivors were not forgotten including having the dismissal of charges called guilty but not responsible for rather than not guilty. A small gesture by the judicial system but a powerful statement in a victim-survivor's healing.
49. As per 48, no criminal should ever be found "not guilty by reason of mental health or defect" They committed the crime they should be found guilty but not responsible due to mental health issues.
50. As long as the rights of victim-survivors are protected and placed above the rights of perpetrators there should be no conflicts.

51. As long as the definition of sexuality is never expanded to include paedophilia, then we can not foresee any adverse interactions.
52. Agency and control of information are key factors that keep coming up for victim-survivors that FACAA work with. Both the right to protect information from other agencies and the right to have information freely provided to agencies and organizations must be protected and the key decision maker in both cases must be the victim-survivor. We at FACAA don't see a problem with the two acts and the charter of victim's rights but we do see potential issues arising between the interactions of the Information Privacy Act 2009 and Right to Information Act 2009.
53. Corruption in the judicial system is one of the most polarising issues we at FACAA face. We want to tell people that it's rare and then officers like Rodger Rodgersson get headlines long after their death. So protection from corruption in the system is tantamount to victim-survivors. However when practically implemented the charter of victim's rights often leads to judicial officers (police, ODPP) feeling frustrated like the victim-survivors have too much power in their decision making. We at FACAA believe nothing could be further from the truth and we would like to see more control given to victim-survivors as with 33 and 37 .

54. Absolutely yes, however there is a very easy fix. Currently there is a juggling act between the rights of victim-survivors and their families to receive adequate justice and the rights of perpetrators. Currently the balance of power seems to have swung to the perpetrators as they have a right of appeal and for some reason this seems to be all judges fear. Simply put enshrine the Charter of Victim's rights to be held in regard above the Victim's of crime assistance act and there should be no more conflicts. Judges need to hold the rights of victim-survivors above all in our justice system otherwise it simply cant be called a justice system. Enshrining the Charter of Victim's rights above all should solve this issue.

55. YES, simply put sentencing does not adequately address suffered by victim-survivors such as vulnerability in the victim-survivors. Despite the penalties and sentencing act specifically stating that defencelessness and vulnerability of children should be taken into account , it is simply not happening. If the charter of victim's rights could be enshrined with the power to ensure this happens as a matter of mandated not just recommendation to judges, then perhaps this conflict could be sorted.

56. YES but as suggested in 20 a legal advocate assigned to the victim-survivors or their non offending family members enshrined in the Charter of Victim's rights would solve a lot of these issues. The number one issue we see at FACAA arising from the corrective services act is the fact that corrective services rarely inform victim-survivors of changes to the status of or parole opportunities for their perpetrators. A legal advocate would fight for these rights to be upheld and ensure that at all times victim-survivors

and their non offending family members will be empowered with this information, should they wish to be,

57. YES, however for this question we do not have a response as we at FACAA are torn between the rights of victim-survivors to see adequate sentences and have the rights to name their offenders and of course the rights of children to receive age appropriate sentences and be granted anonymity so their crimes as children do not haunt them into adulthood.
58. These two legislations seem to interact quite well with each other, we at FACAA have seen a couple of issues arising from the differing interpretations of the word harm. If the definition of this word could be clearer defined and standardized, it would help remove various clashes of legislation not just in this case but others.



Conclusion

FACAA Applaud the review of the Charter of Victim's rights and hope our responses on behalf of our followers and members will help strengthen the Charter and help bring back the justice in our legal system.

We would like to thank Office of the Victim's commissioner for allowing us to submit this review and would welcome any questions or queries regarding our submission. Should you like a member of FACAA to attend a face to face interview regarding our submission we would be more than happy to facilitate this.

My phone number is [REDACTED] and my personal email address is [REDACTED] or [REDACTED]

Thank you again for you allowing us to make this submission on behalf of our followers and members but mostly our clients, the victim-survivors we are lucky enough to be able to help.



References

Direct interviews, emails and phone calls with FACAA members, clients and our Jamie's guardians court support program volunteers who have endured court cases in the family court system recently. We spoke to our clients and heard about their experiences with the legal system and any potholes and pitfalls they wanted us to know about.

Amazon.com links to Jayneen Sanders books Some secrets should never be kept and Body Safety education.

A very big thank you and reference needs to go to the volunteers of the FACAA social media awareness campaign. [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Without whom this submission would have never occurred.