

17 October 2025

Sarah Kay
Acting Victims' Commissioner
Office of the Victims' Commissioner

By email: vcpolicy@victimscommissioner.qld.gov.au

Dear Acting Commissioner Kay

Review of the Charter of Victims' Rights

The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission in relation to the *Review of the Queensland Charter of Victims' Rights: Detailed Paper (Consultation paper)*.

OIC notes the *Charter of Victims' Rights (Victims' Charter)*, set out in the *Victims' Commissioner and Sexual Violence Review Board Act 2024 (Act)*, governs the conduct of prescribed persons in dealing with affected victims. A prescribed person is defined as a government entity, a non-government entity or an officer, member or employee of such an entity.¹

OIC's comments respond to the questions relating to the preambular and introductory language, definition of 'government entity', personal information of victims and interactions with other legislative frameworks.

About the OIC

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Information Privacy Act 2009 (IP Act)* and *Right to Information Act 2009 (RTI Act)*.

The RTI Act promotes openness, accountability and transparency by facilitating greater access to government-held information. It supports the administrative release of government-held information as a matter of course. Formal applications for government-held information under the RTI Act should be made as a last resort only.

The IP Act provides safeguards for the handling of personal information in the public sector environment. It sets out the Queensland Privacy Principles (**QPPs**) which govern the collection, management, use and disclosure of personal information by Queensland public sector agencies. An agency will not necessarily breach privacy principles relating to disclosure of personal information where disclosure is required or permitted under another Act.

¹ Section 40(1) of the Act.

Preambular or introductory language

Consultation paper

The Consultation paper refers to the Act not providing a preamble or introductory language and poses the following question:²

Should the Victims' Commissioner and Sexual Violence Review Board Act 2024 (Qld) or the Charter of Victims' Rights include introductory language that more clearly frames the experience of victims, and their rights, within a broader community and public interest or community context?

OIC response

The preamble to the RTI Act serves as an empowering introductory statement, recognising the fundamental requirements of a free and democratic society, articulating the Government's approach to accessing information and clarifying Parliament's intention to promote the right to government information. The preamble has been referenced in OIC's formal decisions as well as broader contexts.

OIC considers the inclusion of a preamble in the Act would be desirable, with the development requiring a proper consultation process. The preamble could provide an opportunity to introduce the Act, acknowledge the experience of victims of crimes, develop a sense of shared commitment to promoting and protecting victims' rights, and be aspirational in nature.

OIC also considers the Victims' Charter would benefit from introductory language to support understanding. As highlighted in the Consultation paper, 'Many victims, entities with obligations under the Charter, and the Queensland community have little awareness and understanding of the Charter.'³

Definition of government entity

Consultation paper

The Consultation paper refers to ambiguity in the application of the Victims' Charter where a public sector entity under the *Public Sector Act 2022* (**Public Sector Act**) meets the definition of 'government entity' but the chief executive or Commissioner of that entity is not employed under the Public Sector Act. It refers to sections 134 (Appointment of Information Commissioner) and 144 (Staff employed under the Public Sector Act) of the RTI Act, as an example.⁴

The Consultation paper poses the following question:⁵

Does the definition of 'government entity' need to be amended?

² Question 3.

³ Page 48.

⁴ Page 31.

⁵ Question 8.

OIC response

The Act provides that a 'prescribed person' includes a government entity,⁶ which is defined as including a public sector entity under the Public Sector Act.⁷ The Public Sector Act provides that a 'public sector entity' is a 'public service entity'.⁸ A public service entity is a department or an entity mentioned in schedule 1 of the Act.⁹ Schedule 1 lists the OIC as a public service entity with the Information Commissioner named as the head of the entity.

Based on the above definitions, OIC considers it falls within the scope of a 'prescribed person' for the purpose of the Victims' Charter. It does not consider the appointment of the Information Commissioner¹⁰ and Right to Information Commissioner¹¹ under the RTI Act and the appointment of the Privacy Commissioner under the IP Act¹² is relevant to the application of the Charter.

Personal information of victims

Consultation paper

The Consultation paper poses the following question:¹³

Does the right to have personal information protected need to be strengthened? If so/not, why?

You could think about whether:

- *the right should refer to other types of personal information, such as email addresses*
- *the right should reflect a broader right to privacy, such as in South Australia*

OIC response

The Victims' Charter details three 'general rights' of affected victims including the following, 'The personal information of an affected victim, including the victim's address and telephone number, will not be disclosed unless authorised by law.'¹⁴ The definition of 'personal information' in the Act refers to section 12 of the IP Act,¹⁵ which sets out the meaning of 'personal information'.

The Information Commissioner receives a small but ongoing number of applications from imprisoned individuals who have been convicted of serious offences such as murder. Generally, as part of searching for or exploring possible grounds for appeal, these applications request information held by police or prosecutors that was gathered during investigations and/or put before the court in the proceedings which led to their conviction. While each external merits review turns on its own facts, considerations around protecting the personal information and privacy of victims of crime and witnesses often contribute to an outcome where access to the information is refused.¹⁶

The Information Commissioner also receives a small but ongoing number of applications relating to domestic violence protection orders - at times sought by the protected individual, and at times sought by the respondent. Again, each external review undertaken by the Information

⁶ Section 40(1)(a) of Act.

⁷ Schedule 2 of Act.

⁸ Section 8(1)(a) of Public Sector Act.

⁹ Section 9 of Public Sector Act.

¹⁰ Section 134(2) of RTI Act.

¹¹ Section 150(2) of RTI Act.

¹² Section 144(2) of IP Act.

¹³ Question 15.

¹⁴ Schedule 1, Part 1, Division 1, Item 2 of Act.

¹⁵ Schedule 2 of Act.

¹⁶ For example, see published OIC decision: https://www.oic.qld.gov.au/data/assets/pdf_file/0004/48550/decision-315260-external-review-04-06-21.pdf.

Commissioner requires consideration of the particular information in issue, and the context in which it is sought in applying the public interest test in section 49 of the RTI Act.¹⁷

In Queensland, public sector agencies must handle personal¹⁸ and sensitive¹⁹ information in accordance with the QPPs. However, law enforcement agencies²⁰ are not subject to certain QPP obligations²¹ if non-compliance is necessary for the performance of law enforcement activities.²²

QPP 6.1 provides that if an agency holds personal information about an individual, which was collected for a particular purpose (the primary purpose), the agency must not use or disclose the information for another purpose (a secondary purpose), unless the individual consents to the use or disclosure of the information or the circumstances set out in QPP 6.2 apply. These circumstances include: the use or disclosure of the information is required or authorised under an Australian law or a court or tribunal order; a permitted general situation exists; a permitted health situation exists; and the information is reasonably necessary for enforcement-related activities.

OIC notes there are important distinctions to be made between the general right in the Victims' Charter and QPP 6 in the IP Act. Importantly, the Victims' Charter applies more broadly to encompass non-government entities, whereas the IP Act applies to public sector agencies. Also, the general right provides that the personal information will not be disclosed unless authorised by law, however QPP 6 provides more grounds which would permit disclosure.

OIC does not consider this general right needs to be strengthened in the Act, however, the development of guidelines would likely provide clarity and improve understanding of this right.

Interaction with other legislative frameworks

Consultation paper

In terms of complaints pathways, the Consultation paper refers to several of the Victims' Charter rights aligning with other rights and protections and the challenges associated with identifying the most appropriate pathway. It specifically refers to OIC overseeing privacy complaints about government agencies.²³

The Consultation paper refers to the interaction of the RTI and IP Act with the Victims' Charter and poses the following question:²⁴

Are there any additional issues that arise from the Information Privacy Act 2009 and Right to Information Act 2009 and the Charter of Victims' Rights?

OIC response

To date, OIC has not identified any additional issues arising from the interaction between the IP and RTI Act and the Victims' Charter. OIC considers there is an opportunity to work collaboratively

¹⁷ For example, see published OIC decision: [H40 and Queensland Police Service \[2023\] QICmr 30 \(28 June 2023\)](#).

¹⁸ Personal information is any information about an identifiable, or reasonably identifiable, individual (see section 12 of the IP Act).

¹⁹ Sensitive information is a subset of personal information and includes information about an individual's racial or ethnic origin, or criminal record (see schedule 5 of the IP Act).

²⁰ 'Law enforcement agency' is defined in schedule 5 of the IP Act.

²¹ Specifically, QPPs 3.6, 5, 6 or 10.1.

²² Section 29(1)(d) of the IP Act.

²³ At pp 62-63.

²⁴ Question 52.

with the Office of the Victims' Commissioner, especially in relation to privacy breaches involving the personal or sensitive information of victims of crime. It is proposed that a Memorandum of Understanding be developed which could include any agreed information sharing or referral processes.

Thank you for the opportunity to make a submission in response to the Consultation paper. We trust our comments will assist with the Review. Should you require further information, please contact us at [REDACTED] or on [REDACTED].

Yours sincerely

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Joanne Kummrow
Information Commissioner