

17 October 2025

Policy and Systemic Review Team  
Office of the Victims' Commissioner  
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Dear Review Team

### **Review of the Charter of Victims' Rights: Phase 1**

Thank you for the opportunity to provide feedback on the review of the Charter of Victims' Rights (the **Review**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on this important instrument.

#### **About ADA Australia**

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Yarn2Action advocacy service for Aboriginal and Torres Strait Islander people with disability, to provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

#### **Terms of Reference**

We note that the first stage of consultation is focussed on key definitions and rights in the Charter of Victims' Rights (the **Charter**), and the integration and workability of these with other legislative frameworks.

ADA provides the following comments for your consideration.

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### **Key definitions and rights**

The foundational pillars of the Charter align with several key recommendations set out by the second report of the Women's Safety and Justice Taskforce, as well as the recommendations made by the Legal Affairs and Safety Committee in relation to the Inquiry into Support Provided to Victims of Crime.

These pillars include a victim's right to be treated with compassion, respect and dignity. This requires the application of trauma-informed and culturally appropriate practices.

ADA considers that the amendment of certain definitions would assist in clarifying victims' rights, including to whom such rights expressly apply. We submit that doing so will assist relevant agencies and persons with applying a culturally appropriate and trauma-informed approach to victims, in accordance with the principles of the Charter.

### **Definition of 'victim'**

ADA considers that further consideration of the definition of victim pursuant to section 6 of the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (the **Act**) is required, particularly, with respect to the application of this definition under the Charter.

The intersectionality of persons with disability, and particularly, First Nations people with disability who are exposed to the criminal justice system is well documented. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the **Disability Royal Commission**) provided detailed analysis of the 'Criminalisation of Disability', and found there to be a significant overrepresentation of persons with disability across the criminal justice system as both victims and as persons accused. This dual status of being both the accused and the victim is experienced by many individuals with disability.

The data portrays a stark reality for First Nations people with cognitive disabilities, who often encounter this duality. The Final Report stated that the overrepresentation of this cohort in custody, particularly in youth detention, "*is a largely hidden national crisis.*"<sup>1</sup>

The findings of the Disability Royal Commission are reflective of the experiences of ADA advocates who support persons with disability. It is critical that legislation, policies and guidelines are appropriately drafted to ensure that their operation and interpretation does not further discriminate against or victimise persons with disability, or cohorts with other characteristics of vulnerability,

Section 11 of the Act provides examples of victims who may be particularly vulnerable to harm, and correctly identifies this as including victims with disability, and elderly victims. However there is no guidance in the Act, or in the Charter, that expressly recognises the dual status of persons with disability in the criminal justice system.

In the absence of this recognition, ADA has concerns that the rights preserved by the Act and the operation of the Charter may not be afforded to a person with disability, particularly those that have experienced both sides of the criminal justice system.

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<sup>1</sup> Disability Royal Commission, *Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 1, 123.

### ***Inaccessibility for older persons and people with disability***

Despite its foundational intent to uphold dignity and support for victims, the Charter will remain ineffective for many persons with disability and older people who will not meet the threshold of victimhood.

This inaccessibility reflects deeper systemic obstacles and discrimination faced by these cohorts to being recognised as victims. Persons with disability and older people encounter significant barriers when seeking to engage with investigative and judicial systems as victims. These challenges include reporting difficulties, a lack of adequate supports when engaging with investigative and judicial agencies, fear of not being taken seriously, widespread community and agency misunderstanding about capacity and the rights of persons who may have decision-making supports, gaps in data collection, and risk of re-traumatisation. The reality of these barriers has been extensively reported,<sup>2</sup> and results in a systemic failure to progress complaints made by older victims and victims with disability.

The unfortunate reality remains that the concept of victims' rights cannot be equally applied to all until such time that this inequality is addressed. Whilst the oversight functions of the Sexual Violence Review Board are strongly supported, and it is hoped that increased training will improve police responses to reporting by all victims, including persons with disability, older persons and persons experiencing questioned capacity, there is a clear need for the provision of ongoing training and education for all government agencies providing services to persons from these cohorts to ensure that a person's circumstances or inherent characteristics do not impede their pathway to making a complaint.

Further, we consider that the Charter should contain an express right for a victim to be provided with adequate supports as may be required to enable making a complaint, and to participate in all stages of the criminal justice process. These services should be culturally appropriate and trauma-informed, to ensure that a victim is supported to fully participate irrespective of age or disability and to address any accessibility, communication, physical and/or social barriers faced by these victims.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact [REDACTED], Principal Policy Advisor and Solicitor on [REDACTED] or via [REDACTED].

Yours faithfully

[REDACTED]

**Geoff Rowe**

Chief Executive Officer

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<sup>2</sup> Relevantly, these findings were comprehensively compiled in the Women's Safety and Justice Taskforce, *Hear Her Voice: Report Two – Women and Girls' Experiences across the Criminal Justice System*, Volumes 1 and 2 (Reports, 2022).