

Review of the Queensland Charter of Victims' Rights

Submission by Legal Aid Queensland

17 October 2025

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to provide a submission on the review of the Charter of Victims' Rights (the Charter).

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “*giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way*” and is required to give this “*legal assistance at a reasonable cost to the community and on an equitable basis throughout the State*”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ's services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day-to-day application of the law in courts and tribunals. LAQ believes that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

This submission draws from the experience of LAQ's Criminal, Family and Civil Justice Services and other areas of the organisation.

Submission

LAQ does not seek to comment on each specific question posed by the review. Rather, the submission aims to provide the review with LAQ's perspective on matters that are within its experience and expertise.

Definitions of 'victim' and 'family member'

LAQ notes the current conflict within the *Victims' Commissioner and Sexual Violence Review Board Act 2024 (Qld)* (“the Act”) as to the definition of ‘victim’¹. Although LAQ does not take a view about the parameters of the definition, it is LAQ's view that aligning the definition of ‘victim’ throughout the Act is a commonsense approach that would avoid confusion when applying the law.

With respect to the definitions of ‘family member’ and ‘dependant’ that are contained in Schedule 2 of the Act, LAQ's view is that the current definition adequately reflects culturally diverse understandings of family and dependants.

Government entities

LAQ notes that, in accordance with section 42A of the *Legal Aid Queensland Act 1997 (Qld)*, the organisation is not a public sector entity under the *Public Sector Act 2022 (Qld)* and is therefore expressly excluded from the Charter.

It is LAQ's strong view that this status quo should be maintained. While LAQ has a culture of respect for victims' rights, which is reflected in its internal Case Management Standards and

¹ See the section 6 definition of ‘victim’ as a person who suffers harm and the section 38 definition of an ‘affected victim’ as a person who suffers personal harm.

Strategic Plan², the organisation provides advice and assistance to a very broad range of clients across the spectrum of legal matters in Queensland. While LAQ is publicly funded, LAQ's diverse range of services differentiate it from a typical government agency. LAQ is the largest criminal law practice in Queensland and LAQ's criminal lawyers have clear ethical obligations towards the defendant. LAQ's Family Law Services also provides representation to, and is bound by legal obligations towards, respondents in domestic and family violence matters and child protection proceedings. In practical terms, this would limit LAQ's ability to comply with some of the rights protected by the Charter, such as making referrals for victims. It is LAQ's view that, were the organisation to be subject to the Charter, the potential for legal and ethical conflict would be unmanageable, making it impossible for LAQ to perform its functions and having a significant impact on the administration of justice.

In addition, many of the legal services provided by LAQ are performed by external preferred suppliers. The additional complexities that would be placed upon preferred supplier firms if they were required to adhere to the Charter, and the legal and ethical conflicts they would be required to navigate, would potentially incline firms to cease accepting Legal Aid matters. This would have a dramatic impact on LAQ's ability to provide legal services to financially disadvantaged persons. Limits on the availability of preferred suppliers would also have a commensurate impact on the ability of the courts to hear and progress matters.

LAQ does not consider its exclusion from the Charter to reflect, in any way, a negation of the concern and care for victims in legal proceedings. In addition to LAQ's own internal policies that model many of the principles of the Charter, LAQ is moving towards a trauma informed practice approach, which prioritises the safety of clients, the protection of their safety and privacy, and the promotion of individual choice throughout the legal process. In this way, LAQ considers that the organisation strikes a satisfactory balance between the rights of victims and legal and ethical obligations to clients. Any amendments that would have the effect of placing Charter obligations on LAQ would be strongly opposed, as they would hinder the ability of the legal practice to carry out its functions.

Protection from unnecessary contact

LAQ notes the Charter right of the affected victim to be protected, during a court proceeding, from "unnecessary contact with, or violence and intimidation by, the accused, defence witnesses and family members and supporters of the accused". Where possible, LAQ's lawyers make use of safe rooms and separate waiting areas while attending court as a matter of practice. LAQ is not of the view that there is significant practical value in further strengthening the wording of this existing right. Many courthouses are small and simply do not have the capacity to provide separate waiting rooms (absent further funding for renovation and/or building extensions).

Similarly, some courthouses – particularly those situated in regional and remote areas – lack the capacity to enable victims to attend court hearings virtually. It is also appropriate, in LAQ's view, for virtual attendance to continue to be subject to the discretion of the court (for example, through an application for special witness status under the *Evidence Act 1977 (Qld)*).

In LAQ's view, the Charter right in its current form is sufficient and does not require further amendment.

² See Attachment A – Legal Aid Strategic Plan 2025-29, noting in particular the following organisational values (page 1):

- *Social Justice – we seek to protect people's legal and human rights, promote dignity and fair treatment and help those at risk of social exclusion*
- *Respect – we respect the people we assist, those with whom we work and their safety, and the rule of law, our professional obligations and the administration of justice.*

Victim impact statements

LAQ notes the Charter right for an affected victim to make a victim impact statement under the *Penalties and Sentences Act 1992 (Qld)* (“PSA”). In the experience of LAQ’s legal practitioners, victims have not experienced any barriers to providing a victim impact statement where they choose to do so. On this basis, LAQ considers that the right in its existing form is adequate.

LAQ notes also the existing protections contained in Part 10B of the PSA for victim impact statements. Specifically, section 179K permits a victim to provide a victim impact statement to the court. In LAQ’s view, there are already sufficient legislative provisions protecting this right. LAQ would suggest that a better course of action to assist victims in providing a victim impact statement would be increasing existing organisations and programs that give information and support to victims, such as Victims Assist and Victim Liaison Officers.

Should changes be considered to the wording of this right, LAQ notes that care should be taken so as not to convey an obligation on the victim to provide a victim impact statement. In LAQ’s experience, it is vital that victims be given a choice about the extent to which they wish to be involved in the court proceedings.

Unreasonable delay

LAQ notes the proposed right for criminal justice proceedings to be free from unreasonable delay and for inconvenience to the victim to be minimised. In LAQ’s view, a removal of unreasonable delay would be beneficial to all parties involved in legal proceedings. However, LAQ makes two points about the practicality of such a right:

- a. A removal of unreasonable delay would be impossible to achieve without significant additional funding at all levels of proceedings. This would include, but is not limited to, increased funding for LAQ duty lawyer and legal representation services, the Office of the Department of Public Prosecutions (ODPP), victims’ assistance services, and for the courts themselves.
- b. The right to be free from unreasonable delay should not come at the expense of a defendant’s right to fully exercise their legal rights and ensure that their case is put before the court.

Right to be understood and right to access interpreters/translators

LAQ notes the proposal to enshrine a Charter right to understand and be understood, and a right to interpretation or translation. While LAQ has no objection to a right of this nature being included in the Charter, it has not been LAQ’s experience that victims or participants in legal proceedings struggle to access an interpreter or translator when required. In LAQ’s experience, the courts are aware of the importance of ensuring a victim (or defendant) is provided with the necessary support to ensure that they are understood and can communicate with the court.

LAQ also notes that, in criminal law proceedings, there are already legislative requirements and practice directions surrounding the appointment of interpreters. These include:

- a. Chapter 11, Part 2 of the *Criminal Practice Rules* (noting also regulation 54AL regarding the ability for the court to give a direction about the particular attributes of an interpreter, including gender, age, and cultural background)
- b. Supreme Court Practice Direction 4 of 2024

- c. Supreme Court Practice Direction 6 of 2014
- d. District Court Practice Direction 1 of 2010
- e. Magistrates Court Practice Direction 7 of 2010.

Victim recognition rights

With respect to the proposed right to receive a victim recognition statement or request a victim recognition meeting, LAQ does not object to the inclusion of this right in the Charter. However, as with LAQ's position on victim impact statements, LAQ notes the importance of ensuring that no obligation or pressure should be placed upon a victim to choose this pathway. A victim recognition statement or a victim recognition meeting should be one option available, with the victim able to make an informed and autonomous choice about whether it is suitable for them. LAQ notes, in particular, that victims should not be pressured to forgo the option to pursue charges in exchange for a victim recognition statement or a victim recognition meeting.

Requests for ODPP appeal

LAQ does not support a right to request the ODPP to consider an appeal. The decision to appeal is based on whether the judicial officer made an error at law and would not, in LAQ's view, be informed or assisted by a request or submission from a victim. LAQ also notes the possibility of the decision to refuse a request to consider an appeal becoming an avenue for judicial review, which would place an undue administrative burden on the ODPP and further complicate the legal process.

Alternative justice pathways

LAQ does not oppose, and is generally supportive of, the promotion of restorative justice options. However, as with LAQ's position on victim impact statements and victim recognition rights, LAQ notes the importance of avoiding a 'one size fits all' approach to alternative justice pathways, which may be suitable for some, but not all, victims. In LAQ's view, great care should be taken to avoid placing any pressure or obligation on the victim to agree to restorative justice options. The choice to explore restorative justice should be fully informed and autonomous for all parties involved.

Interaction between Charter rights and the *Mental Health Act 2016 (Qld)*

In LAQ's view, if the Charter were to be amended to refer to matters under the *Mental Health Act 2016 (Qld)* ("MHA"), consideration would need to be given to the existing principles and provisions set out in the MHA to ensure consistency. Any amendments which would affect the operation of the MHA should also be consistent with the main object of the Act as set out in section 3, namely:

- a. To improve and maintain the health and wellbeing of persons who have a mental illness who do not have the capacity to consent to be treated; and
- b. To enable persons to be diverted from the criminal justice system if found to have been of unsound mind at the time of committing an unlawful act or to be unfit for trial; and
- c. To protect the community if persons diverted from the criminal justice system may be at risk of harming others.

LAQ also notes that provisions currently exist in the MHA to protect victims' rights. These include

provisions relating to information notices³, victim impact statements⁴, and victim support services⁵.

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³ See MHA section 27, chapter 10, part 6.

⁴ See MHA Chapter 5, division 3 and sections 530, 742, 743, 783, 785.

⁵ See MHA sections 320 and 783.

Strategic Plan

2025-29



OUR ROLE

To provide legal assistance to financially disadvantaged people throughout Queensland as a valued part of the legal and justice system.



OUR PURPOSE

To maintain the rule of law, protect legal rights, contribute to the fairness and efficiency of the justice system, and reduce the social impacts of legal problems.



OUR VISION

To be a leader in a fair justice system where people can understand and protect their legal and human rights.



OUR VALUES

SOCIAL JUSTICE

We seek to protect people's legal and human rights, promote dignity and fair treatment and help those at risk of social exclusion.

RESPECT

We respect the people we assist, those with whom we work and their safety, and the rule of law, our professional obligations and the administration of justice.

QUALITY

We strive to improve the quality of our work and the outcomes for our clients, partners and employees.

COST EFFECTIVENESS

We deliver innovative, sustainable, quality and cost effective services.

ACCOUNTABILITY

We are accountable to our clients, courts, the legal profession, the community and those who fund us.



OUR SERVICES

COMMUNITY LEGAL EDUCATION AND INFORMATION

Through our website, publications, community legal education activities, statewide contact centre and customer service counters.

LEGAL ADVICE AND TASK ASSISTANCE

Over the phone, by video-link, or face-to-face.

DUTY LAWYER SERVICES

In criminal, family, domestic violence, child protection, anti-discrimination, employment and administrative law.

LAWYER ASSISTED DISPUTE RESOLUTION

For families facing separation, and for consumers and farmers.

REPRESENTATION IN COURTS AND TRIBUNALS

Including criminal law, family law, child protection, domestic violence, mental health and some civil law matters.



OUR ENVIRONMENT – RISKS AND OPPORTUNITIES

- Ability to meet the challenges of providing a broad spectrum of services to a diverse range of clients across a geographically decentralised state and including in a constrained fiscal environment.
- Capacity to attract and continue to invest in our people, other service providers and systems while meeting demand for services.
- Challenge of maintaining a strong network of external service providers across Queensland.

Our objectives will be delivered through the following strategies:

Legal Aid Queensland’s strategic objectives are determined by the *Legal Aid Queensland Act 1997* (Qld). We are also committed to the principles of the National Access to Justice Partnership 2025-30. Legal Aid Queensland also contributes to the Queensland Government’s community objective of safety where you live.



OBJECTIVES

OBJECTIVE 1

Provide quality and cost effective legal services to our clients

OBJECTIVE 2

Progress our vision through collaboration and policy leadership

OBJECTIVE 3

Build on our business capability, sustainability and workplace culture

OBJECTIVE 4

Contribute to the administration of justice and effectively administer the organisation



STRATEGIES

- Support early resolution of legal problems
- Ensure we capably respond to people most at risk of social exclusion including Aboriginal and Torres Strait Islander people

- Build centres of excellence in our fields of legal practice
- Work closely with private lawyers and community legal centres to help ensure quality services
- Innovate to maximise the reach of services to rural and regional communities
- Undertake strategic policy and law reform activities.

- Lead policy on issues affecting our service delivery
- Engage collaboratively with service providers
- Strive to create a positive workplace culture where safety, wellbeing, flexibility, inclusivity and development is prioritised.

- Maintain our focus on financial sustainability, governance and accountability
- Transform business support systems and infrastructure
- Contribute to the fair and efficient administration of justice



PERFORMANCE INDICATORS

- Meeting National Access to Justice Partnership performance indicators (\$)
- Meeting Queensland Government service delivery statement measures (% and av cost)
- Results of quality and compliance audits
- A mean satisfaction score > 7 in client satisfaction survey

- Delivering internal and external training opportunities to staff and other service providers
- Achieving First Nations Strategic Plan objectives
- Improving services to rural and regional communities

- Participating in legal assistance forums
- Contributing to government policy development

- Implementing service delivery initiatives in the:
 - Financial Strategy
 - Strategic Workforce Plan
 - ICT Strategic Plan
 - First Nations Action Plan