

Submission by



qai

Queensland
Advocacy
for Inclusion

Review of the Charter of Victims' Rights

To Office of the Victims' Commissioner

28 March 2025

About Queensland Advocacy for Inclusion

Queensland Advocacy for Inclusion (QAI) is a Disabled Peoples Organisation. We are an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability. Our purpose is to advocate for the protection and advancement of the needs, rights, and lives of people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience guides our work and values.

QAI has been engaged in systems advocacy for over thirty-five years, advocating for change through campaigns directed at attitudinal, law and policy reform.

QAI also provides individual advocacy services in the areas of human rights, disability discrimination, guardianship and administration, involuntary mental health treatment, criminal justice, NDIS access and appeals, and non-legal advocacy for young people with disability including in relation to education. Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

Since 1 January 2022, QAI has also been funded by the Queensland Government to establish and co-ordinate the Queensland Independent Disability Advocacy Network (QIDAN). QIDAN members work collaboratively to raise the profile of disability advocacy while also working towards attitudinal, policy and legislative change for people with disability in Queensland.

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Key issues to be Explored in the Review

We appreciate the opportunity to provide feedback on the Office of the Victims' Commissioner's review of the Charter of Victims' Rights. As an organisation dedicated to advocating for individuals with disability, we value this chance to share our insights on the unique challenges faced by people with disability who are victims of crime. We believe this review represents a crucial opportunity to strengthen the protection and support available to victims, particularly those with disability, ensuring they receive the justice and assistance they deserve.

To support the development of the Issues Paper we seek to highlight the following, as observed by Queensland Advocacy for Inclusion (QAI):

1. The criminalisation of disability
2. The intersection of criminalised behaviour and victimisation; and
3. The increase in domestic and family violence.

1. Criminalisation of Disability

Although no causal link exists between disability and the commission of crime¹, individuals with disability are clearly overrepresented within the criminal justice system, including as victims of crime².

Professionals within the disability sector, including QAI staff, have recognised that police officers often approach interactions with individuals with disability using a “risk management focus,” which at times, may “inadvertently trigger or escalate [a] person's behaviour”³. Additionally, officers face challenges distinguishing between behaviours associated with mental health conditions or disability and those resulting from intoxication, leading to misinterpretations of individuals' actions⁴. As a result, people with disability who are victims of crime are more likely

¹ McCausland, R., & Baldry, E. (2017). ‘I feel like I failed him by ringing the police’: Criminalising disability in Australia. *Punishment & Society*, 19(3), 290-309. <http://dx.doi.org/10.1177/1462474517696126>

² Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Criminal justice and people with disability*. Commonwealth of Australia. <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Volume%208%2C%20Criminal%20justice%20and%20people%20with%20disability.pdf>

³ Ellem, K., Dowse, L., Rowe, S., Holland, L., Cullin, J., Parker, M., Henderson, C. (2023). *Final Report: Insights from people with lived experience of disability in the justice system*. The University of Queensland-School of Nursing, Midwifery, and Social Work. <https://qai.org.au/wp-content/uploads/2024/07/UQ-Final-Report-Insights-from-people-with-lived-experience-of-disability-in-the-justice-system.pdf>

⁴ Ibid.

to be misidentified as perpetrators, particularly in domestic and family violence contexts, hindering their ability to receive the necessary assistance and protection⁵.

Furthermore, individuals with disability may encounter difficulties with comprehension and communication, which can lead to misunderstandings regarding their intentions.⁶

Aboriginal and Torres Strait Islander people with disability are disproportionately affected by this cycle of criminalisation⁷. They experience earlier and more frequent contact with the criminal justice system, a trend evident among QAI's clientele, where Aboriginal and Torres Strait Islander clients make up 21% of our caseload despite comprising only 3.8% of the total Australian population⁸. Of these clients, 62% reported either experiencing or being at risk of domestic and family violence. This overrepresentation has become normalised within Government agencies, which continue to adopt assimilationist approaches when responding to Aboriginal and Torres Strait Islander peoples with disability, including victims of crime⁹.

Considering this, the review should examine strategies for reducing the criminalisation of disability. It should also consider measures such as mandatory training for Queensland Police Service (QPS) officers to improve their ability to identify and effectively support individuals with disability. Additionally, the review should explore how guidance can be provided to QPS officers on carefully considering whether prosecution is appropriate, particularly when an individual exhibits clear signs of or is known to have a disability¹⁰. Exercising discretion in such cases will help reduce the misidentification of individuals with disability as perpetrators, ensuring that victims of crime receive the support and protection they need.

Gaps in Critical Support Services

A significant issue observed by QAI staff in the criminalisation of disability, which directly impacts victims of crime, is the lack of critical support services for people with disability. In

⁵ Family Violence Reform Implementation Monitor. *Monitoring Victoria's family violence reforms: Accurate identification of the predominant aggressor*. Victorian Government.

https://www.fvrim.vic.gov.au/sites/default/files/2021-12/FVRIM%20Predominant%20Aggressor%20December%202021_0.pdf

⁶ McCausland, R., & Baldry, E. (2017). 'I feel like I failed him by ringing the police': Criminalising disability in Australia. *Punishment & Society*, 19(3), 290-309. <http://dx.doi.org/10.1177/1462474517696126>

⁷ Ibid

⁸ Australian Bureau of Statistics. (2021). *Estimates of Aboriginal and Torres Strait Islander Australians*. Commonwealth Government. <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release#:~:text=Methodology,Key%20statistics,median%20age%20was%2024.0%20years>.

⁹ McCausland, R., & Baldry, E. (2017). 'I feel like I failed him by ringing the police': Criminalising disability in Australia. *Punishment & Society*, 19(3), 290-309. <http://dx.doi.org/10.1177/1462474517696126>

¹⁰ Law Council of Australia. (2018). The Justice Project- Final Report. <https://lawcouncil.au/files/web-pdf/Justice%20Project/Final%20Report/Justice%20Project%20-%20Final%20Report%20in%20full.pdf>

some cases, Magistrates have been known to sentence individuals with suspected disability to prison to ensure they receive diagnoses and support that is unavailable in the community¹¹. However, prisons are not therapeutic settings and are ill-suited in assisting individuals with disability¹². To address this QAI believes that greater investment in community-based, non-custodial support options that are both disability aware and culturally appropriate is necessary in supporting people with disability who are engaged in the criminal justice system, including victims of crime. It is important to note that we are not referring to the recently implemented "Gold Standard Early Intervention Program" by the LNP, as this program takes a broad, one-size-fits-all approach to intervention. This approach fails to address the critical need for programs that are culturally sensitive, disability-aware, and tailored to individual circumstances, while also respecting the rights of young people in the youth justice system, many of whom are victims of crime themselves.

Accessibility of Information

Individuals with disability can face challenges in understanding or accessing the information necessary to effectively engage with victim support services or navigate the complexities of the criminal justice system¹³. The Charter review should address how people with disability can access clear, accessible, and understandable information about their rights and the support available to them.

Furthermore, there needs to be a focus on ensuring that people with disability receive appropriate decision-making support¹⁴. This could include the provision of accessible formats of information, such as easy-read materials or alternative communication methods. Independent disability advocates or support persons are essential in helping individuals with disability to navigate the criminal justice system, assisting to ensure that their needs are met and that they receive the appropriate support. Furthermore, QAI believes the Charter should specify that agencies involved in the criminal justice system must ensure that individuals, including those with disability, are provided with the necessary support to fully participate in the legal process. This approach will help guarantee that people with disability are treated fairly and equitably

¹¹ McCausland, R., & Baldry, E. (2017). 'I feel like I failed him by ringing the police': Criminalising disability in Australia. *Punishment & Society*, 19(3), 290-309. <http://dx.doi.org/10.1177/1462474517696126>

¹² Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Criminal justice and people with disability*. Commonwealth of Australia. <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Volume%208%2C%20Criminal%20justice%20and%20people%20with%20disability.pdf>

¹³ Parliament of Australia. (2015). *Chapter 6- Access to Justice*. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report/c06

¹⁴ Ibid.

within the system, ensuring that they can meaningfully engage in the process and receive the justice and support that they deserve.

2. Intersection of Criminalised Behaviour and Victimisation

The intersection of criminalised behaviour and victimisation for individuals with disability highlights the need for the Charter to address the unique challenges faced by this group, including communication barriers, dependency on caregivers, and social isolation, all of which increase victimisation.

Victimisation and Disability

Individuals with disability may struggle to express themselves and interpret social cues, making them more vulnerable to manipulation, abuse, and exploitation. This increases their risk of experiencing various forms of violence compared to those without disability¹⁵. QAI staff have noted that individuals with disability face difficulty in reporting their experiences to law enforcement, leading to underreporting and insufficient support for victims of crime, something that was also noted in the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability¹⁶.

Considering this, the review should explore how the State Government can create accessible, user-friendly crime reporting systems tailored to the needs of individuals with disability. These systems should offer multiple channels (e.g., online, telephone, in-person) and be available in various accessible formats, making it easier for individuals to report crimes and seek help without barriers.

Moreover, individuals with disability who rely on caregivers for daily assistance are more vulnerable to abuse, neglect, and mistreatment¹⁷, including intimate partner physical, sexual,

¹⁵ Victorian Equal Opportunity & Human Rights Commission. (2014). *Beyond doubt- The experiences of people with disabilities reporting crime- Summary report*. Victorian Government.
https://www.humanrights.vic.gov.au/static/de8c56fa6025cc3cc41d58ac57cfbe46/Resource-Beyond_Doubt-Summary_report-2014.pdf

¹⁶ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2021). *Research Report- Nature and extent of violence, abuse, neglect and exploitation against people with disability in Australia*. Commonwealth of Australia
<https://disability.royalcommission.gov.au/system/files/2021-11/Research%20Report%20-%20Nature%20and%20extent%20of%20violence%2C%20abuse%2C%20neglect%20and%20exploitation%20against%20people%20with%20disability%20in%20Australia.pdf>

¹⁷ Broady, T., Thomson, C., Katz, I., & Judd-Lam, S. (2024). *Literature review on the abuse, neglect, and exploitation of adults with disability and older people by carers*. UNSW Sydney.
https://ageingdisabilitycommission.nsw.gov.au/documents/Literature_review_on_the_abuse_neglect_and_exploitation_of_adults_with_disability_and_older_people_by_carers.pdf 11-17

emotional, and financial abuse¹⁸. The review should include provisions for stronger oversight and comprehensive training for caregivers and institutions to prevent such abuse. Caregivers must be trained to recognise signs of abuse and follow proper reporting procedures. Additionally, further research into caregiver-perpetrated violence is essential, as QAI staff have observed this issue, yet limited data exists on its prevalence. Understanding this trend is vital for implementing effective safeguards.

Social isolation is also prevalent among individuals with disability, often due to a lack of strong social connections or support networks and the potential difficulty in leaving their place of residence¹⁹. This isolation significantly increases their vulnerability to criminal victimisation, as they are less likely to have individuals available to intervene or advocate on their behalf when targeted by perpetrators²⁰. The review should explore initiatives to combat isolation by funding non-NDIS government programs aimed at building support networks, peer support groups, and outreach services. These efforts should help individuals with disability establish stronger social connections, especially in rural and remote communities where isolation is often more pronounced.

Victim-Offender Overlap

People with disability often face a dual challenge in the criminal justice system: they are both disproportionately more likely to be victims and perpetrators of crime. This phenomenon, known as the victim-offender overlap²¹, is driven by factors such as heightened vulnerability, misinterpretations of actions, and systemic neglect.²²

QAI staff regularly observe this overlap, particularly among young people in the youth justice system. For example, in the 2023-24 financial year, 36% of young people engaged with the youth

¹⁸ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2021). *Research Report- Nature and extent of violence, abuse, neglect and exploitation against people with disability in Australia*. Commonwealth of Australia <https://disability.royalcommission.gov.au/system/files/2021-11/Research%20Report%20-%20Nature%20and%20extent%20of%20violence%2C%20abuse%2C%20neglect%20and%20exploitation%20against%20people%20with%20disability%20in%20Australia.pdf>

¹⁹ Australian Institute of Health and Welfare. (2024). *People with Disability in Australia*. Australian Government. <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/justice-and-safety/violence-against-people-with-disability>

²⁰ Victims of Crime Commissioner. (2023). *Silenced and sidelined: Systemic inquiry into victim participation in the justice system*. https://victimsofcrimecommissioner.vic.gov.au/media/lpufjx5h/silenced-and-sidelined_systemic-inquiry-into-victim-participation.pdf

²¹ Ellem, K., Dowse, L., Rowe, S., Holland, L., Cullin, J., Parker, M., Henderson, C. (2023). *Final Report: Insights from people with lived experience of disability in the justice system*. The University of Queensland-School of Nursing, Midwifery, and Social Work. <https://qai.org.au/wp-content/uploads/2024/07/UQ-Final-Report-Insights-from-people-with-lived-experience-of-disability-in-the-justice-system.pdf>

²² Ibid

justice system reported to QAI staff that they have experienced domestic and family violence (DFV). It is important to note that this figure is likely conservative, as many young people may not disclose their experiences. The same factors that make individuals with disability vulnerable to victimisation can also lead to behaviours that are perceived as criminal. This creates a cycle of victimisation and criminalisation that needs to be addressed through improved education, support systems, and systemic reforms.

QAI believes that failing to recognise the victim-offender overlap undermines justice for individuals with disability and believes that this should be addressed in the review of the Charter.

3. Domestic and Family Violence

The increasing prevalence of domestic and family violence (DFV) among individuals with disability highlights the need for the review to focus on developing tailored support services and more effective policies to better address the unique needs of victims with disability.

Increased Observable Rate of Clients Reporting Domestic and Family

The increasing rates of DFV among individuals with disability highlights the urgent need for tailored support services under the Charter of Victims' Rights. Disability Pathways, a QAI information and referral service, recorded a 550% increase in DFV cases from the first to the final quarter in 2024, emphasising the need for investigation and intervention. The Queensland Independent Disability Advocacy Network (QIDAN), of which QAI is apart has identified key challenges for victims with disability, including housing, legal support, child protection, and community access. The review should explore how disability-inclusive DFV services address these barriers effectively.

Impacts of Domestic and Family Violence on Children and Young People with Disability

DFV is a serious issue with profound consequences, particularly for children and young people with disability, who are at higher risk of exposure²³. However, QAI staff have observed that integrated policies and services for this group remain insufficient. DFV services often lack expertise in working with children with disability, while disability services are not always equipped to address DFV issues.

The impact of DFV on children with disability extends beyond immediate harm, often resulting in long-term effects, including criminalisation, school and community disengagement, and

²³ Australian Institute of Health and Welfare. (2025). *People with Disability*. Australian Government. <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/people-with-disability#:~:text=Exposure%20to%20FDV%20as%20a,and%20overall%20health%20and%20wellbeing.>

increased youth justice system contact. QAI's Young Peoples Program (YPP) Advocates have observed that children exposed to DFV often struggle with emotional regulation²⁴, and for those with disability, these challenges are heightened²⁵. Behaviours directly relating to disability can be misinterpreted as criminal or antisocial, leading to increased involvement with the youth justice system. In many instances, YPP Advocates have observed that such violence stems from the hardships faced by the young person and their family, including victimisation, underscoring the need for appropriate support.

YPP Advocates have also observed that many children with disability, particularly those exposed to DFV, face bullying, exclusion, and lack of support, leading to disengagement from school and community activities.

Additionally, children exposed to DFV are at higher risk of incarceration, as trauma from DFV can contribute to violent behaviour, perpetuating a cycle of victimisation and criminalisation²⁶. Detention often exacerbates trauma and increases recidivism, making alternatives like Conditional Release Orders, therapeutic services, and restorative justice more effective in addressing the root causes of offending behaviour. QAI believes that evidence-based alternatives to detention and comprehensive support services that address the DFV related trauma and prevent the criminalisation of vulnerable children should be reviewed and addressed in the review.

Conclusion

The Review of the Charter of Victims' Rights presents a critical opportunity to enhance the support and protections available to individuals with disability who are victims of crime. It is essential that the review addresses the complex issues outlined, including the criminalisation of disability, the intersection of victimisation and criminalised behaviour, and the increasing rates of domestic and family violence. By focusing on tailored support services, improving accessibility, and strengthening policy frameworks, the review can contribute to a more inclusive and just system for individuals with disability who are victims of crime, ensuring they receive the justice and assistance they deserve.

²⁴ McLean, S. (2018). *Developmental differences in children who have experienced adversity: Emotional dysregulation*. Australian Institute of Family Studies. https://aifs.gov.au/sites/default/files/publication-documents/cfca_developmental_differences_emotional-dysregulation_practice-guide_0_0.pdf

²⁵ Joshi, A., & Truong, M. (2024). *The role of adverse childhood experiences (ACEs) in adolescent use of violence*. Australian Institute of Family Studies https://aifs.gov.au/sites/default/files/2024-11/2411_CFCA_ACE%20adolescent%20use%20of%20violence.pdf

²⁶ Australian Institute of Health and Welfare. (2025). *Family, domestic and sexual violence- Children and young people*. Australian Government. <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/children-and-young-people>