






**Justice
Support
Centre**

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21 February 2025

The Hon Michael Daley MP
Attorney General
52 Martin Place
Sydney NSW 2000

By email: policy@dcj.nsw.gov.au

Dear Sir/Madam

Re: Establishing an Independent Victims Commissioner Submissions

Justice Support Centre ('JSC') thanks the Attorney-General for the opportunity to comment on the Victims Services – Establishing an Independent Victims Services Commissioner Discussion Paper.

About JSC

JSC has over 28 years' experience providing legal assistance in South West Sydney (SWS) communities and delivering trauma-informed domestic and family violence specialist services across SWS and Sydney. Our purpose is twofold:

- To support women and children to break the cycles of Domestic and Family Violence.
- To provide equitable and accessible legal services to our community.

Across our programs JSC reached 14,456 people in 2023/24 and provided education sessions to a further 3,784 people.

Through our legal and advocacy work, JSC has extensive experience assisting victim-survivors to access the Victims Support Scheme in NSW. Our frontline experience provides unique insight into the challenges faced by victim-survivors in seeking support, the systemic barriers that impact access to justice, and the improvements needed to strengthen victim-centered responses. Given our longstanding engagement with Victims Services, legal frameworks, and support systems, JSC is well-placed to contribute to this consultation and advocate for reforms that enhance overall effectiveness, transparency, and accessibility of the Victims Support Scheme.

We have had the benefit of reviewing the discussion paper regarding establishing a new Independent Victims Services Commissioner and we now offer our submissions to the consultation questions.

For transparency and accountability, we agree to the publication of these submissions.

If you would like further information or input on matters raised in these submissions, please contact us by email to info@justicesupportcentre.org.au.

Yours sincerely,

JUSTICE SUPPORT CENTRE

A handwritten signature in black ink that reads "Melanie Noden". The script is cursive and fluid.

Melanie Noden
Chief Executive Officer

A handwritten signature in blue ink that reads "Liz Simpson". The script is cursive and fluid.

Liz Simpson
Principal Solicitor

Encl.

SUBMISSIONS

Establishing an Independent Victims Commissioner

1. **Do you agree with the proposed method for appointment and accountability of the role of the Independent Victims Commissioner? What, if any, changes should there be?**

The proposed method for the appointment and accountability of the Independent Victims Commissioner (“The Commissioner”) is a positive step towards strong advocacy and oversight for victims of crime in NSW. However, the proposal should go further to better secure the independence of the Commissioner, so that the role is less vulnerable to undue influence and functions solely in the public interest.

To enhance independence, the legislation should include explicit provisions similar to those in Queensland's [Victims' Commissioner and Sexual Violence Review Board Act 2024](#), which states:

- The Commissioner must act independently and in the public interest (s 11(1)).
- The Commissioner must not be subject to direction by any person, including the Minister, about how their functions are performed (s 11(2)).

While the discussion paper already references that the Commissioner will not be subject to ministerial control, a more explicit statutory provision, similar to Queensland's, would reinforce this independence.

Additionally, the Commissioner should not be a public servant and should be appointed under the [Victims Rights and Support Act 2013](#) legislation rather than the [Government Sector Employment Act 2013](#). This model is used in other jurisdictions, including:

- Queensland: s 17(3), [Victims' Commissioner and Sexual Violence Review Board Act 2024](#);
- Victoria: s 9(3), [Victims of Crime Commissioner Act 2015](#); and
- New South Wales: s 360M, [Biosecurity Act 2015](#).

This distinction is crucial to help keep the Commissioner separate from government and allow them to function as a fully independent advocate for victims.

Finally, the Commissioner's role should be standalone and not combined with the Executive Director role or any other government position. This will help avoid conflicts of interest and allow the Commissioner to focus entirely on systemic advocacy, research, and oversight of victims' rights.

Recommendation:

The proposed model should be strengthened by:

1. *Explicit statutory provisions requiring the Commissioner to act independently and in the public interest.*
2. *Ensuring the Commissioner is not a public servant and is appointed under the [Victims Rights and Support Act 2013](#), not the [Government Sector Employment Act 2013](#).*
3. *Clarifying that the role cannot be combined with the Executive Director or other government positions to maintain clear separation.*

Functions of an Independent Victims Commissioner

2. Do you agree with the functions proposed by the discussion paper for the Independent Victims Commissioner? What, if any, changes should there be?

The functions proposed in the discussion paper provide a strong foundation, particularly in relation to systemic advocacy, research, and oversight of the Charter of Victims Rights. However, certain key additions are necessary to strengthen the Commissioner's effectiveness and accountability:

Monitoring the Implementation of Recommendations

While the proposed functions allow the Commissioner to make recommendations, the paper does not explicitly empower the Commissioner to monitor their implementation.

We recommend adopting a provision similar to s 9(h) of the [Victims' Commissioner and Sexual Violence Review Board Act 2024 \(Qld\)](#):

"To monitor the implementation of recommendations made by the Commissioner under this Act."

This function is critical to helping ensure recommendations do not go ignored and that the Commissioner has an ongoing role in assessing whether the government is acting on its commitments to victims.

We further recommend introducing a legislated timeframe of up to six months in which Ministers, government departments, and agencies must respond to the Commissioner's recommendations. If a recommendation is not adopted, a written explanation should be provided, with all responses published on the Commissioner's website to promote transparency and accountability.

Strengthening Information-Gathering Powers

The Commissioner should have stronger powers to require information and documents, particularly for investigating systemic issues and breaches of the Charter of Victims Rights.

We recommend adopting provisions similar to those in the [Biosecurity Act 2015 \(NSW\)](#):

- [Power to require documents \(s 360I\)](#)
- [Power to require information \(s 360J\)](#)

This would discourage agencies from withholding information and increase transparency when investigating failures in victims' support services.

Penalties for Non-Compliance with Information Requests

If the Commissioner has the power to request information, there must also be penalties for non-compliance to promote cooperation.

We recommend adopting a provision similar to s 29 of the [Victims' Commissioner and Sexual Violence Review Board Act 2024 \(Qld\)](#), which imposes penalties for failure to provide requested information.

This would discourage agencies from delaying or obstructing investigations into systemic failures affecting victims, by introducing consequences for non-compliance.

Recommendation:

The proposed functions should be expanded to increase accountability and effectiveness. We recommend:

1. *Giving the Commissioner explicit power to monitor the implementation of recommendations;*
2. *Legislating a six-month timeframe for government responses to recommendations;*
3. *Expanding the Commissioner's power to require documents and information for both systemic issues and breaches of victims' rights; and*
4. *Introducing penalties for non-compliance with information requests.*

3. Should the Independent Victims Commissioner have any additional functions?

The Commissioner should be empowered with additional functions to better protect victims, particularly in relation to systemic advocacy.

Expanding Systemic Advocacy to Include Financial Support Issues

The Commissioner should also be able to review and advocate for improvements in the Victims Support Scheme, particularly where financial support processes create barriers for victim-survivors.

Currently, some victims do not apply for support due to the fear of restitution orders or the complexity of the application process. The Commissioner should be able to:

- Investigate barriers to victims accessing financial support;
- Make recommendations on how to improve access, particularly for vulnerable groups; and
- Advocate for changes to financial assistance policies that disadvantage victim-survivors.

This would allow the Commissioner to address systemic issues that prevent victims from receiving the support they need.

Recommendation:

The Independent Victims Commissioner should have additional functions to address major gaps in the current system.

1. *Giving the Commissioner the function to investigate and recommend improvements to financial support services for victims.*

4. Should the Independent Commissioner take the role of the chairperson of the Victims Advisory Board?

The Independent Victims Commissioner should take the role of chairperson of the Victims Advisory Board (**VAB**), as this would strengthen oversight and systemic advocacy for victims. Given the Commissioner's role in promoting victims' rights and addressing systemic issues, leading the VAB would provide an important mechanism for engaging with victims, service providers, and key stakeholders.

4a. If the Independent Commissioner were to chair the Victims Advisory Board, are there any changes necessary to the membership requirements or functions of the Board?

Changes should be made to membership requirements to legislate a dedicated First Nations position, ensuring that the Board reflects the diverse experiences of victims. Broader consultation should also be embedded into its functions, particularly to engage victim-survivors with lived experience of accessing statutory and non-statutory supports.

Powers of an Independent Victims Commissioner

5. Do you agree with the powers proposed for the Independent Victims Commissioner? What, if any, changes should there be?

While the proposed powers are a strong foundation, clarification and expansions are required to strengthen the independence, investigative capacity and resourcing of the Independent Victims Commissioner.

Clarification on review powers at the request of the Attorney General (AG)

The discussion paper states that the Commissioner will be able to conduct reviews and inquiries into systemic issues affecting victims of crime at the request of the Attorney General. While requests should be permitted, it is important to clarify that the Commissioner must not be under the direction of any government figure, including the Attorney General.

A statutory provision should explicitly state that the Commissioner retains discretion over the scope, methodology, and findings of any research or inquiry, even when initiated by a government request. This would prevent political interference and safeguard the Commissioner's independence.

Expanding information-gathering powers to include systemic issues

The discussion paper proposes that the Commissioner will have powers to require information and documents when investigating breaches of the Charter of Victims Rights. However, these powers should be expanded to also cover investigations into systemic issues affecting victims.

Advisory board and consultation mechanisms

The Commissioner should have the power to create and maintain their own advisory board or consultation mechanisms, separate from the Victims Advisory Board (VAB).

The Commissioner's advisory board would provide a direct avenue for consultation with lived experience experts, organisations working with victims, and legal practitioners involved in victims' rights advocacy. The Commissioner should be adequately resourced to establish and maintain these advisory structures.

The [Victims of Crime Commissioner Act 2015 \(Vic\)](#) (s16(1)) provides a model for embedding resourcing commitments in legislation:

“The Secretary must ensure that the Commissioner is provided with any employees that are necessary to assist the Commissioner in performing the Commissioner's function.”

A similar provision should be included in the NSW legislation, mandating that the Commissioner receives the staff, funding, and operational resources needed to carry out their functions effectively.

6. Are the existing powers to investigate breaches of the Charter appropriate for the Independent Victims Commissioner?

JSC supports the proposed powers for the Commissioner to investigate breaches of the Charter, as outlined in the discussion paper. The ability to request information for any person or any Government agency would strengthen accountability and improve compliance with the Charter. The power to make special reports to Parliament would also enhance transparency and provide a mechanism for addressing systemic issues.

6a. Should there be penalties for providing false or misleading information?

We agree with the proposal in the discussion paper that penalties should apply for providing false or misleading information. This would help uphold the integrity of investigations and reduce the risk of obstruction or misinformation affecting the Commissioner's work.

6b. What exceptions should there be to the requirement to provide information?

JSC agrees that there should be limited and clearly defined exceptions to the requirement to provide information. Specifically, exceptions should apply where disclosure would prejudice criminal proceedings or the investigation of a criminal offence, or interfere with the exercise of the jurisdiction of a court.