



# **Final Report on the review of the *Victims of Crime Assistance Act 2009***

December 2015

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## Executive Summary

The *Victims of Crime Assistance Act 2009* (VOCA Act) commenced in December 2009, replacing the previous criminal compensation schemes that existed under the *Criminal Offence Victims Act 1995* and the *Criminal Code Act 1899*.

The financial assistance scheme in the VOCA Act was introduced to provide a victim focused process. It aims to provide victims with assistance to help them recover from the act of violence in a timely manner, rather than receiving a lump sum payment after a lengthy court process.

The statutory financial assistance scheme complements other relevant services for victims of violent crime that are available. If a victim can obtain assistance through insurance or other services, they are to do so instead of seeking assistance through the financial assistance scheme.

The VOCA Act has four key components:

- i) the fundamental principles of justice, which underpin the treatment of victims by Government agencies (chapter 2);
- ii) the financial assistance scheme (chapter 3);
- iii) recovering money from offenders convicted of an act of violence (chapter 3, part 16); and
- iv) the role of the Victim Services Coordinator, who is responsible for promoting the interests of victims and assisting agencies to implement the principles (chapter 4).

The VOCA Act also established Victim Assist Queensland (VAQ) to administer the financial assistance scheme and to improve access to services and support for victims of violent crime.

Since 2009, VAQ has provided \$59M in financial assistance to victims of crime through the financial assistance scheme. Today, VAQ has 44 staff led by a Scheme Manager appointed under the VOCA Act who administers the financial assistance scheme and a Victim Services Coordinator who is responsible for promoting and protecting the interests and needs of victims. Government assessors are also appointed under the VOCA Act to assess applications for financial assistance.

### Statutory review of the VOCA Act

The VOCA Act requires a review of the provisions in the Act to be undertaken within five years of its commencement.

The Department of Justice and Attorney-General conducted a review of the VOCA Act, which commenced in October 2013. The terms of reference for the review (**Appendix 1**) directly relate to each of the four key components in the VOCA Act.

A reference group for the review consisting of relevant government and non-government organisations was established to provide expert advice to the review team (members are listed at **Appendix 2**). In addition, a consultation paper was released to the public for comment for a period of six weeks and workshops were held with stakeholders from across the State to discuss issues and options for reform.

Overall, the review found that the financial assistance scheme works well and plays an important role in assisting victims of violent crime to recover from acts of violence. In comparison to the

previous victim criminal compensation scheme, the VOCA Act has provided direct and timely financial assistance to a wider range of victims.

The review identified improvements to ensure the VOCA Act continues to provide an effective response to assist victims of crime. The report contains 15 recommendations for amendments to the VOCA Act and other legislation that will:

- make the application process for financial assistance easier for victims;
- enhance the rights of victims and how they are treated;
- simplify the amounts of financial assistance paid to victims, including an increase to the maximum amounts for some categories of financial assistance;
- expand the scope of the financial assistance scheme to ensure all victims of domestic and family violence are able to access the scheme;
- improve the decision making process by allowing VAQ greater flexibility and access to information; as well as including certain requirements on applicants when other financial assistance may be available;
- clearly define the time limit for when actions for the recovery of financial assistance from an offender may be initiated; and
- expand the role of the Victim Services Coordinator to help victims resolve complaints.

The report's 15 recommendations will build on the current statutory framework and ensure victims are able to access financial assistance and support when needed and that responses to assist victims are appropriate.

The recommendations will address the main issues raised during the review – that the financial assistance application is too complex and evidentiary requirements too burdensome for victims who have just suffered a traumatic event in their lives. The recommendations will also improve timeliness of decision making when assessing applications for financial assistance and ensure that victims of violent acts be treated with respect and dignity.

The Queensland Government has accepted all 15 review recommendations. Subject to Parliamentary timeframes and processes, it is expected a Bill to implement the review's recommended legislative reforms will be considered by Parliament in 2016.

## List of review recommendations

**Recommendation 1:** Amend the VOCA Act to increase the maximum amount of funeral assistance payable to an eligible victim from \$6,000 to \$8,000 to reflect the increased cost of funerals and to provide a higher level of assistance to victims who have prematurely lost a loved one as a result of an act of violence.

**Recommendation 2:** Amend the VOCA Act to remove the requirement for financial assistance applications to be verified by a statutory declaration to ease the burden on victims when first applying for financial assistance.

**Recommendation 3:** Amend the VOCA Act to remove the requirement for a medical certificate about the victim's injury to accompany the financial assistance application form to ease the burden on victims when first applying for financial assistance.

**Recommendation 4:** Amend the VOCA Act to remove pools of assistance for secondary and related victims so each application for financial assistance is considered on its own merits.

**Recommendation 5:** Amend the VOCA Act to prescribe the following fixed amounts for each category of special assistance to simplify payments:

- Category A - \$10,000
- Category B - \$3,500
- Category C - \$2,000
- Category D - \$1,000.

**Recommendation 6:** Amend the VOCA Act to allow the assessor to defer a decision about granting financial assistance to a later date where:

- the cause of death of the primary victim is unknown; or
- a person is disputing liability for payment of a debt under the VOCA Act.

**Recommendation 7:** Amend the VOCA Act to expand the definition of 'act of violence' in the VOCA Act to include an act of domestic and family violence to align with the definition under the *Domestic and Family Violence Protection Act 2012* so that all victims of domestic and family violence are able to seek financial assistance.

**Recommendation 8:** Amend the VOCA Act to require victims who are eligible to make a Compulsory Third Party (CTP) insurance claim to have that claim finalised prior to applying for financial assistance under the VOCA Act so that payments are not duplicated for injuries related to the one act of violence. However, these victims should still receive help under the VOCA Act to pay for and attend counselling sessions while waiting for their CTP insurance claim to be finalised.

**Recommendation 9:** Amend the VOCA Act to ensure Victim Assist Queensland has access to, or is informed about, all information relevant to making a decision about an application for financial assistance by:

- requiring an applicant to inform Victim Assist Queensland about any other payment received or that will be received in relation to the same act of violence, even after the application is finalised
- allowing Victim Assist Queensland to obtain information from Queensland Courts; Department of Transport and Main Roads; and State Penalties Enforcement Registry
- ensuring the ability of Victim Assist Queensland to obtain information under the VOCA Act applies even after an application for financial assistance has been finalised.

**Recommendation 10:** Amend the VOCA Act to allow Victim Assist Queensland to provide confidential personal information to a person for genuine research purposes.

**Recommendation 11:** Amend the VOCA Act so that recovery of financial assistance from an offender cannot be initiated after six years from when the person was convicted of the relevant offence or six years after an application for financial assistance was made under the VOCA Act to ensure more timely debt recovery action against offenders is taken and there is fairness and transparency in the process.

**Recommendation 12:** Amend the VOCA Act (and other legislation) to foster and encourage victims' rights and the ways victims are supported by:

- renaming the fundamental principles of justice to a *Charter of Victims' Rights* and redrafting the rights in plain English
- clarifying how rights contained in the renamed *Charter of Victims' Rights* are exercised by relevant agencies
- inserting additional rights into the renamed *Charter of Victims' Rights* to provide for:
  - returning property to a victim as soon as possible
  - victims on the Victims Register being given the opportunity to make submissions to the Parole Board concerning the granting of parole to a violent or sexual offender.

**Recommendation 13:** Amend the VOCA Act to include in the renamed *Charter of Victims' Rights* an onus on relevant agencies to proactively provide information to victims so that victims are able to access the information available to them.

**Recommendation 14:** Amend the VOCA Act to apply the *Charter of Victims' Rights* to Government funded non-government agencies that are funded to provide a service to assist victims recover from a crime so that the treatment of victims is consistent across both government and non-government services.

**Recommendation 15:** Amend the VOCA Act to authorise the Victim Services Coordinator to help victims resolve complaints where the victim is dissatisfied with the response from the agency.

# 1. Introduction

The *Victims of Crime Assistance Act 2009* (VOCA Act) commenced in December 2009. The purposes of the Act are to:

- declare the fundamental principles of justice to underlie the treatment of victims;
- implement the principles of justice and set out processes to make complaints about conduct inconsistent with the principles; and
- establish a financial assistance scheme for victims who have suffered from an act of violence.

The Act has four key components: the fundamental principles of justice (chapter 2); the financial assistance scheme (chapter 3); recovering money from offenders convicted of an act of violence (chapter 3, part 16); and the role of the Victim Services Coordinator (chapter 4).

## 2. The review process

### 2.1 Purpose

Section 144 of the VOCA Act provides that a review of the appropriateness of the provisions of the Act be completed within five years of its commencement.

After finishing the review, the Minister must as soon as practicable, table a report about the review's outcome in the Legislative Assembly.

### 2.2 Terms of Reference

The terms of reference for the review (**Appendix 1**) were developed based on the key components of the VOCA Act.

### 2.3 Approach to consultation

The review of the VOCA Act was conducted by the Department of Justice and Attorney-General (DJAG) and commenced in late 2013.

The review team adopted a staged and targeted approach to consultation, engaging with stakeholders throughout the course of the review.

#### Reference group

A reference group of key government and non-government service providers to victims of crime was established to provide advice to the review team on issues relevant to the review of the VOCA Act (members of the reference group are listed in **Appendix 2**).

#### Initial consultation

Submissions were initially sought from the reference group and other key non-government stakeholders about any issues they had identified with the operation of the VOCA Act. The review team also received information from staff members of Victim Assist Queensland (VAQ).

From this feedback 57 issues were identified by the review team. Possible options to address these issues were developed in consultation with the reference group and informed the discussion in the public consultation paper.

Some of the issues identified were operational in nature and fell outside the scope of the review. These issues were referred to VAQ for its consideration and are outlined in **Appendix 3**.

### **The consultation paper**

A consultation paper was released for public consultation on 23 October 2014, for a period of six weeks. The consultation paper sought the views of interested individuals, agencies and organisations on issues related to the VOCA Act. Submissions closed on 5 December 2014. The consultation paper included 12 questions related to the terms of reference and possible areas for reform. It also invited comment on any other issues stakeholders considered relevant to the objects of the review. (Questions from the consultation paper are outlined at **Appendix 4**).

There were 21 written responses to the consultation paper from a variety of stakeholders, including:

- Bravehearts
- Butler McDermott Lawyers
- Cape York Indigenous Justice Group Coordinators
- Court Network Inc.
- Department of Communities, Child Safety and Disability Services
- Department of Transport and Main Roads
- Dr Cassandra Cross, Queensland University of Technology
- Dr Kerstin Braun, The University of Queensland
- Knowmore
- Office of the Information Commissioner
- Office of the Public Guardian
- Prisoners Legal Service
- Protect All Children Today
- Queensland Indigenous Family Violence Legal Service
- Queensland Public Interest Law Clearing House
- Queensland Treasury
- Department of Health
- Sharna Pickwick, Social Worker
- Townsville Sexual Assault Support Service
- personal perspectives from victims

### **Workshops and focus groups**

From September 2014 to December 2014 the review team held a series of 11 workshops and focus groups with key government and non-government stakeholders to seek specific feedback about possible options for reform. These meetings informed the review recommendations.

### **Key themes raised in consultation**

Generally stakeholders were supportive of the VOCA Act, noting that the current scheme and the establishment of VAQ has resulted in better support for victims than under the previous repealed criminal injury compensation scheme.

For example, Court Network Inc. noted the “significant contribution [the Act] has made to both the rights and entitlements of victims of crime in Queensland since its introduction in 2009” and also submitted that:

replacing the criminal injury compensation scheme has allowed an immediate recognition of the crime perpetrated on the victim and, in cases of homicide, the victim’s family, and provides opportunity to access much needed medical, psychological and material assistance when it is needed most.<sup>1</sup>

However, stakeholders also identified a number of issues that detracted from the VOCA Act’s overall effectiveness. The main issues raised were that:

- the application process is unnecessarily complex and obstructs the provision of timely assistance
- there is inconsistent implementation of the fundamental principles of justice and negligible consequences for non-compliance with the principles across government
- the offender debt recovery process is ineffective and punitive
- the Act’s scope is not appropriately aligned with the needs of different victim types.

The issue which provoked the strongest response from stakeholders was the complexity of the current application process, with broad support for proposals aimed towards making the process easier for victims to navigate. Bravehearts’ submission is typical of most stakeholders on this topic:

Lengthy forms (14 pages) and arduous requirements to produce evidence can be a deterrent to applying for many victims. Our position is that it is vital that the system be streamlined, the lengthy application form reduced and the level and sources of evidence required be reviewed.<sup>2</sup>

### **3. Review findings and recommendations**

#### **3.1 The effectiveness of the financial assistance scheme**

##### **Who is a victim of crime and what assistance can they receive?**

The VOCA Act establishes a financial assistance scheme for victims of acts of violence. Section 25 of the VOCA Act defines an act of violence as a crime or series of related crimes, whether committed by one or more people in Queensland which directly resulted in the death of, or injury to, one or more people, irrespective of where the death or injury happened. No conviction for the act of violence is required, however, the act must have been reported to police unless there is a reasonable excuse.<sup>3</sup>

There are four categories of victims under the VOCA Act:

- primary victim – a person who dies or is injured as a direct result of the act of violence

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<sup>1</sup> Submission of Court Network Inc., 5 December 2014, p 1.

<sup>2</sup> Submission of Bravehearts, 15 December 2014, p 4.

<sup>3</sup> Section 81, VOCA Act.

- parent secondary victim – a person who is the parent of a child directly injured by the act of violence and is injured themselves as a result of becoming aware of the act
- witness secondary victim – a person who is injured as a direct result of witnessing the act of violence
- related victim – a person who is a close family member, for example, a person’s spouse, child, parent or sibling or a dependent of a primary victim who has died as a direct result of the act of violence.<sup>4</sup>

The VOCA Act details various types of financial assistance for each category of victim and sets out the maximum amount of assistance that can be claimed in each category.

Primary, secondary and related victims can claim for interim assistance of up to \$6,000 to assist them to recover from the act of violence in a timely manner. Interim assistance is granted to victims of crime when money is needed for emergency costs prior to the full grant being paid, such as for dental work. Any interim assistance paid is deducted from the total assessed amount. If the total amount is less than the interim amount, the victim will be asked to repay the difference.<sup>5</sup>

Grants of assistance are not intended to reflect the level of compensation a victim may be entitled to through other compensation schemes.<sup>6</sup> The purpose of the statutory financial assistance scheme is to add to other services for victims of crime so if a victim can obtain assistance through another service, for example, insurance, they are to do so instead of seeking assistance through the financial assistance scheme.<sup>7</sup>

### **Comparing the financial assistance scheme under the VOCA Act to the repealed criminal injury compensation scheme**

The VOCA Act commenced on 1 December 2009, replacing the criminal injury compensation schemes of the former *Criminal Offence Victims Act 1995* (COV Act) and the Criminal Code. The reform was made in response to widespread criticism of the previous scheme as being overly complex and costly, and a cause of delay for victims receiving assistance.

The current financial assistance scheme was introduced to provide a more victim focused and timely process. It aimed to provide victims with assistance to help them recover from the act of violence, rather than receiving a lump sum payment after a lengthy court process. The VOCA Act also established VAQ to administer the scheme and to improve access to services and support for victims of violent crime.

This model is consistent with the majority of jurisdictions in Australia. For example, the current Queensland scheme is based on the Victorian model and New South Wales (NSW) has recently introduced a very similar scheme.

Under the repealed criminal compensation scheme in 2008, the average payment to a victim was approximately \$17,340. During 2008, 931 victims received assistance under the COV Act. The average time for dealing with an application was 611 days – this does not include the time it took for the matter to be decided in court for court ordered compensation payments.

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<sup>4</sup> Section 26, VOCA Act.

<sup>5</sup> Sections 97–100, VOCA Act.

<sup>6</sup> Section 3(3), VOCA Act.

<sup>7</sup> Section 21(4), VOCA Act.

In comparison, under the VOCA Act in 2012, 2,159 applications for assistance received a grant of assistance with the average grant of assistance over this time being \$6,775. The average time for dealing with an application under the VOCA Act is 155 days and on average a victim will receive interim assistance within 29 days of VAQ receiving the application.

This comparison shows that although victims on average are receiving less money, more victims are receiving assistance (due to the expansion of the eligibility criteria to *all* acts of violence) and in a more timely manner (given the more streamlined approach with Government assessors making determinations about granting assistance).

During consultation, stakeholders noted the positive changes that have resulted from commencement of the VOCA Act to victims' rights and entitlements, including more immediate access to assistance in areas such as medical needs. Stakeholders also commended VAQ on their collaboration and engagement with both government and non-government stakeholders and high quality service delivery.<sup>8</sup>

### **Conclusion**

Based on the above data and results of consultation, the review concluded that the new financial assistance scheme under the VOCA Act is doing what it was intended to do – helping more victims by providing them with financial assistance that will directly help them to recover from the act of violence as soon as possible after the act occurs. Given this conclusion, other models of financial assistance were not considered as a part of the review.

### **Ensuring victims are receiving the help they need**

VAQ receives victim referrals from a variety of services, including referrals from the Queensland Police Service (QPS) and the Office of the Director of Public Prosecutions (ODPP), private legal practices and Legal Aid Queensland (LAQ). The VAQ information and referral service (Victims LinkUp) has had over 83,900 interactions with 28,723 individual clients since commencement of the VOCA Act in 2009.

The majority of applications for financial assistance submitted to VAQ since commencement of the VOCA Act have been from primary victims. The total average grant of financial assistance per victim is \$7,970. The categories of assistance in most demand are special assistance and distress payments (to acknowledge the harm suffered by a primary victim or distress suffered by a related victim as a result of the act of violence), damage to clothing, medical expenses, and assistance for expenses that are unusual and out of the ordinary based on the particular circumstances of the act of violence, such as locks to secure a victim's home.

Maximum amounts for victims are very rarely reached in any category except for funeral assistance. For example, there have been only five matters where a primary victim has reached or come close to being granted the maximum limit of \$75,000 for financial assistance. With the exception of funeral assistance<sup>9</sup>, the significant majority of stakeholders did not raise issues with the amount of assistance or the type of financial assistance that victims are receiving.

Victims seeking financial assistance in 2014 reported a high level of satisfaction with the process through VAQ's Client Satisfaction Survey, which gauges the person's experience with the service, including the timeliness of receiving assistance and their understanding of the decisions made about the financial assistance granted to them.

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<sup>8</sup> Submission of Cape York Indigenous Justice Group Coordinators, 13 November 2014, p 1; submission of Protect All Children Today (PACT), 24 November 2014, p 1; and submission of Knowmore, 9 December 2014, p 9.

<sup>9</sup> For further information refer to page 13.

In addition, a relatively small number of internal reviews of decisions are requested (around 2% of applications determined result in an internal review request each year) and each year, an average of four applications for external review are made by victims to the Queensland Civil and Administrative Tribunal (QCAT) (with the majority of QCAT decisions confirming the original decision by VAQ). These figures indicate an overall high satisfaction with the scheme and the grants made to victims.

As well as providing financial assistance to victims of acts of violence, VAQ also helps victims of any type of offence (not just those for personal violent offences) by referring them to specialist support services such as counselling services. As at 30 June 2015, VAQ had referred a total of 4,738 people to counselling services, including those provided by Relationships Australia Queensland, DV Connect and Bravehearts.

### **Conclusion**

The VOCA Act ensures that victims of crime get the help they need through a variety of mechanisms, including the financial assistance scheme and referral to other services such as counselling. With the exception of funeral assistance (which is discussed in more detail below), it is not considered necessary to increase maximum limits for financial assistance.

### ***Increasing the maximum amount of funeral assistance***

The VOCA Act provides that anyone who incurs the cost of a funeral as a result of a primary victim dying from an act of violence is eligible for up to \$6,000 to contribute towards the cost of paying for the funeral. The applicant is required to provide evidence (receipts or a quote) to receive the assistance.

A significant number of stakeholders considered the maximum amount of \$6,000 for funeral assistance is not reflective of the cost of a funeral and does not sufficiently help victims to pay for these costs.<sup>10</sup> Since commencement of the VOCA Act, the cost of funerals has increased. Almost half of all of the invoices received by VAQ since commencement of the VOCA Act for payments for funerals are for an amount over \$6,000. Of these, 66% are for an amount between \$6,000 and \$8,000 and the remainder are for an amount over \$8,000. The average actual cost for funeral expenses submitted to VAQ is \$6,160.

### **Conclusion**

This component of financial assistance should be set at an amount that eases the burden on a person who is unexpectedly required to pay for a funeral of a loved one whose life has been taken prematurely as a result of an act of violence.

The maximum amount of funeral assistance should be increased to \$8,000, which is considered to be a more appropriate amount to help people, particularly having regard to the number of requests to VAQ for funeral assistance in that range.

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<sup>10</sup> Submission of PACT, 24 November 2014, p 2; submission of Townsville Sexual Assault Support Service, 5 December 2014, p 2; submission of Court Network Inc, 5 December 2014, p 5; submission of Queensland Indigenous Family Violence Legal Service (QIFVLS), 8 December 2014, p 12; submission of Knowmore, 9 December 2014, p 4; submission of Bravehearts, 15 December 2014, p 6; and submission of Butler McDermott Lawyers, 15 December 2014, p 2.

**Recommendation 1: Amend the VOCA Act to increase the maximum amount of funeral assistance payable to an eligible victim from \$6,000 to \$8,000 to reflect the increased cost of funerals and to provide a higher level of assistance to victims who have prematurely lost a loved one as a result of an act of violence.**

### **Streamlining application processes for financial assistance**

A victim who wishes to apply to VAQ for financial assistance must do so within three years of the act of violence or the death of the victim or, if the victim is a child, from the day the child turns 18. There is provision for the victim to apply for an extension.<sup>11</sup>

Under the Act, the chief executive must appoint a manager for VAQ (Scheme Manager) who is responsible for administering the financial assistance scheme in Queensland.<sup>12</sup> Government assessors are appointed under the VOCA Act to make decisions about granting assistance to victims.<sup>13</sup> An assessor determines the victim's eligibility for financial assistance and the amount of assistance the victim is entitled to.

The evidence required to determine eligibility for assistance must support, on the balance of probabilities, that the victim has suffered an injury as a result of an act of violence. Applications for assistance must be in the approved form and include a medical certificate, other supporting documentation such as receipts, and consent for the government assessor to obtain other relevant information to assess the claim. The application form must be verified by way of a statutory declaration.<sup>14</sup>

During consultation, many stakeholders raised the need for the current application process to be less complicated and less onerous on victims. There was general consensus amongst stakeholders that the amount of information that victims are required to gather is substantial and discourages victims from applying for assistance to which they may be entitled. Court Network Inc. advised:

They [applicants] have received information and forms at various stages throughout the legal process but mostly put them aside as they are overwhelmed, do not understand what is being offered, find the forms too complicated and often cannot face managing these issues while dealing with the physical and psychological distress of the crime.<sup>15</sup>

### ***Requirement for a statutory declaration and medical certificate***

The requirement for a statutory declaration requires a person to solemnly and sincerely declare something to be true before a justice of the peace or other authorised person under the *Oaths Act 1867*. A person who gives false information in a statutory declaration commits an offence with a maximum penalty of seven years imprisonment under the Criminal Code.<sup>16</sup> There are also a number of offences in Queensland about providing misleading, false or fraudulent information which apply to victims applying for financial assistance even if there is no statutory declaration accompanying the application.<sup>17</sup>

<sup>11</sup> Sections 51 and 54, VOCA Act.

<sup>12</sup> Section 127, VOCA Act.

<sup>13</sup> Section 128, VOCA Act.

<sup>14</sup> Section 52, VOCA Act.

<sup>15</sup> Submission of Court Network Inc., 5 December 2014, p 2.

<sup>16</sup> Section 193, Criminal Code.

<sup>17</sup> Section 141, VOCA Act; section 408C, Criminal Code.

A medical certificate from a health practitioner to prove the injury and the treatment required were a result of an act of violence must accompany the initial application for assistance.

There was overwhelming support from stakeholders for reforms to the VOCA Act to remove the requirements for the application form to be in the form of a statutory declaration and accompanied by a medical certificate. For example, PACT submitted that not having to provide a statutory declaration with an application should assist victims by removing one of the barriers that families currently face. In addition, Townsville Sexual Assault Support Service submitted that:

Removing the requirement for a medical certificate as part of the application process would make the process less onerous and difficult for victims. This current requirement has impacted greatly on applicants that have experienced significant difficulties when requesting GPs complete the medical certificate. The application process would benefit from the assessor accessing the information they need directly from the health practitioner which would save the victim unnecessary distress and would streamline the process.<sup>18</sup>

Stakeholders noted complying with the statutory declaration and medical certificate requirements was difficult for many applicants, particularly for applicants in rural and regional areas where access to authorised witnesses or doctors is limited. Further, finding someone to witness the declaration and going through the form with them or retelling their story becomes another re-traumatising event for the victim. It also adds to the time it takes to submit the application and delays access to financial assistance.

Another consistent concern expressed by stakeholders is that it is often difficult for victims to access a medical practitioner who will complete the certificate (for example, they may not have a regular doctor, or the act of violence occurred some time ago, or they live in a remote area where access to medical practitioners is limited).<sup>19</sup>

NSW, Western Australia (WA) and the Northern Territory (NT) do not require applications for financial assistance to be verified by a statutory declaration. Instead of a statutory declaration, the application form includes a section where the applicant declares the information provided is true and correct and then signs the form. The form includes a warning that providing false or misleading information is an offence and may adversely affect the outcome of the application.

In NSW, the application form does not need to be accompanied by a medical certificate, but such a report can be provided at a later date (before the grant of assistance). In fact, on the form, the victim is asked whether they need help in obtaining the requisite evidence. This means that instead of the victim having to obtain the relevant documentation, the assessor is able to seek the information they need directly from the health practitioner which can save the victim a lot of time and extra stress.<sup>20</sup>

## **Conclusion**

The requirement that an application be accompanied by a statutory declaration and medical certificate is unnecessary and should be removed, so the application process is easier for victims while still maintaining a robust evidence-based scheme for granting financial assistance. This will

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<sup>18</sup> Submission of Townsville Sexual Assault Support Service, 5 December 2014, p 1.

<sup>19</sup> Submission of PACT, 24 November 2014, p 1; submission of Townsville Sexual Assault Support Service, 5 December 2014, p 1; submission of Court Network Inc., 5 December 2014, p 3; submission of QIFVLS, 8 December 2014, p 5; submission of Knowmore, 9 December 2014, p 2; and submission of Bravehearts, 15 December 2014, p 4-5.

<sup>20</sup> Section 39, *Victims Rights and Support Act 2013* (NSW).

reduce the burden on applicants and provide VAQ with a more flexible approach where they can obtain the necessary evidence they need based on the victim's circumstances.

The application form should require the applicant to declare the information provided is true and correct and include a warning to the applicant that providing false or misleading information is an offence and may adversely affect the outcome of their application.

VAQ will also need to ensure that appropriate checks to confirm the identity of the victim are in place to prevent identity fraud. This could be done by conducting cross-checks of information from entities who have had contact with the victim, for example, the police and medical practitioners or by requiring the victim to provide a certified copy of some form of identification (for example, a driver's licence) at some stage throughout the process. For those victims who do not have any form of identity, a person who has known them for at least 12 months and who is not a relative may be able to confirm their identity instead.

In addition, proof of the injury could be obtained by the assessor, with the victim's consent, by directly contacting a doctor or from information contained in a police report or a hospital report. Receipts for specific expenses before assistance is given will still be required and can also be used by VAQ to be satisfied that particular treatments are needed to treat the injury.

**Recommendation 2: Amend the VOCA Act to remove the requirement for financial assistance applications to be verified by a statutory declaration to ease the burden on victims when first applying for financial assistance.**

**Recommendation 3: Amend the VOCA Act to remove the requirement for a medical certificate about the victim's injury to accompany the financial assistance application form to ease the burden on victims when first applying for financial assistance.**

### ***Removing pools of assistance for secondary and related victims***

The maximum amount payable to all related victims, all parent secondary victims and all witness secondary victims combined for one act of violence is a pool of \$100,000 for related victims and \$50,000 for secondary victims. For example, if a child is injured as a result of an act of violence, both parents of the child are eligible for a combined total of \$50,000. Pools of assistance were introduced to cap the overall amount that could be claimed by a group of people for the one act of violence, however, it is rare that entire pools of assistance are exhausted. Since the scheme commenced, 18 out of 334 related victim pools have been exhausted and out of 262 secondary victim pools none have been exhausted.

If a secondary victim or a related victim shares in a pool of financial assistance they are required to provide VAQ with the details of any other people who would be eligible for assistance. Before deciding an application, VAQ must attempt to identify other potential victims who have not applied and send them a written notice about the application giving them three months to apply for assistance. This process can take extended periods of time as more victims are identified and notified of their right to apply. This waiting period can result in significant delays in processing applications and no victims are able to be paid assistance, other than interim assistance of up to \$6,000, until all victims who have been notified have been given three months to advise of their intentions to make a claim.

The average waiting period for parent secondary and related victims to have their application assessed is 161 days and 152 days respectively. This is compared to the average waiting period

of 131 days for a primary victim whose application is being assessed on its own merit, receiving financial assistance around one month earlier than parent secondary and related victims.

Another problem with having pools of assistance for related victims raised by stakeholders is that some victims, in particular child victims, who do not make an application until later when their injuries become apparent, are not able to access any assistance if the pool of assistance is exhausted or has minimal funds remaining.<sup>21</sup>

In NSW, there are no pools of assistance. Rather maximum amounts are prescribed for each victim type and payment category. The processing times for these types of applications are now much shorter than they were previously when pools of assistance were in place and this has been attributed to the removal of the pools.<sup>22</sup>

### **Conclusion**

Pools of assistance for both related and secondary victims should be removed. During consultation all stakeholders were supportive of this approach. Bravehearts submitted that the removal of pools of assistance would:

reduce the complexity of the application process and provide for the assessment of individual applicant's claims based on individual merit rather than as party to a group of claims.<sup>23</sup>

Removal of these pools of assistance will reduce red tape and reduce the complexity of the application process by removing the need for victims to detail each eligible victim and also the need for assessors to notify and wait for all applications to come in before assessing each individual's claim. Victims will have their application assessed on their own merit rather than being considered as a part of the pool. Victims will receive the help they need at the time they need it. It will also ensure that victims who do not immediately need assistance to recover can still obtain assistance at a later date, without fear that the pool will be exhausted by that time.

**Recommendation 4: Amend the VOCA Act to remove pools of assistance for secondary and related victims so each application for financial assistance is considered on its own merits.**

### **Streamlining decision making processes for granting financial assistance**

To ensure that victims are receiving financial assistance in a timely manner, the review considered decision making processes contained in the VOCA Act could be streamlined and simplified. Stakeholders were supportive of reforms that streamlined processes as long as the individual circumstances of a victim could still be taken into account, for example, the injuries sustained by the victim or whether the victim is a child or elderly.<sup>24</sup>

### **Streamlining special assistance payments**

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<sup>21</sup> Submission of Department of Communities, Child Safety and Disability Services (DCCSDS), 5 December 2014, p 2; Financial Assistance Focus Group held on 21 November 2014.

<sup>22</sup> Information from NSW Victims of Crime (9 December 2014).

<sup>23</sup> Submission of Bravehearts, 15 December 2014, p 6.

<sup>24</sup> Submission of PACT, 24 November 2014, p 1; submission of Court Network Inc., 5 December 2014, p 3; submission of QIFVLS, 8 December 2014, p 9; submission of Knowmore, 9 December 2014, p 2; and submission of Bravehearts, 15 December 2014, p 4;

Primary victims are eligible for a lump sum payment of special assistance of up to \$10,000. The purpose of special assistance is to recognise the impact of the harm caused to the victim. This payment is in addition to financial assistance to pay for the costs of goods and services that the victim requires to recover from the physical and psychological effects of the act of violence.

The VOCA Act outlines a maximum and minimum amount of special assistance within four categories which are based on the seriousness of the act of violence. For example, for the highest category of offences, such as manslaughter, the maximum that a victim will receive is \$10,000 and the minimum amount is \$5,000, compared to a less serious act of violence, such as assault, which has a maximum amount of \$650 and a minimum amount of \$130.

Currently the government assessors decide on the amount of the lump sum within the minimum and maximum amounts to be given to the victim by taking into account the circumstances or particular characteristics of the offence - for example, the victim has suffered a very serious injury or where the victim is a child, impaired person or person over the age of 60 - the assessor can 'uplift' the amount to be paid to a more serious category of violence which carries a larger payment.

This framework results in the assessor having to use their discretion to categorise the act of violence, determine whether any circumstances about the act warrant the use of an uplift to a more serious category, and then determine what specific amount should be paid within the range of the relevant category. This process leads to inconsistency in decisions as there is no specific formulation for making decisions about what amount a victim should be paid within the broad range.

The majority of stakeholders agreed that this process is complex and should be streamlined. However, many people submitted that consideration of the particular circumstances of the case was important and the ability of assessors to take these factors into account should not be removed.<sup>25</sup>

### **Conclusion**

The prescribed maximum and minimum amounts for special assistance should be removed and replaced with one amount for each category. This would mean that all victims who have suffered from an act of violence within each category would be paid the same amount. However, assessors would still be able to take into account the particular circumstances of the victim and the act of violence and where appropriate, uplift the grant to a more serious category of violence.

By prescribing one set amount in each category of special assistance, decisions will be more streamlined and consistent across applications while still allowing for individual circumstances to be taken into account.

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<sup>25</sup> Submission of Queensland Public Interest Law Clearing House (QPILCH), 5 December 2014, p 6; submission of Knowmore, 9 December 2014, p 4; submission of QIFVLS, 8 December 2014, p 11; submission of Bravehearts, 15 December 2014, p 6; and submission of Department of Health, p 2 July 2015, p 3.

The set amount prescribed for categories A and B should be the current maximum for each of these categories (\$10,000 and \$3,500 respectively). Category C should be increased from \$1,300 to \$2,000 and category D from \$650 to \$1,000 as it is considered that current maximum amounts for these two categories do not sufficiently recognise the harm caused to the victim in these instances.

**Recommendation 5: Amend the VOCA Act to prescribe the following fixed amounts for each category of special assistance to streamline decision making:**

- **Category A - \$10,000**
- **Category B - \$3,500**
- **Category C - \$2,000**
- **Category D - \$1,000.**

***Having the right information before making a decision about financial assistance***

Currently there is only one circumstance under the VOCA Act in which an assessor may defer a decision to grant assistance to a later date. This is where an assessor reasonably believes that the victim's behaviour may have resulted in the act of violence being committed against them and further information from the police investigation is necessary before a decision can be made.<sup>26</sup>

There are other reasons why an assessor may wish to defer a decision to a later date, for example, to await the results from an investigation into the cause of death of a victim or if an offender is disputing liability for the payment of a debt under the VOCA Act. The power to defer will allow an assessor time to gather all relevant information to make a decision to grant assistance. Further, giving the assessor the power to defer the decision to grant assistance until the dispute about liability is resolved would ensure that any debt to the State is paid as a priority, rather than granting assistance to the person and then having to ask for it back to repay the original debt incurred as an offender convicted of an act of violence.

In NSW, Victoria, the Australian Capital Territory (ACT), WA and NT, applications can be deferred for a variety of reasons to ensure that the decision maker has all of the relevant material before them prior to making a decision.

***Conclusion***

The approach taken in other jurisdictions, allowing assessors to defer decisions, should also be taken in Queensland to ensure assessors can make informed decisions when granting financial assistance and to reduce overpayment to victims.

**Recommendation 6: Amend the VOCA Act to allow the assessor to defer a decision about granting financial assistance to a later date:**

- **the cause of death of the primary victim is unknown; or**
- **a person is disputing liability for payment of a debt under the VOCA Act.**

**Expanding the scope of financial assistance to ensure all victims of domestic violence are able to access assistance**

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<sup>26</sup> Section 87, VOCA Act.

The financial assistance scheme only assists victims of acts of violence that are against a person, for example, physical assaults. While victims of acts of domestic and family violence (which are acts of violence against a person) are eligible for financial assistance, victims of some types of domestic and family violence captured under the *Domestic and Family Violence Protection Act 2012* (DFVP Act) are not eligible for financial assistance for injuries arising from those acts. Relevant acts not currently covered by the VOCA Act include non-criminal acts of domestic violence such as economic or emotional abuse, and acts which are criminal but are not violent acts against the person, such as damaging property and injuring or killing pets.

In 2013-2014 there were 66,016 occurrences of domestic and family violence reported in Queensland. Victims of domestic and family violence are a key victim client group for VAQ with 14% of all applications for financial assistance in 2014 being victims of domestic and family violence.

A number of stakeholders submitted that there is a lack of synergy between the VOCA Act and the DFVP Act. Government committed to ensure all victims of domestic violence can access financial assistance even where the domestic violence was non-physical in nature (government election commitment 324).

It is also an issue that was considered by the Queensland Special Taskforce on Domestic Violence which published its report: *Not now, not ever: putting an end to domestic and family violence in Queensland* (DV Report) on 28 February 2015. Recommendation 95 of the DV Report recommended that Government continue the review of the VOCA Act to ensure appropriate financial compensation for victims of domestic and family violence. Government accepted this recommendation committing to table the VOCA Act review report by the end of 2015.

The DV Report also highlighted how difficult it is for victims of domestic and family violence to escape the violence due to their financial dependency on the perpetrator. The DV Report emphasised the need for services to provide options to help victims leave abusive relationships and start over. There are opportunities for the financial assistance scheme and the other work of VAQ to contribute to addressing this need.

## **Conclusion**

Domestic and family violence of all types has a significant impact on the victims of that violence. The injury suffered by a victim due to emotional and economic abuse may be just as great as injuries resulting from physically violent acts against the person that are covered under the current scheme and therefore it is important that these violent behaviours are also covered by the VOCA Act.

The VOCA Act should be amended to ensure that all victims of domestic and family violence are able to access financial assistance, including those who have suffered emotional or economic abuse without any actual offence against the person occurring and victims who are in a relevant relationship who have suffered from a criminal act such as damaging property or injuring or killing pets. Victims of elder abuse (where the abuse is emotional or economic), will be able to seek assistance under the scheme and it is also likely that more children will be eligible for financial assistance for their injuries arising from witnessing or experiencing domestic and family violence.

Ensuring all domestic and family violence victims have access to assistance under the VOCA Act acknowledges the victim status of all domestic and family violence victims, and has the potential to contribute towards a wider change in attitudes towards domestic and family violence.

**Recommendation 7: Amend the VOCA Act to expand the definition of ‘act of violence’ to include an act of domestic and family violence to align with the definition under the *Domestic and Family Violence Protection Act 2012*, so that all victims of domestic and family violence are able to seek financial assistance.**

### **Eligibility for financial assistance when the act of violence relates to a motor accident**

A victim of an act of violence related to the operation of a motor vehicle is eligible for assistance under the VOCA Act. Such a victim is also able to claim compensation under Queensland’s Compulsory Third Party (CTP) insurance scheme which provides motor vehicle owners, drivers, passengers and other insured persons with an insurance policy for unlimited liability for personal injury caused by, through or in connection with the use of the motor vehicle in incidents to which the *Motor Accident Insurance Act 1994* applies.

The majority of states and territories in Australia do not cover acts of violence related to the operation of a motor vehicle in victim financial assistance schemes as these acts are considered under the CTP insurance scheme instead. Some victims in NSW, WA, NT and the ACT are still able to seek counselling through the equivalent VAQ service but are not able to apply for any other types of financial assistance.

The CTP insurance scheme in Queensland generally covers the same categories of assistance as the financial assistance scheme under the VOCA Act. Having both schemes cover the same categories of assistance is an unnecessary duplication of resources and may result in overpayments or double payments so the State is required to recover money from the victim. This is not the intent of the victim financial assistance scheme as the VOCA Act specifically excludes victims from being eligible for assistance if they have or will receive payment for the act of violence from another source.

The majority of stakeholders who made submissions on this topic were supportive of removing the ability for victims who are eligible to make a claim for CTP insurance from also applying for financial assistance under the VOCA Act.<sup>27</sup>

### **Conclusion**

Victims of acts of violence who are eligible to make a claim under the CTP insurance scheme should be required to have a finalised claim under that scheme before applying for financial assistance under the VOCA Act. However, to ensure that victims are able to seek immediate counselling, an exception to this rule should be that victims are able to apply for help in paying for counselling sessions prior to their CTP claim being finalised.

This approach is consistent with the intention of the VOCA Act to be a financial assistance scheme of last resort and is also consistent with the approach taken in the VOCA Act related to workers compensation (where victims are required to apply for workers compensation prior to applying for financial assistance under the VOCA Act).

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<sup>27</sup> Submission of Bravehearts, 15 December 2014, p 6; and submission of Court Network Inc., 5 December 2014, p 5.

**Recommendation 8: Amend the VOCA Act to require victims who are eligible to make a Compulsory Third Party (CTP) insurance claim to have that claim finalised prior to applying for financial assistance under the VOCA Act so that payments are not duplicated for injuries related to the one act of violence. However, these victims should still receive help under the VOCA Act to pay for and attend counselling sessions while waiting for their CTP insurance claim to be finalised.**

## Ensuring VAQ has access to all relevant information

A relevant payment under the VOCA Act includes a payment made, or to be made, to a person in relation to the act of violence, such as damages, compensation, restitution, financial assistance, rebate, superannuation benefit, payment of an insurance claim. This payment is taken into account when deciding a victim's entitlement to financial assistance as a victim who is eligible for other types of payments may not be entitled to financial assistance or may be entitled to only a portion of the assistance under the VOCA Act.

If a victim is granted financial assistance under the VOCA Act and also receives a relevant payment from another source, the victim will be required to repay the amount paid under the VOCA Act back to the State. Any amount not repaid is considered a debt to the State.

Applicants are asked to provide the details of any other relevant payments they have applied for, or are eligible to apply for in relation to the injury resulting from the act of violence on the application form. It is an offence to provide false or misleading information on the form.<sup>28</sup>

However, there is no actual legislative requirement for applicants to advise VAQ of any relevant payment that they have received or will receive. Instead, VAQ relies on the goodwill of applicants advising of any other relevant payments they may receive into the future. This is particularly pertinent after a victim has received a grant of financial assistance – there is no requirement or mechanism such as the application form for victims to provide details of any relevant payments they receive from other sources after they have been granted the assistance.

The majority of stakeholders were supportive of highlighting this obligation in the VOCA Act.<sup>29</sup>

VAQ also relies on the framework in the VOCA Act to obtain confidential information from other entities and third parties to assist in determining applications, any changes to financial assistance granted and amounts owed by victims and offenders to the State. The framework in the Act is very prescriptive, allowing for the disclosure of information by a limited number of entities or persons to VAQ at different stages of the application process and for limited purposes.

While the VOCA Act allows VAQ to obtain information from the QPS, ODPP and the courts to assess a claim for financial assistance and for the purposes of recovering an amount of assistance from an offender for the act of violence, it does not allow VAQ to obtain information from these same entities after a decision to grant financial assistance to a victim has been made (only at the time of making the decision to grant assistance). This means VAQ cannot identify when a person who has been granted assistance has already been paid money through, for example, insurance or compensation, for the same act of violence. Therefore, there is a risk that a person will be paid twice through two different schemes for the same act of violence.

<sup>28</sup> Section 141, VOCA Act; section 408C, Criminal Code.

<sup>29</sup> Financial Assistance Focus Group held on 21 November 2014.

In addition, VAQ is unable to obtain information from other entities such as Courts, the State Penalties Enforcement Registry (SPER) and the Department of Transport and Main Roads which hold information that would allow for more timely decision making of key decisions such as granting financial assistance and issuing notices of liability to offenders convicted of an act of violence.

The public interest in administering the VOCA Act scheme justifies the sharing of information that might otherwise be considered private or personal. It is important that VAQ is able to base its decisions on the most relevant information and that the information can be obtained in a timely manner so decisions are made promptly and with the least amount of inconvenience to everyone concerned. It is also important that the right people receive assistance and that applicants are not being paid twice for the same act of violence.

During consultation all stakeholders supported this approach for information gathering. For example, in their submission Court Network Inc. stated:

We support the VAQ being given the power to obtain information from State insurance and compensation bodies after a decision to grant financial assistance to a victim has been made to avoid the risk a person may be paid twice and be required to refund monies causing additional stress.<sup>30</sup>

It may also be appropriate to provide for the disclosure of information gathered by VAQ. At present, the VOCA Act does not allow VAQ to release confidential personal information to a person to conduct research.

### **Conclusion**

A legislative provision requiring applicants to advise the Scheme Manager of any relevant payments they have received or may receive in the future should be inserted into the VOCA Act. The onus on the applicant to provide this information should continue even after the person has been granted financial assistance.

Based on the above and the views from stakeholders during consultation, the VOCA Act should be amended to allow VAQ to obtain information from:

- Queensland Courts -- about the act of violence and the prosecution of an offence to assist in considering an application for assistance (in addition to obtaining information from the QPS or ODPP);
- SPER-- about restitution payments to victims and any arrangements in place for payment as these are considered to be relevant payments and may affect the amount paid to a victim; and
- Department of Transport and Main Roads – about a person’s most current address for the purpose of issuing a liability notice to a person to recover assistance.

The type of information and purpose for obtaining information from QPS should also be expanded to include:

- Statements made by persons who are assisting police with their investigations, but are not actually a witness to the act of violence, to assist in determining whether the act of violence was committed against the primary victim because they were involved in criminal activity at

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<sup>30</sup> Submission of Court Network Inc., 5 December 2014, p 5.

the time or because of their previous criminal behaviour (reasons which make a victim ineligible for assistance).

- Copies of witness statements or information about particular conduct in relation to the act of violence to determine whether the applicant was aware of the primary victim's criminal behaviour, which is relevant to the applicant's eligibility for assistance. This information can currently be obtained only for the purposes of deciding whether the primary victim's behaviour contributed to the act of violence and whether they have assisted QPS with the investigation or prosecution of the offender (which are also factors that will impact on whether an applicant is eligible for assistance).

Further, all information available to VAQ to make decisions to grant financial assistance should also be available to VAQ after a grant of assistance has been made. This will ensure that VAQ can continue to make assessments about the correct amount to grant the applicant where new information comes to light, for example, where it has become evident that a person has received a relevant payment and the amount of the relevant payment is unknown.

VAQ should also be permitted to release confidential personal information to a person for research purposes. Necessary protections to ensure the research is genuine and that the person cannot on-forward the information to someone else would need to be provided for in the VOCA Act. The ability to provide this type of information will encourage research into victims of crime which will in turn build an evidence base for policies and practices that will improve outcomes for victims of crime.

**Recommendation 9:** Amend the VOCA Act to ensure Victim Assist Queensland has access to, or is informed about, all information relevant to making a decision about an application for financial assistance by:

- requiring an applicant to inform Victim Assist Queensland about any other payment received or that will be received in relation to the same act of violence, even after the application is finalised
- allowing Victim Assist Queensland to obtain information from Queensland Courts; Department of Transport and Main Roads; and State Penalties Enforcement Registry
- ensuring the ability of Victim Assist Queensland to obtain information under the VOCA Act applies even after an application for financial assistance has been finalised.

### **3.2 The effectiveness of the State recovering grants of assistance from offenders convicted of an act of violence**

#### **Recovering financial assistance payments from convicted offenders**

The VOCA Act allows the State to recover money from a convicted offender who has committed an act of violence against a victim who has subsequently received financial assistance under the

**Recommendation 10:** Amend the VOCA Act to allow Victim Assist Queensland to provide confidential personal information to a person for genuine research purposes.

VOCA Act. If the debt is not paid within 28 days, it is referred to SPER, as the debt collection agency for the State for collection.<sup>31</sup>

All jurisdictions in Australia have similar powers to take action to recover amounts of financial assistance or compensation they have paid to victims from the relevant offender.

To date, approximately 10% of debt lodged with SPER under the VOCA Act has been recovered. This poor rate of recovery was raised by stakeholders who attributed it to the circumstances of the debtor pool. As the Prisoners' Legal Service noted:

a large number of convicted offenders are victims themselves or from low socio-economic backgrounds, have low literacy and numeracy, suffer from mental health problems, have a high chance of recidivism and are released from prison with little chance of gaining stable accommodation with a heavy reliance on social security benefits.<sup>32</sup>

SPER has a number of recovery options for recovering financial assistance debt, for example, orders to take money directly from a person's pay, the seizure and sale of assets, driver licence suspension or vehicle immobilisation. However, these debt recovery options require a level of income and assets that victim assistance debtors do not normally possess. Consequently, instalment plans are the primary debt collection mechanism used by SPER to recover these debts. However, these payment plans rely on the debtor being willing and able to discharge the debt over a long period of time.

Given the characteristics of the debtors and the value of the debt, stakeholders submitted that the offender's ability to pay should be considered when determining whether to pursue an offender to recover financial assistance that has been paid to their victim.<sup>33</sup>

### **Conclusion**

It is difficult to find an efficient way to enable an offender to repay financial assistance granted to their victim back to the State. The current debt recovery framework provides flexibility to efficiently pursue the debt as the Scheme Manager can use their discretion to decide which financial assistance payments to recover, and the amounts to be recovered.

The current framework also fulfils the key objective of victim recovery which is to hold offenders accountable for their actions by making them directly liable to pay the costs associated with their victim recovering from the act of violence. This is an important aspect of helping victims recover from acts of violence which is the underpinning objective of the VOCA Act. To this end, any funds recovered under the statutory framework are an incidental benefit of the framework rather than the sole driver of it.

Taking these factors into account, the current framework should be maintained as it is the approach that provides the most flexibility for decision makers, while at the same time best achieving the objectives of the entire financial assistance scheme.

However, the review also considers the current framework could be improved by VAQ exercising its discretion in not recovering financial assistance in appropriate cases. A VAQ policy could be developed outlining the factors to be considered in exercising this discretion.

### **Ensuring recovery of financial assistance is initiated in a timely manner**

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<sup>31</sup> Section 120, VOCA Act.

<sup>32</sup> Submission of Prisoners' Legal Service Inc., 5 December 2014.

<sup>33</sup> Submission of Queensland Treasury, 25 November 2014, p 4; submission of QPILCH, 5 December 2014, p 2 and submission of Prisoners' Legal Service, 5 December 2014, p 4.

Under the VOCA Act, there is no limitation on when the State can commence action to recover financial assistance from an offender. This is in comparison to other types of legal actions which have a limitation period in legislation after which the legal action can no longer be pursued (often six years), for example, the *Limitations of Actions Act 1974* (LA Act). In addition, comparable jurisdictions generally require their authorities to initiate recovery of financial assistance from offenders in a more prompt manner. For example, in NSW recovery orders cannot be made against a person if two years has lapsed since the period in which the claim for financial assistance could be made, or two years from the date on which the person was convicted of the relevant offence, whichever is later.

A number of submissions received by the review have focused on the undue delay in the State initiating recovery proceedings. The Queensland Public Interest Legal Clearinghouse (QPILCH) noted:

As a model litigant, the State must not seek to take advantage of an impecunious opponent and must not cause unnecessary delay in the handling of claims and litigation. While the model litigant principles do not override legislative requirements, the principles still apply to the extent that the State should not cause unfair outcomes to offenders by delaying the enforcement of Court orders or seeking repayment from offenders who do not have the ability to pay.<sup>34</sup>

The issue has also been raised in a number of QCAT appeals. In one QCAT matter, the notice to recover was not sent to the offender for a long period of time after the offence occurred – in that case QCAT indicated that initiating recovery that far after the fact was unfair and unreasonable to the offender but noted that this was not something the tribunal could consider when making its decision.<sup>35</sup>

### **Conclusion**

To ensure that recovery of financial assistance is initiated in a timely manner and to embody principles of fairness to relevant offenders, actions to commence recovery of financial assistance should be limited to six years from when the person was convicted of the relevant offence or six years after an application for financial assistance can no longer be made, whichever is the later. This is in line with the approach to debt recovery under the LA Act.

**Recommendation 11: Amend the VOCA Act so that recovery of financial assistance from an offender cannot be initiated after six years from when the person was convicted of the relevant offence or six years after an application for financial assistance was made under the VOCA Act to ensure more timely debt recovery action against offenders is taken and there is fairness and transparency in the process.**

## **3.3 The implementation and appropriateness of the fundamental principles of justice**

### **Ensuring the fundamental principles of justice are accessible and easy to understand for victims**

The *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (UN Declaration) outlines a set of principles that recognise that victims of crime are unjustly subjected to loss, damage or injury as a result of the crime and may also suffer hardship when

<sup>34</sup> Submission of QPILCH, 5 December 2014.

<sup>35</sup> *Bennett and Anor v Department of Justice and Attorney General [2012] QCAT 602*.

assisting with the prosecution of offenders, for example, when giving evidence and acting as a witness for the prosecution.

The VOCA Act declares a set of principles to be applied by government agencies when they are providing services to victims of a crime that is committed against the person which causes them harm. These principles are consistent with the UN Declaration. The purpose of the principles is to advance the interests of victims and inform victims of the treatment they should expect from Government agencies given the harm they have suffered as a result of the crime and their integral role in the criminal justice system in assisting with the prosecution of offenders.

The fundamental principles of justice (principles) state that a government agency, in dealing with a victim of crime, is to:

- treat the victim with courtesy, compassion, respect and dignity, taking into account their needs
- respect the privacy of the victim
- provide timely information about services to the victim
- provide information about the investigation of the offence to the victim
- provide information about the prosecution of an offender to the victim
- provide advice in relation to the victim's role as a witness and the trial process in general
- minimise contact between the victim and accused
- enable the victim to provide a victim impact statement during sentencing
- provide information about a convicted offender to the victim.<sup>36</sup>

The QPS, the ODPP and Queensland Corrective Services (QCS) have specific responsibilities under the VOCA Act to provide certain information if a victim asks for it, including:

- details of police investigations into the offence committed against the victim
- details of the prosecution of the offender from the prosecuting agency (ODPP or QPS)
- details about a convicted offender's imprisonment from QCS.<sup>37</sup>

In addition, the VOCA Act requires QPS or ODPP to allow victims the opportunity to make a statement detailing the harm caused to them as a result of the offence. This statement may be read out aloud in Court or produced to the court at the time of sentencing the offender.<sup>38</sup>

Further, there are provisions in legislation outside of the principles in the VOCA Act which outline particular expectations for treatment of victims by Government agencies including:

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<sup>36</sup> Chapter 2, VOCA Act.

<sup>37</sup> Sections 11-12 and 16, VOCA Act.

<sup>38</sup> Section 15, 15A and 15B. VOCA Act.

- a victim's property held by the State for the purposes of investigation or evidence must be returned to the victim as soon as possible<sup>39</sup>
- a victim on the Victims Register will be provided with the opportunity to make submissions to the Parole Board concerning the granting of parole to a violent or sexual offender.<sup>40</sup>

The principles in the VOCA Act are overly legalistic and difficult to understand. In addition, having rights and responsibilities of agencies in different pieces of legislation makes it difficult for victims to navigate. Stakeholders submitted that there needs to be better promotion of the principles to ensure victims understand the principles and are able to get the support and help they need to recover from the act of violence.<sup>41</sup> The Court Network Inc. noted:

The [Court Network Inc.] supports the overall principle of streamlining the fundamental principles of justice to make them more accessible and user-friendly for victims while allowing victim support agencies to provide the information needed for victims to become more empowered in participating in the criminal justice system.<sup>42</sup>

Given the primary purpose of the fundamental principles of justice is to inform victims of the treatment they can expect from Government agencies, it is vital they are written in an easy to understand manner to make them more accessible and user friendly for victims.

All Australian jurisdictions have legislated charters of victims' rights or statements of principles which govern the way victims are to be treated, except for Tasmania and the NT, which have charters of victims' rights that have been developed administratively. The majority of jurisdictions have less prescribed rights and are written in a way that makes them more accessible, succinct and easy to understand for victims than the fundamental principles of justice in Queensland.

## **Conclusion**

The principles in the VOCA Act be replaced with a "*Charter of Victims' Rights*" (Charter). The Charter should incorporate the current principles in the VOCA Act and be victim focused, using simple, easy to understand language. The Charter should include the additional principles outlined above – about a victim's property and making submissions to the Parole Board so that victims can access one document with all of their rights listed in one place.

Any details about the rights which are needed to guide the relevant agency (as opposed to advising the victim) should be placed in an appropriate Act, for example, the detailed information currently in the VOCA Act about victim impact statements should be placed in the *Penalties and Sentences Act 1992* where other information about sentencing is contained.

Introducing a Charter reflects the purpose of the current principles – to advance the interests of victims and inform victims of the principles they can expect will underlie the treatment of them. It provides one easy to read document for victims to go to, so that they can see what treatment they should expect from agencies.

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<sup>39</sup> Section 691 of the *Police Powers and Responsibilities Act 2000*.

<sup>40</sup> Section 188, *Corrective Services Act 2006*.

<sup>41</sup> Submission of Dr Kerstin Braun, 3 November 2014, p 2; submission of PACT, 24 November 2014, p 4; submission of Townsville Sexual Assault Support Service, 5 December 2014, p 2; submission of Court Network Inc., 5 December 2014, p 6; submission of QIFVLS, 8 December 2014, p 13-14; submission of Bravehearts, 15 December 2014, p 8; and submission of Department of Health, 2 July 2015, p 4.

<sup>42</sup> Submission of Court Network Inc., 5 December 2014, p 5.

**Recommendation 12: Amend the VOCA Act (and other legislation) to foster and encourage victims' rights and the ways victims are supported by:**

- **Renaming the fundamental principles of justice to a *Charter of Victims' Rights* and redrafting the rights in plain English**
- **Clarifying how the rights contained in the renamed *Charter of Victims' Rights* are exercised by relevant agencies**
- **Inserting additional rights into the renamed *Charter of Victims' Rights* to provide for:**
  - **Returning property to a victim as soon as possible**
  - **Victims on the Victims Register being given the opportunity to make submissions to the Parole Board concerning the granting of parole to a violent or sexual offender.**

### **Requiring agencies to proactively provide information to victims**

The principles in the VOCA Act place responsibility on the victim to ask for information about police investigations, prosecutions and an offender's imprisonment. This is in direct contrast to most jurisdictions where the police and prosecution authorities have the responsibility of providing the information to a victim without the victim having to ask for it.

A significant number of stakeholders raised concerns that victims are routinely not provided information they are entitled to receive despite the VOCA Act's requirements. For example, QIFVLS submitted that:

There is a lack of clearly established processes for victims to be informed about their right to ask for this information, or how they are to do that/who they are to ask.<sup>43</sup>

It is important that victims feel engaged in processes related to the investigation and prosecution of the person who has allegedly committed an act of violence against them. Victims should not have to ask for information from ODPP or QPS when they do not know what information is available to them. Not all victims will want to receive this information and it is a matter for the victim to advise ODPP and QPS that they do not want it. Other victims will want to have this information and they should not be disadvantaged by the system simply because they are not aware of their right to ask for the information or the type of information available.

There was widespread support during consultation for the onus to be placed on government agencies to provide information such as information about the Victims Register, investigations and prosecutions rather than victims having to ask for it.<sup>44</sup>

### **Conclusion**

The Charter should make it clear that agencies have a responsibility to proactively provide information about the Victims Register, investigations and prosecutions without the victim having to ask for the information.

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<sup>43</sup> Submission of QIFVLS, 8 December 2014, p 12.

<sup>44</sup> Submission of DCCSDS, 5 December 2014, p 4; submission of Court Network Inc., 5 December 2014, p 6, submission of QIFVLS, 8 December 2014, p 13; submission of Bravehearts, 15 December 2014, p 8; and submission of Department of Health, 2 July 2015, p 4-5.

Improving the information and support provided to victims may improve victims' engagement with the criminal justice system. This may have flow on effects for the criminal justice system as a whole, for example, an increase in the likelihood that victims will report crimes and come forward to give evidence.

Being proactive in providing information to victims will, in some instances, require a change in service delivery model to a more client/victim focus. To assist with cultural change it may be beneficial to place sponsors or champions of victim's rights in key locations in agencies. It may also be beneficial for QPS to consider introducing a role within the service similar to the Victim Liaison Officers within ODPP (who provide information to victims of crime regarding the court process).

**Recommendation 13: Amend the VOCA Act to include in the renamed *Charter of Victims' Rights* an onus on relevant agencies to proactively provide information to victims so that victims are able to access the information available to them.**

### **Expanding the application of the Charter to include non-government organisations**

Currently, the fundamental principles of justice apply only to government departments and employees, including the QPS and the ODPP. However, there are also a number of non-government agencies funded by the State to provide services to help victims recover from acts of violence. The VOCA Act does not require these non-government agencies to apply the principles when working with victims. This results in inconsistencies in the treatment of victims.

In both NSW and Victoria, the principles apply to both government and non-government publicly funded services. This approach ensures consistency and a more coordinated approach across agencies providing services to victims.

There was widespread support amongst stakeholders for requiring non-government organisations which are funded to provide victim support services to apply the fundamental principles of justice. Bravehearts explained that "it is important that both government and non-government agencies providing services to victims of crime be held accountable under these principles of justice".<sup>45</sup>

### **Conclusion**

Government funded non-government agencies should be required to comply with the Charter. This will mean that all Government agencies and government funded agencies who are providing a service to victims of crime are held accountable under the same set of rights. This will result in a more consistent and coordinated approach to victim service provision in general.

It is not anticipated that the expansion of the Charter to cover non-government agencies will be onerous on the relevant agencies as it is likely they are already applying the principles now. All non-government stakeholders were supportive of the proposal during consultation.<sup>46</sup>

**Recommendation 14: Amend the VOCA Act to apply the *Charter of Victims' Rights* to Government funded non-government agencies that are funded to provide a service to assist victims recover from a crime so that the treatment of victims is consistent across both government and non-government services.**

<sup>45</sup> Submission of Bravehearts, 15 December 2014, p 9.

<sup>46</sup> Submission of PACT, 24 November 2014, p 4; submission of Townsville Sexual Assault Support Service, 5 December 2014, p 2; submission of Court Network Inc., 5 December 2014, p 7; submission of Butler McDermott Lawyers, 5 December 2014, p 2; submission of QIFVLS, 8 December 2014, p 15;

### 3.4 The effectiveness of the role of the Victim Services Coordinator

#### The role and functions of the Victim Services Coordinator

Under the VOCA Act, a Victim Services Coordinator must be appointed by the Chief Executive of DJAG. The Victim Services Coordinator is a VAQ employee who reports to the Director of VAQ.<sup>47</sup> The legislative functions of the Victim Services Coordinator include:

- conducting or facilitating the undertaking of research about the needs of victims
- developing programs to promote awareness of the needs of victims and the fundamental principles of justice
- distributing information to stakeholders and the community about the Act and the functions of the Victim Services Coordinator
- assisting victims to obtain the information or assistance they need
- helping victim service providers to coordinate services provided so that they are efficient and effective
- helping government agencies to develop and comply with processes for implementing the fundamental principles of justice and process for resolving complaints about breaches of the principles
- facilitating the resolution of complaints.

Jurisdictions in Australia have different models for their victim assistance frameworks. Queensland is the only jurisdiction that has a Victim Services Coordinator. NSW, South Australia (SA) and the Australian Capital Territory (ACT) have an independent Commissioner for Victims of Crime. West Australia (WA) also has a Commissioner but this position sits within the WA Department of the Attorney-General. Generally, the Commissioners for Victims of Crime advise government on issues affecting victims, including making recommendations and advocating on behalf of victims. In NSW and the ACT, the Commissioners also have powers to investigate complaints made to them about the treatment of victims and breaches of the principles.

Stakeholders reported satisfaction with the way VAQ operates and generally considered that the Victim Services Coordinator role in Queensland is effective.<sup>48</sup> All stakeholders agreed that a separate independent body such as the Ombudsman should investigate complaints rather than introducing this function to the role of Victim Services Coordinator.<sup>49</sup>

PACT and Court Network Inc. submitted that the Victim Services Coordinator should have an oversight role in relation to the implementation of the fundamental principles of justice, noting that “the Victim Services Coordinator role is best placed at promoting the principles and assisting

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submission of Knowmore, 9 December 2014, p 6; and submission of Bravehearts, 15 December 2014, p 9.

<sup>47</sup> Chapter 4, VOCA Act.

<sup>48</sup> Submission of PACT, 24 November 2014, p 5; and submission of Court Network Inc., 5 December 2014, p 7.

<sup>49</sup> Submission of PACT, 24 November 2014, p 5; submission of Townsville Sexual Assault Support Service, 5 December 2014, p 2; submission of QIFVLS, 8 December 2014, p 15; submission of Knowmore, 9 December 2014, p 7; submission of Bravehearts, 15 December 2014, p 9; and submission of Department of Health, 2 July 2015, p 7.

organisations to ensure compliance, leading to the strengthening of victim rights and support services”<sup>50</sup>.

### **Conclusion**

The Victim Services Coordinator role is working well and therefore changes to the functions for this role are not considered necessary. In addition, separate independent bodies such as the Ombudsman and the Crime and Corruption Commission are best placed and have the necessary powers to investigate complaints and make recommendations to assist agencies to improve compliance with principles.

The Victim Services Coordinator should continue to promote the renamed Charter and assist agencies in its implementation. The Victim Services Coordinator will play a key role in increasing awareness of the reforms and driving cultural change, particularly in affected Government agencies and non-government agencies to which the Charter will apply.

### **Strengthening the role of the Victim Services Coordinator to deal with complaints**

Under the VOCA Act each government agency must have processes in place to help the agency and its staff to implement the fundamental principles of justice and to deal with any complaints about the conduct of the agency that is inconsistent with the principles. One of the functions of the Victim Services Coordinator is to help government agencies to develop and comply with implementation of the principles and processes for resolving complaints.

A complaint may be made to the government entity or the Victim Services Coordinator. The responsibility for complaints processes and dealing with complaints sits with the relevant entity. The Victim Services Coordinator can only help resolve the complaint if authorised to do so by the relevant entity's procedure.

Since the commencement of the VOCA Act to 30 June 2015, there have been 89 complaints made directly to the Victim Services Coordinator in relation to alleged breaches of the fundamental principles of justice. Details of complaints made directly to government agencies are not passed on to the Victim Services Coordinator unless the Victim Services Coordinator has been involved in assisting the person to make a complaint.

Not having knowledge of the number and nature of complaints made to government agencies makes it difficult for the Victim Services Coordinator to carry out its function to help entities to develop processes and comply with the principles. This is because the Victim Services Coordinator cannot identify patterns or trends about complaints and weaknesses in the implementation of the principles so they can tailor advice and training to the areas within government agencies that require improvement.

The majority of stakeholders supported the proposal for the Victim Services Coordinator to assist victims resolve complaints about other agencies. QIFVLS noted that:

It is likely that agencies will take their obligations more seriously and follow the principles more consistently if there is a clear and robust complaints procedure. This would also allow better data collection about complaints with a view to improving systems and compliance.<sup>51</sup>

### **Conclusion**

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<sup>50</sup> Submission of PACT, 24 November 2014, p 5; and submission of Court Network Inc, 5 December 2014, p 7.

<sup>51</sup> Submission of QIFVLS, 8 December 2014, p 15.

There is no need for the Victim Services Coordinator to investigate complaints, however, the Victim Services Coordinator should be given the ability to be more involved in the complaints process, including helping victims resolve complaints where the victim have been dissatisfied with the response from the agency. This will allow the Victim Services Coordinator not only to help victims resolve issues with agencies but also to be in a better position to identify trends and issues and proactively help agencies implement the principles effectively.

**Recommendation 15: Amend the VOCA Act to authorise the Victim Services Coordinator to help victims resolve complaints where the victim is dissatisfied with the response from the agency.**

## Glossary

<b>Act of violence</b>	is a crime, or a series of related crimes committed (in Queensland) by one or more persons that directly result in the death of, or injury to, one or more persons (irrespective of where the death or injury happens) – see section 25 of the VOCA Act
<b>Assessor</b>	a government assessor appointed under s 128 of the VOCA Act
<b>Criminal injury compensation scheme</b>	the previous scheme providing financial support to victims under the <i>Criminal Offence Victims Act 1995</i> (repealed) and the Criminal Code.
<b>Counselling assistance</b>	financial assistance provided to primary, secondary and related victims to attend counselling sessions
<b>CTP insurance</b>	the compulsory third party insurance scheme established under the <i>Motor Accident Insurance Act 1994</i> which provides motor vehicle owners, drivers, passengers and other insured persons with an insurance policy for unlimited liability for personal injury caused by, through, or in connection with, the use of a motor vehicle
<b>DJAG</b>	Department of Justice and Attorney-General – the department responsible for the review of the VOCA Act
<b>DV Report</b>	the final report of the Special Taskforce on Domestic and Family Violence in Queensland entitled “ <i>Not Now, Not Ever – Putting an End to Domestic and Family Violence in Queensland</i> ”
<b>Financial assistance</b>	the scheme established by the VOCA Act for paying financial assistance to victims of crime to help them recover from an act of violence committed against them
<b>Fundamental principles of justice for victims of crime</b>	the principles declared in chapter 2 of the VOCA Act to advance the interests of victims and to inform victims of the treatment they should expect from government agencies
<b>Funeral assistance</b>	assistance for funeral expenses for the funeral of a primary victim of an act of violence who has died as a direct result of the act of violence (the maximum amount of funeral assistance is \$6,000)
<b>Parent secondary victim</b>	is a person who (a) is a parent of a child who is injured as a direct result of an act of violence committed against the child; and (b) is injured as a direct result of becoming aware of the act of violence
<b>Pools of assistance</b>	a capped amount of money that can be claimed by a group of victims for the one act of violence
<b>Primary victim</b>	a person who dies or is injured as a direct result of an act of violence being committed against the person
<b>QCAT</b>	Queensland Civil and Administrative Tribunal - reviews decisions made by the Scheme Manager about granting financial assistance
<b>Related victim</b>	a person who is a close family member, for example, a person’s spouse, child, parent or sibling or a dependant of a primary victim who has died as a direct result of an act of violence

<b>Scheme Manager</b>	the manager of Victim Assist Queensland and responsible for managing the financial assistance scheme – appointed under s 127 of the VOCA Act
<b>Secondary victim</b>	is a person who is a <i>parent secondary victim</i> or a <i>witness secondary victim</i> of an act of violence
<b>Special assistance</b>	a lump sum payment of up to \$10,000 paid to primary victims to recognise the impact of harm caused to the victim and is in addition to financial assistance to pay for the costs of goods and services the victim requires to help them recover
<b>SPER</b>	State Penalties Enforcement Registry is responsible for the collection and enforcement of offender debt recovery orders under the VOCA Act
<b>Statutory declaration</b>	a declaration taken by a person authorised to take declarations under the <i>Oaths Act 1867</i>
<b>UN Declaration</b>	the <i>United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power</i>
<b>VAQ</b>	Victim Assist Queensland – a business unit in DJAG that administers the VOCA Act and has a focus on improving access to services and support for victims of violent crime in Queensland
<b>Victim Services Coordinator</b>	responsible for promoting and protecting the interests and needs of victims – appointed under s 138 of the VOCA Act
<b>VOCA Act</b>	<i>Victims of Crime Assistance Act 2009</i> which establishes a financial assistance scheme for victims who have suffered from an act of violence and sets out and implements the fundamental principles of justice to underlie the treatment of victims
<b>Witness secondary victim</b>	is a person who is injured as a direct result of witnessing an act of violence

## Appendix 1 – Terms of Reference

The review considered:

1. The effectiveness of the financial assistance scheme:
  - (a) whether it achieves its goal to assist victims to recover from acts of violence;
  - (b) whether the levels of financial assistance provided are appropriate and sustainable; and
  - (c) the interaction between the financial assistance scheme and other compensation schemes to determine which scheme is best placed to assist the victim.
2. The effectiveness of the State in recovering grants of assistance from convicted offenders and the consideration of alternate models.
3. Whether the fundamental principles of justice for victims of crime have been adequately implemented across relevant government agencies and whether they are appropriate to advance the interests of victims.
4. The legislated role of the Victim Services Coordinator and whether its functions are appropriate, effective and advance the interests of victims of crime and the services provided to them.
5. Whether there are any areas to improve partnerships or service delivery with non-government and private organisations and opportunities to reduce the regulatory burden on business and the community.

## Appendix 2 – Members of the reference group

Government members of the reference group included:

- Victims Assist Queensland
- Department of Health
- Department of Communities, Child Safety and Disability Services (DCCSDS)
- Queensland Police Service (QPS)
- Department of the Premier and Cabinet
- Queensland Treasury (QT)
- Department of Aboriginal and Torres Strait Islander Partnerships
- Office of the Director of Public Prosecutions (ODPP)
- Public Safety Business Agency.

The non-government members of the reference group included:

- Women’s Legal Service
- Bravehearts Inc
- Court Network
- DV Connect
- Protect all children today (PACT)
- Queensland Homicide Victims Support Group
- Relationships Australia Queensland
- Queensland Law Society
- Multicultural Development Association
- Queensland Indigenous Family Violence Legal Service (QIFVLS)
- Central Queensland Community Legal Centre
- W.W.I.L.D Sexual Assault Prevention Association (Working Alongside People with an Intellectual Disability);
- Queensland Sexual Assault Network
- Brisbane Youth Service.

## **Appendix 3 – Operational issues referred to Victims Assist Queensland**

A number of the issues identified during the review were operational in nature and have been referred to Victims Assist Queensland (VAQ) for consideration. These issues include:

- the complexity of the application process
- strengthening the research role of the Victim Services Coordinator
- better implementation and promotion of the fundamental principles of justice
- increasing training on the fundamental principles of justice and victim service cultural capability
- strengthening data collection abilities to determine access of victims with a culturally and linguistically diverse (CALD) background
- ensuring that an offender's capacity to pay is taken into account when pursuing repayments of financial assistance from offenders convicted of an act of violence.

The information below provides some information on how VAQ will continue to improve its service delivery based on the issues raised.

### **The complexity of the application process**

VAQ has developed a more user friendly on-line form. The on-line form provides an explanation of relevant sections for completion and will only display those sections relevant to applicant's circumstances.

VAQ conducts workshops with various stakeholder organisations that work with victims of crime to provide training to these groups on completion of the application form. In addition, the Victims' LinkUp Service provided by VAQ is also available to assist people to complete an application.

### **Strengthening the research role of the Victim Services Coordinator**

The Victim Services Coordinator has worked with various entities on research projects since commencement of the role. This work includes:

- currently working with Griffith University and Professor Kathleen Daly on a qualitative and quantitative study of the experience of victims of sexual assault in applying for assistance under the Act
- student placements within VAQ to conduct literature reviews on the needs of young people who are victims of crime and effective therapeutic responses for Aboriginal and Torres Strait Islander victims of crime.

VAQ also works closely with other Australian jurisdictions in sharing information and knowledge regarding the needs of victims of crime and best practice in the provision of services.

### **Better implementation, promotion and training of the fundamental principles of justice for victims of crime**

VAQ has developed and distributed hard copy and on-line information on the fundamental principles of justice for victims of crime and the complaints process available under the Act.

The principles are a significant focus of VAQ facilitated detective training sessions for the Queensland Police Service (QPS). In addition, VAQ has developed on-line training on the principles for Department of Justice and Attorney-General (DJAG) staff. VAQ is working with the QPS and the Office of the Director of Public Prosecutions on expanding this on-line training to

their agencies. Some work has also commenced with community organisations working with victims of crime such as Relationships Australia Queensland on the application of the principles for mutual clients.

#### **Victim Service Coordinator to increase victim service cultural capability**

VAQ has conducted research on the use of interpreters in the courts for victims of crime and will be developing a tool kit for stakeholders who work with CALD victims in the criminal justice process.

VAQ has also conducted in-house training on responding to the needs of Aboriginal and Torres Strait Islander clients and has developed targeted factsheets promoting financial assistance, including in Creole.

DJAG's Victims of Crime Services Building Capacity Funding Program was established to fund projects which assist in addressing service delivery gaps for victims of crime including cultural capability. Most recently, funding has been provided to Phoenix House Inc to deliver nationally accredited training to Aboriginal and Torres Strait Islander workers who support victims of family violence.

#### **Strengthening data collection abilities to determine access of victims with a CALD background**

VAQ keeps accurate records on interpreter use by the service as well as paying for and recording interpreter use by DJAG funded victims of crime services delivered by the non-government sector. VAQ maintains procedures for staff on the use of interpreters and culturally appropriate services. VAQ will further consult with stakeholders on opportunities to collect meaningful and useful data to determine access of victims with a CALD background.

#### **Ensuring that an offender's capacity to pay is taken into account when pursuing repayments of financial assistance from offenders convicted of an act of violence**

To instil a more transparent process when recovering financial assistance payments from an offender convicted of an act of violence, which is fair for offenders, VAQ discretion will be used to recover financial assistance. A policy will be developed which will outline factors to be considered when determining whether to pursue a relevant offender to repay financial assistance granted to their victim and the amount to be recovered.

## Appendix 4 – Consultation paper questions

The consultation paper posed the following questions:

1. How could the application process be streamlined so it is less onerous for victims to apply while at the same time ensuring that Government has the appropriate checks and balances in place to make an assessment for a claim?
2. Should pools of assistance be removed from the Act to streamline processes and ensure victims receive assistance at the earliest possible opportunity?
3. Should the Act be changed so victims receive a set amount of special assistance within each of the categories for this assistance?
4. Is the current maximum payment of \$6,000 for funeral assistance sufficient?
5. Should victims who are eligible to claim assistance through Compulsory Third Party (CTP) insurance be required to do this first rather than applying for assistance through the victims of crime financial assistance scheme?
6. Should VAQ be given more powers to obtain confidential information about victims to assist them to determine applications for assistance?
7. Should there be an appropriate transitional period for people to finalise their current criminal compensation applications so that only one system of financial assistance for victims of crime is in place in Queensland?
8. Should the fundamental principles of justice be strengthened to ensure victims' interests are promoted and their rights exercised?
9. Are there any other principles of justice that should be included in the Act to improve the treatment of victims?
10. Should non-government organisations, which are funded to provide victim support services, be required to apply the fundamental principles of justice?
11. Should the Victim Services Coordinator have an oversight role in relation to the implementation of justice principles to better support the rights and interests of victims?
12. Should the Victim Services Coordinator be given more powers to access information about complaints and be involved in complaints?