# Queensland Law Reform Commission: review about whether a domestic violence disclosure scheme should be introduced in Queensland

# Consultation questions — response sheet

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| Submission No. | [Queensland Law Reform Commission use only] |
| Name |  |
| Role and Organisation (if relevant) |  |
| Date |  |
| Contact address\* |  |
| Contact phone\* |  |

\*Please provide safe contact details if applicable

**Privacy and Confidentiality**

The personal information in your submission is collected for the purposes of this review.

Unless you tell us otherwise, the Queensland Law Reform Commission may refer to or quote from your submission and refer to your name in the final report for this review. The final report will be published on the Commission’s website.

Please say if you do not want your submission or part of your submission, or your name, to be referred to in the final report.

All submissions are subject to disclosure under the *Right to Information Act 2009* (Qld), and applications for access to submissions, including those for which confidentiality has been requested, will be determined in accordance with that Act.

**Please indicate if you wish any of the following apply to your submission:**

Do not refer to submission or part of submission in DVDS report

Do not refer to name in DVDS report

Do not refer to name in list of respondents in Appendix to DVDS report

Confidential (yes to all of the above)

**How did you find out about the QLRC’s review?**

newspaper notice/ad

newspaper article

radio interview

QLRC website

Get Involved website

Have your say website

community/organisation newsletter

other

**How did you access the consultation paper / information about the review?**

by initially looking at the QLRC website

by accessing the QLRC website after seeing an ad / notice / community/organisation newsletter etc

direct link to the CP in QLRC correspondence

Get Involved website (a Qld Government website which links through to the QLRC website)

Have your say website (a Qld Government website which links through to the Get Involved website, and then links through to the QLRC website)

other

### Submission:

[For your convenience, the questions contained in the QLRC’s consultation paper for this review, *Review about whether a domestic violence disclosure scheme should be introduced in Queensland* (WP 75), are set out below]

### Part A — Would Queensland’s response to domestic and family violence be strengthened by introducing a domestic violence disclosure scheme?

1. *Should a DVDS be implemented in Queensland? Why or why not?*
2. *What objectives should a DVDS in Queensland have? What principles should underpin such a scheme?*
3. *What are the potential benefits and risks of a DVDS? How can any risks be minimised?*
4. *Would a DVDS reduce the incidence of domestic and family violence in Queensland and, if so, how?*
5. *Would a DVDS strengthen the protections and support for people at risk of domestic and family violence in Queensland and, if so, how?*
6. *Would a DVDS improve accountability of perpetrators of domestic and family violence in Queensland and, if so, how?*
7. *Would a DVDS be able to operate effectively in remote and regional areas and to respond to specific needs of, for example, Aboriginal and Torres Strait Islander people, people with a disability, and people from culturally and linguistically diverse backgrounds?*
8. *Would a DVDS unreasonably divert resources from:*
9. *the current reform priorities under the Domestic and Family Violence Prevention Strategy 2016–2026, and actions taken or being taken in implementing the recommendations made by the Taskforce Report;*
10. *crucial areas of domestic and family violence police services?*

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| Responses to questions in *Part A* above might also be informed by responses to questions in *Part B* below. *Part B* asks what a DVDS, if implemented, should look like. You are encouraged to respond to these questions, even if your view is that a DVDS should not be established. |

### Part B — If a DVDS is introduced in Queensland, how should it operate?

#### Basis and administration of a DVDS

1. *Is it necessary or desirable for a DVDS to be given a legislative basis?*
2. *What entity should administer a DVDS? If it is an existing entity, which entity is it? If it is a multi-agency entity, please outline which agencies should be included and how it might operate.*

#### Who should be eligible to apply for information under a DVDS?

1. *Should the eligible applicants under a DVDS be limited to people in an intimate personal relationship, or also include people in a family or informal care relationship?*
2. *Should a DVDS also be available to people who were in, but who are no longer in, an intimate personal relationship (or other relevant relationship for the scheme)?*
3. *Should a DVDS permit a third party to make an application on behalf of a person who may be at risk? In what circumstances should this occur?*

#### Entry into a DVDS

1. *What should be the process for applying for information under a DVDS (that is, for a ‘right to ask’ pathway)?*
2. *Should the process differ between an application made by a person who may be at risk and a third party applicant?*
3. *Should a DVDS provide for information to be disclosed, without an application, to a person who may be at risk (that is, a ‘right to know’ or ‘power to tell’ pathway)? In what circumstances should this occur?*

#### Disclosable information under a DVDS

1. *Which offences should be covered under a DVDS, and how should those offences be identified or defined? For example, a DVDS could apply broadly to ‘domestic violence offences’, or to certain types of offences (such as ‘violent’ offences) or to a defined list of specific offences.*
2. *Should disclosure under a DVDS be limited to events that occurred in the context of some or all of the relevant relationships to which the Domestic and Family Violence Protection Act 2012* *applies (namely, intimate personal, family or informal care relationships)? How could this be achieved?*
3. *Should a DVDS permit disclosure of convictions only, or also permit disclosure of charges that did not result in a conviction, and/or other circumstances (for example, complaints, arrests or police investigations)?*
4. *Should a DVDS permit the disclosure of convictions:*

*(a) where no conviction was formally recorded by a court?*

*(b) that have become spent convictions?*

*(c) that were imposed on a person as a child?*

*(d) that were imposed other than under Queensland law?*

1. *Should the information that can be disclosed under a DVDS be limited to the fact that a disclosable matter exists (for example, for a conviction, the offence and the date on which it occurred), or also include other relevant information about that matter (for example, the relationship between the subject person and victim, or details about the offence and sentencing details)? If the disclosure includes other relevant information, what particular information should be able to be disclosed? To what extent should this be determined on a case-by-case basis?*
2. *Should a DVDS also permit disclosure of civil orders, notices or other actions made or taken under the Domestic and Family Violence Protection Act 2012?*

#### Criteria for a decision to make a disclosure under a DVDS

1. *What factors, principles or test should guide a decision about whether to make a disclosure under a DVDS?*

#### Procedural features and operation of a DVDS

1. *What information should be required in an application for disclosure? Should the requirements differ between an application made by a person who may be at risk, and a third party applicant?*
2. *When an application is received, or police become aware of information indicating a person may be at risk, what decision-making processes should apply? For example:*

*(a) who should be responsible for assessing and deciding an application?*

*(b) what risk assessments should be undertaken (and at what stages)?*

*(c) who should make a decision?*

1. *In deciding whether a disclosure should be made, what information and evidence should be taken into account? Should information be sought from other entities, such as relevant government departments, specialist domestic and family violence services or support services?*
2. *Should a DVDS set specific maximum timeframes within which processes should occur or a decision should be reached?*
3. *How, and by whom, should a disclosure or a non-disclosure be communicated to a person?*
4. *In what circumstances should a third party receive a disclosure or a non‑disclosure?*
5. *When a disclosure or a non-disclosure is given, what support and services (such as safety planning) should be provided or offered to the person at risk and/or any third party?*
6. *When an application does not result in a disclosure, should an applicant:*
7. *have access to review processes; and/or*
8. *be able to make a subsequent application about the subject?*
9. *When an application for disclosure is made, should the subject:*

*(a) be advised of the application and given the opportunity to make submissions about whether a disclosure of their personal information should be made;*

*(b) be advised of a resultant disclosure of their personal information; and/or;*

*(c) be considered for referral to appropriate support, for example, a perpetrator intervention program?*

1. *What legal protections should be afforded to a decision-maker under a DVDS (for example, protection from civil liability for acts or omissions done honestly and without negligence)?*

#### Privacy and confidentiality

1. *Should a DVDS include specific confidentiality requirements that apply to a person to whom information is disclosed?*
2. *Should a DVDS include offences for unlawfully disclosing, or improperly obtaining, information under the scheme?*

#### Other matters

1. *Are there any issues particular to regional locations or specific populations in Queensland that may be relevant to the implementation and/or operation of a DVDS?*
2. *What financial and resource implications might be associated with a DVDS?*

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