



Non-fatal strangulation: Section 315A review

What we heard

Background paper 2

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Reference to legislation:

All legislation referred to applies to Queensland, unless otherwise indicated. Reference to the current law in this report is taken to refer to the law as at 31 August 2025 unless otherwise stated.

Content warning

This paper contains material that may be confronting and may cause sadness or distress, or trigger traumatic memories for people, particularly those who have experienced violence and abuse. For some people, this can feel overwhelming. If you need to talk to someone, we encourage you to reach out to your own support network or contact any of the following support services:

Red Rose Foundation: (07) 3065 9043

1800RESPECT: 1800 737 732

DV Connect:

Women's line: 1800 811 811

Men's line: 1300 789 978

13YARN: 13 92 76

Lifeline: 13 11 14

Beyond Blue: 1300 224 636

Rainbow SDFV Helpline: 1800 497 212

Acknowledgments

We thank all those who generously shared their views and stories with us. Your insights were critical in helping us to develop practical, innovative and just recommendations for reform.

We acknowledge the:

- individuals who shared their lived experience of non-fatal strangulation during meetings
- people and organisations who attended our meetings, roundtables and events
- people and organisations who made submissions.

Language used in this paper

We understand the importance of language and acknowledge that what is considered the ‘right language’ will sometimes be contested. We chose the following language to use in this paper.

Currently, s 315A criminalises choking, suffocation and strangulation. Medically each of these terms involves different conduct, but all impact a person’s respiration and/or blood circulation. To avoid medicalising the offence and to assist the reader, we use the term **non-fatal strangulation** or **strangulation** to describe choking, suffocation and strangulation, unless specificity is required. We make recommendations about the language used in the non-fatal strangulation offence to ensure that what must be proved is clear.

We use the term **perpetrator** to describe the person who used non-fatal strangulation, regardless of whether the person has been charged with an offence (when the term ‘defendant’ is sometimes used) or convicted (when the term ‘offender’ is sometimes used). We chose to use the term perpetrator for consistency and convenience, and because of the holistic nature of our review.

We use the term **victim-survivor** when referring to a person who has experienced non-fatal strangulation. The criminal justice system refers to this person as a complainant until the perpetrator has been found guilty. We do not confine the term victim-survivor in this way. We chose to use this term:

- because our review is looking at the issue holistically from a social policy perspective, rather than solely from a legal standpoint
- for consistency, given different language may be used to describe a person who has experienced non-fatal strangulation at different points in the justice process, for example, a person alleged to have experienced violence, complainant, victim or applicant
- because we recommend that the non-fatal strangulation offence should continue to be restricted largely to domestic settings and, as such, adopt the language used in the Queensland Government’s Domestic and Family Violence: Common Risk and Safety Framework.

Not all people who have experienced non-fatal strangulation identify as victims and/or survivors. However, we chose this language because it acknowledges the harm this conduct causes and the efforts of victim-survivors to protect themselves.

We use the phrase **Aboriginal peoples and Torres Strait Islander peoples** to refer to Aboriginal peoples and Torres Strait Islander peoples of Australia or Queensland, individually or collectively. We use the phrase **culturally and linguistically diverse communities** to refer to people from diverse cultural and linguistic backgrounds. We recognise Australian South Sea Islanders as a distinct community.

We recognise the diversity of cultures, languages and communities throughout Queensland and Australia. We also recognise and respect the distinct cultural identities of Aboriginal peoples and Torres Strait Islander peoples, and Australian South Sea Islanders. We recognise that different language preferences exist and use these terms with the utmost respect.

Glossary

Term	What it means
aggravated form of offence	An offence that has a circumstance of aggravation.
assault	Application of force to another person without their consent. An assault can include touching, pushing, hitting or, sometimes, a threat.
assault occasioning bodily harm	An assault that results in an injury amounting to bodily harm (but not as serious as grievous bodily harm).
child	A person under the age of 18.
circumstance of aggravation	A fact in an offence that makes a person liable to a higher penalty than that which applies to the simpliciter form of the offence. For example, being armed is often a circumstance of aggravation. Assault occasioning bodily harm whilst armed is an aggravated form of assault occasioning bodily harm
common assault	An assault that does not result in bodily harm.
remand (held on remand/remanded in custody)	An order to be kept in custody while waiting for criminal charges to be finalised.
simpliciter form of an offence	The basic form of an offence, without any circumstance of aggravation.
summary disposition	To finalise a matter in a magistrates-level court (the Magistrates Court or Childrens Court (Magistrate)).
Victim Impact Statement	A written or spoken statement that allows victim-survivors to tell the court about how the crime affected them.

Abbreviations

BDSM	bondage and discipline, dominance and submission, sadism and masochism
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Criminal Code (Qld)	Schedule 1 of the Criminal Code Act 1899 (Qld)
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DFV	domestic and family violence
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ODPP	Office of the Director of Public Prosecutions
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Introduction

1. On 5 September 2024, the Queensland Government asked us to examine and make recommendations about the offence of 'Choking, suffocation or strangulation in a domestic setting' in s 315A of the Criminal Code (Qld) (the 'non-fatal strangulation offence'), and applicable procedural rules and practices.
2. Our [terms of reference](#) asked us whether:
 - the terms 'chokes', 'suffocates' and 'strangles' should be defined and, if so, how
 - the requirement that the choking, suffocation or strangulation ('non-fatal strangulation') must occur 'without the other person's consent' should be removed or amended
 - the offence should apply to conduct that is not committed between those in a domestic relationship or is not 'associated domestic violence' under the Domestic and Family Violence Protection Act 2012
 - the current maximum penalty of 7 years imprisonment reflects the gravity of the conduct
 - the offence should be able to be finalised in the Magistrates Court.
3. Our [consultation paper](#) introduced three proposals and posed eight questions about potential reforms. We sought feedback from stakeholders and communities across Queensland, including strangulation victim-survivors and bodies that work with them, and Aboriginal peoples and Torres Strait Islander peoples and their organisations.
4. This paper summarises what we heard following the release of our consultation paper. It outlines our approach to obtaining and analysing feedback and presents key thematic findings relevant to our proposals, as well as other contextual factors.

Our approach

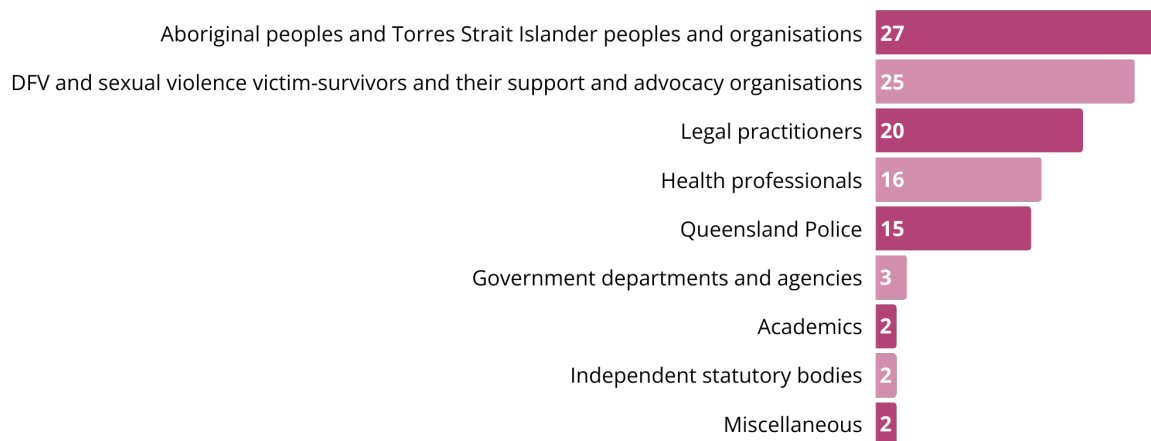
Obtaining feedback

5. We engaged in 114 consultations and received 26 submissions.
6. For the purposes of our analyses, we grouped consultations and submissions into stakeholder types. The stakeholder types we chose to use are based on our terms of reference and reflect the mission and values of the stakeholder. While we chose to classify each stakeholder into one stakeholder type, we recognise that many stakeholders perform multiple functions and represent multiple interests.
7. We used different categories to describe stakeholders. One category we chose to use was Aboriginal peoples and Torres Strait Islander peoples and their organisations. This category includes Aboriginal peoples and Torres Strait Islander peoples, their Elders and their organisations, including targeted legal services, community services and local decision-making bodies. The category miscellaneous includes stakeholders like sporting associations, security training colleges and non-DFV and sexual violence support and advocacy organisations.

Consultations

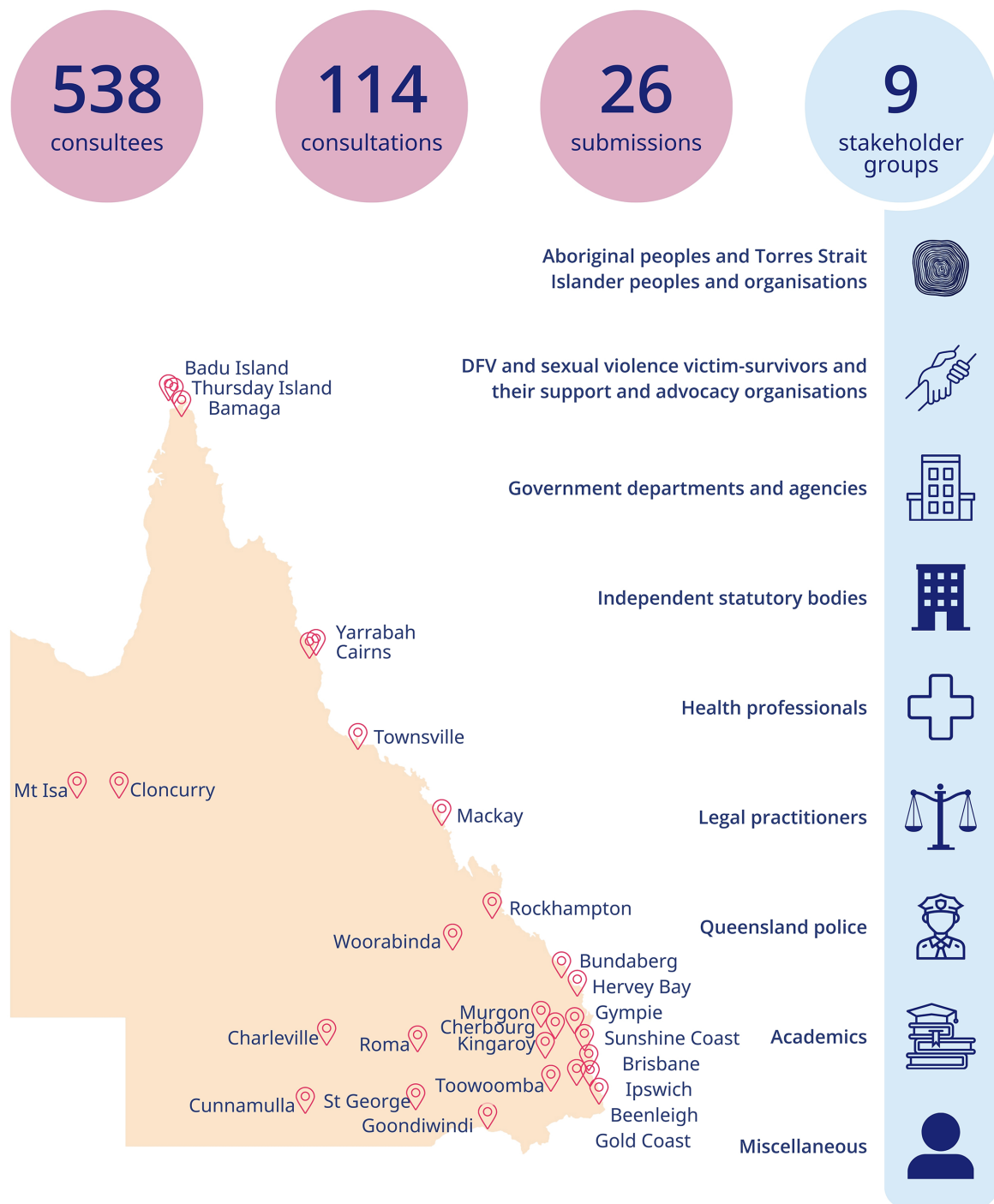
8. We spoke with 538 people in 107 meetings and 7 roundtables.
9. We targeted specific stakeholder groups and invited participation from a wide range of individuals and stakeholders across Queensland. **Figure 1** shows the number of consultations we had with each stakeholder type. We also consulted statewide. **Figure 2** shows the breadth of our consultations across Queensland.

Figure 1: Number of consultations we had with each stakeholder type



10. We consulted with individuals and groups, mostly in-person, from April to June 2025. Where required, some consultations took place online or in a hybrid form. We took notes during our consultations to facilitate analysis of feedback received.
11. Consultations were confidential to encourage free and open exchange of ideas. Because of this, we do not attribute specific statements to individual consultees in this paper.¹
12. We aimed to make our consultations trauma-informed and culturally safe. This was particularly important for victim-survivors and Aboriginal peoples and Torres Strait Islander peoples and their communities. To do this, we received assistance from:
 - the Red Rose Foundation
 - the Micah Projects Resound Group
 - cultural connectors from the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism
 - the First Nations Justice Office.

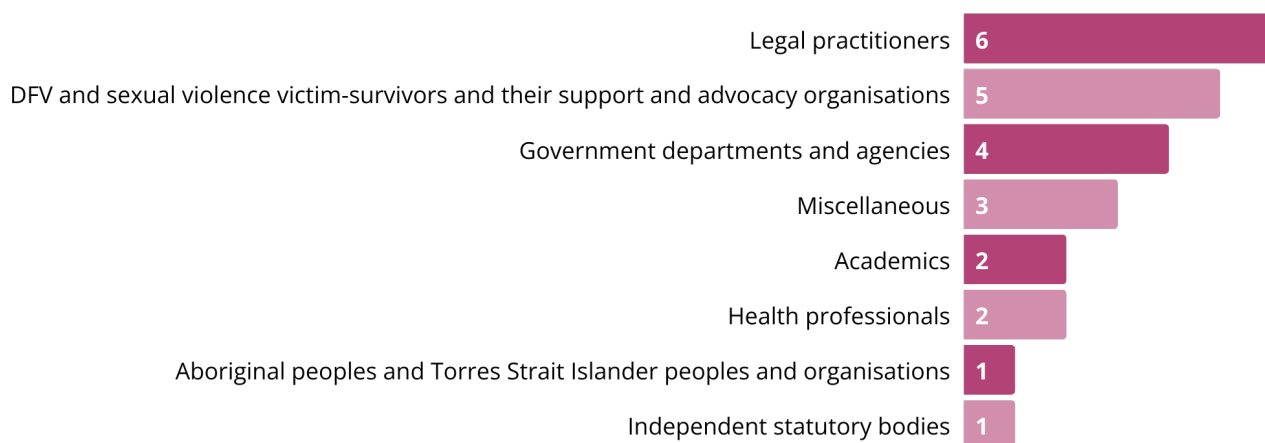
Figure 2. Location of our consultations throughout Queensland



Submissions

13. We invited submissions to our consultation paper in a range of formats and received 26 written submissions. [Appendix A](#) lists the submissions we received.
14. Most submissions will be published on our [website](#) in accordance with our [submissions policy](#) and the submitter's consent. **Figure 3** shows the number of submissions we received from each stakeholder type.

Figure 3. Number of submissions we received from each stakeholder type



15. Some submissions were made by organisations and peak bodies representing the views of a significant membership base. For example:
- The Queensland Sexual Assault Network ('QSAN') is the peak body for sexual violence prevention and support organisations in Queensland. It has 20 member services located throughout Queensland, including specialist services for Aboriginal women and Torres Strait Islander women, culturally and linguistically diverse women, women with intellectual disability, young women, men and children.²
 - The Australian Security Industry Association Limited ('ASIAL') is the peak national body for the Australian security industry, representing over 90% of the sector by revenue. It has 2,781 members.³
 - Respect Inc is the statewide, peer-based, sex worker organisation in Queensland focused on protecting and promoting the rights, health and well-being of Queensland sex workers. It has offices and drop-in spaces in Cairns, Brisbane and the Gold Coast and provides regional outreach in other Queensland locations.⁴
 - The Bar Association of Queensland is the professional body representing the interests of members of the Bar practising in Queensland. It has 1,469 members.⁵
 - The Queensland Law Society is the peak representative body for the Queensland legal profession, with 12,741 members.⁶
 - The Royal Australian College of General Practitioners Queensland ('RACGP Queensland') is the Queensland chapter of Australia's largest specialist medical college and represents more than 9,000 Queensland general practitioners.⁷

Analysing feedback

16. We coded and analysed submissions and consultation notes. Members of the Secretariat who took notes during consultations summarised overall sentiment on specific proposals and questions. This information was then coded. We coded the entirety of submissions.
17. We took a mixed methods (quantitative and qualitative) approach to analysis. For our quantitative analysis, we coded the overall sentiment expressed in submissions or consultations for specific proposals and questions as either 'agree', 'disagree', 'did not engage', or 'neither agreed nor disagreed'. We limited quantitative analysis to closed-ended

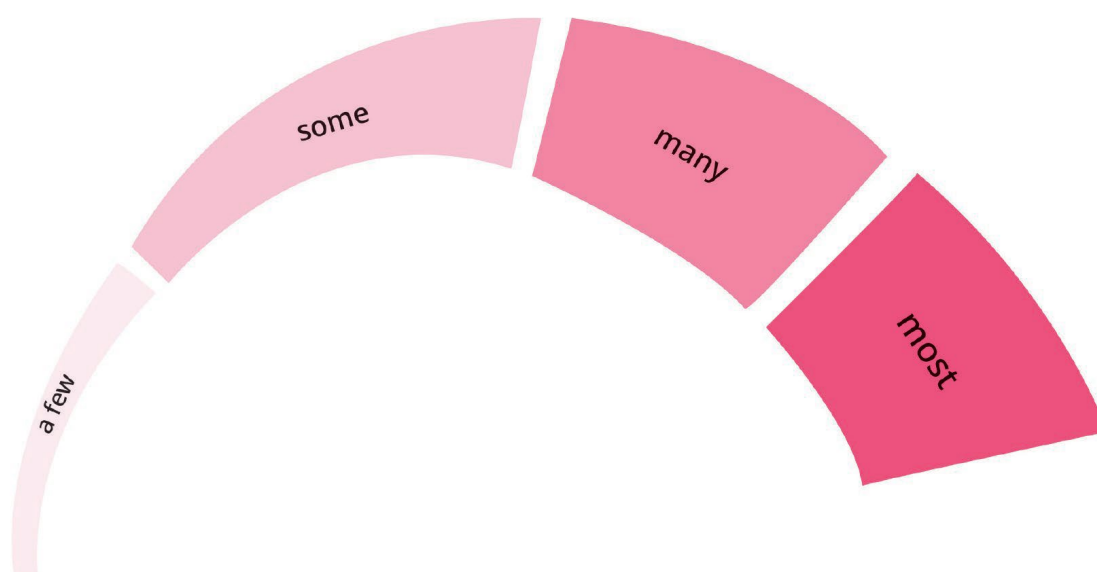
proposals and questions. We still found some responses expressed mixed views which posed a challenge to obtaining pure quantitative insights.

18. In addition to quantitative analysis, we used qualitative analysis to help us understand more detailed feedback. We thematically coded submissions and consultation notes using our specific consultation paper proposals and questions as a guide.
19. We found certain categories of stakeholders preferred different ways of providing feedback. For example, Aboriginal peoples and Torres Strait Islander peoples and their organisations were more likely to provide their views in consultations than by submissions. This was the same for police. Recognising this difference was important to ensure certain voices were not displaced during analysis.

Presenting feedback

20. This paper summarises the feedback we received and does not reflect all individual views. We frame key findings consistently with our consultation paper proposals and questions.
21. In this background paper, we refer to consultation insights but do not make direct attribution to consultees in accordance with our commitment to maintain confidentiality. However, we use direct quotations from submissions to represent a sample of views expressed.
22. Our analysis showed significant agreement about some issues and divergence on others. **Figure 4** shows our approach to representing stakeholder sentiment in this paper. We describe stakeholder sentiment by looking at stakeholders' perspectives in the context of all the feedback received about the relevant topic. Not all submissions or consultations addressed each topic. As such, we know our approach may not reflect the views of the whole community or certain stakeholders on a particular issue.
23. In this paper, we use quantifying terms to indicate how many stakeholders supported or did not support a question or proposal. When we use these terms, we refer only to stakeholders who engaged with the issue. Stakeholders who did not engage with a topic were not counted when we worked out the overall level of support.

Figure 4. Quantifying stakeholder sentiment



Our guiding principles

24. Five principles guide our review. These principles are shown in **Figure 5** and are discussed in [background paper 1](#). This paper supports our second principle. It provides evidence, including from experts and those with lived experience, to inform our recommendations for reform.

Figure 5: Our guiding principles



Overview of feedback

Non-fatal strangulation is inherently dangerous and indicates a high risk of future violence and death in some contexts.

- Non-fatal strangulation is always dangerous.
- Non-fatal strangulation is often used as a means of control over another person's life.
- In some contexts, particularly those involving DFV, non-fatal strangulation is a risk factor for future injury or death.
- There is less evidence about the risk of future injury and death for non-fatal strangulation beyond domestic settings. This may be due to lack of available data.

The criminal law should treat non-fatal strangulation more seriously.

- When used as a means of control or terror, the seriousness of non-fatal strangulation conduct should be recognised without necessarily requiring proof of any restriction of respiration and/or blood circulation.
- The ability to argue consent to non-fatal strangulation should be limited or removed to protect vulnerable persons, including those experiencing DFV or coercion, control or domination.
- Defences to non-fatal strangulation should be limited.
- Penalties for non-fatal strangulation should be increased.
- The criminal law does not appropriately deal with non-fatal strangulation that occurs in circumstances beyond the scope of the current non-fatal strangulation offence.

Non-fatal strangulation occurs in various contexts.

- Non-fatal strangulation occurs in violent contexts, sexual contexts, sporting contexts and as a means of restraint.
- Non-fatal strangulation is increasingly normalised in sexual contexts, particularly between young people.
- The situations where non-fatal strangulation could be considered reasonable or socially acceptable should be limited.

The issue of consent is complex and requires a nuanced response.

- Views about whether a person should be able to consent to non-fatal strangulation depend on the context in which the strangulation occurred.
- Removing a person's ability to consent to non-fatal strangulation limits their personal autonomy.
- Consent can be undermined where there is inequality, overt or implied pressure or expectations, and by limited understanding of the impacts of non-fatal strangulation.
- There are difficulties withdrawing consent to non-fatal strangulation.

There is an important role for both criminal law and public education.

- The risks of non-fatal strangulation are not adequately understood and there is misplaced reliance on being able to safely engage in such conduct.
- Criminalisation of non-fatal strangulation conduct has a role in protecting more people from the health impacts of non-fatal strangulation and sending a clear message to the community about its risks.
- Public education must accompany changes to the criminal law to support messaging about the dangerousness of non-fatal strangulation, to disrupt its increased normalisation and to prevent over-criminalisation, particularly of marginalised groups.

Systemic changes are necessary to support just and effective criminal justice responses to non-fatal strangulation.

- There are barriers to prosecuting non-fatal strangulation because of inadequacies in evidence collection and a lack of understanding about non-fatal strangulation by criminal justice personnel and health professionals.
- Victim-survivors have poor experiences of the criminal justice process, including because of delays and not receiving enough information and support.
- Systemic changes must accompany reforms to the criminal law.

Current non-fatal strangulation offence

315A Choking, suffocation or strangulation in a domestic setting

- (1) A person commits a crime if—
- (a) the person unlawfully chokes, suffocates or strangles another person, without the other person's consent; and
 - (b) either—
 - (i) the person is in a domestic relationship with the other person; or
 - (ii) the choking, suffocation or strangulation is associated domestic violence under the Domestic and Family Violence Protection Act 2012.

Maximum penalty—7 years imprisonment.

- (1A) For subsection (1) and without limiting the subsection, a person is taken to choke, suffocate or strangle another person if the person applies pressure to the other person's neck that completely or partially restricts the other person's respiration or blood circulation, or both.
- (2) An assault is not an element of an offence against subsection (1).

Feedback on key topics

Our proposed model

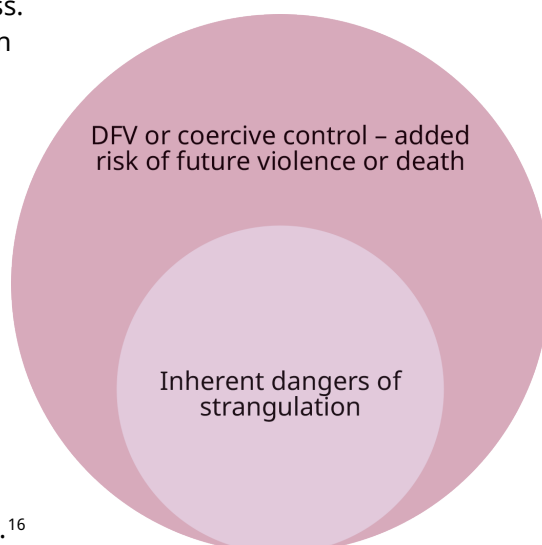
25. In our [consultation paper](#) we proposed expanding the non-fatal strangulation offence. We proposed repealing s 315A of the Criminal Code (Qld) and replacing it with three new offences.

Offence one: Unlawfully doing particular conduct that restricts respiration and/or blood circulation in the context of a domestic setting. This offence would prescribe a maximum penalty of 14 years imprisonment.

Offence two: Unlawfully doing particular conduct in the context of a domestic setting. This offence would prescribe a maximum penalty of 7 years imprisonment.

Offence three: Unlawfully doing particular conduct that restricts respiration and/or blood circulation. This offence would prescribe a maximum penalty of 10 years imprisonment.

26. Most stakeholders supported this proposed model.⁸ A few stakeholders disagreed with the proposed model.⁹
27. Regardless of their position on the proposed model, stakeholders agreed that non-fatal strangulation is very dangerous.¹⁰ RACGP Queensland noted that strangulation can lead to serious issues like 'carotid dissection, hypoxic brain injury and laryngeal injury'.¹¹ The Red Rose Foundation submitted that even a brief event of non-fatal strangulation 'can lead to irreversible harm even with minimal force or brief duration' with repeated non-fatal strangulation compounding the risk.¹² Legal Aid Queensland's Criminal Law Services ('Legal Aid Queensland (CLS)') expressed an alternative view that other violent conduct may be considered as serious as non-fatal strangulation.¹³
28. Stakeholders discussed how non-fatal strangulation can be an indicator of future serious injury and death. This creates an added layer of dangerousness. Stakeholders accepted that non-fatal strangulation often occurred before homicides in intimate personal relationships.¹⁴ However, there was less agreement on the risk of death in other relationships.
29. The Queensland Law Society noted that current evidence links non-fatal strangulation in intimate relationships to an increased risk of death, but stated more evidence is needed to support expanding the offence beyond its current scope.¹⁵ However, the Office of the Victims' Commissioner ('Victims' Commissioner') said that expanding the non-fatal strangulation offence to more settings would 'not detract' from an offence that also targets this lethality indicator of non-fatal strangulation in domestic settings.¹⁶



30. Stakeholders also discussed the three offence structure proposed in our consultation paper. There were stakeholders who supported this approach because it appropriately distinguishes non-fatal strangulation according to setting and proof of injury.¹⁷ Others disagreed with this proposed structure.¹⁸ For example, the Bar Association of Queensland said the model was too complex and believed it would cause trial delays and could retraumatise complainants.¹⁹ Regional legal practitioners told us there were internal inconsistencies within the model and with other proposals. For example, they noted the offences called for higher penalties, but contrasted this with our proposal to finalise some matters in the Magistrates Court. The Magistrates Court can generally only impose periods of imprisonment up to 3 years.²⁰
31. To overcome some of these difficulties, we were told an alternative model could involve a standard offence (or 'simpliciter offence') of non-fatal strangulation with increased penalties for circumstances of aggravation.²¹

Non-fatal strangulation within domestic settings

32. In our consultation paper, we proposed two offences to apply within domestic settings:
- a conduct and results offence (offence one)
 - a conduct-only offence (offence two).
33. We described conduct as the physical act of non-fatal strangulation. Results referred to the consequences of the conduct, specifically restriction of respiration and/or blood circulation.

Conduct means the physical act.

Results means restriction of respiration and/or blood circulation.

34. Most stakeholders supported the proposed two offences within domestic settings.²²
35. Stakeholders supported distinct offences of non-fatal strangulation in DFV and intimate partner contexts because they recognised:
- the particular risks of serious injury or death in those contexts²³
 - the psychological impacts of that conduct as a means of control and terror in those contexts.²⁴
36. The Queensland Indigenous Family Violence Legal Service ('QIFVLS') submitted:²⁵
- [H]aving a standalone offence for non-fatal strangulation in a domestic setting with a higher penalty distinguishes the pernicious nature of [non-fatal strangulation] in the context of DFV and how it is often used in ongoing patterns of abuse. Additionally, the two proposed domestic offences (with and without proof of harm) would provide clarity.
37. North Queensland Women's Legal Service ('North Queensland WLS') called non-fatal strangulation a 'deeply disturbing and chilling behaviour that traumatises victims, often making them fear for their lives'.²⁶ However, Legal Aid Queensland (CLS) noted an expanded definition of non-fatal strangulation could include conduct that does not induce terror or is no more terrorising than other types of conduct.²⁷
38. We heard from various stakeholders in different regions that non-fatal strangulation should be criminalised in more relationships than currently captured by the non-fatal strangulation offence. They shared examples of situations not falling within the current scope of 'domestic relationship' or 'associated domestic violence'.²⁸ City DFV and sexual violence support and

advocacy workers said the length of time a couple has been together should not determine a domestic relationship. Instead, the focus should be on any power imbalance. We proposed creating a new offence for non-fatal strangulation beyond domestic settings to address these concerns. However, we heard a simpler solution may be to amend the definition of domestic relationship.²⁹

Conduct and results offence

39. Most stakeholders supported a non-fatal strangulation offence that criminalised restriction of respiration and/or circulation (offence one).³⁰ No stakeholders disagreed in principle with an offence that criminalised non-fatal strangulation where there were particular results, but there were stakeholders who raised concerns about the details of the proposed offence.
40. Clinical Excellence Queensland submitted that if the offence needs proof of results, there would always be evidentiary challenges because injuries³¹
- may not be evident for weeks, months, or years however can be catastrophic ie dementia, dysfunctional thought processes, PTSD. Additionally, development/discovery of these symptoms may not be obviously linked to the strangulation/choking/suffocation by the victim/survivor or treating health professionals when the symptoms emerge.
41. The Victims' Commissioner was concerned that a results-based offence would continue to rely on victim-survivor testimony and medical evidence, which is difficult to obtain.³² Legal Aid Queensland's Family Law Service ('Legal Aid Queensland (FLS)') also commented on these difficulties:³³
- [N]on-fatal strangulation is one of the highest risk indicators of future domestic and family related homicides ... Non-fatal strangulation is an act of violence that occurs most often within the home, without the presence of witnesses. Victim-survivors very often do not disclose their experiences for some time and often do not seek medical assistance until well after the incident, if at all. In some cases, it may take years for the victim-survivor to process their traumatic experience and understand and name the act of violence perpetrated against them.

Conduct-only offence

42. Most stakeholders supported criminalising the conduct of non-fatal strangulation within domestic settings (offence two).³⁴ This was because:
- the offence could overcome evidentiary issues
 - alternative offences like common assault are not appropriate
 - it sends a clear message about the seriousness of non-fatal strangulation
 - it may lead to increased reporting.
43. As discussed above from [40], non-fatal strangulation offences present evidentiary challenges. Physical injuries are not always observable, victim-survivors can have difficulty in reporting whether or how their respiration and/or blood circulation was restricted, and the offence often occurs in private. For these reasons, prosecuting the offence often relies on the victim-survivor's testimony.
44. As a result, stakeholders considered that the current non-fatal strangulation offence is difficult to access. For example, North Queensland WLS stated that a conduct-only offence³⁵
- captures matters that are currently out of reach of s 315A. Having an offence that does not require an (obvious) result/injury or where the proof of such a result is too difficult

to prove beyond reasonable doubt, will allow this type of terrifying conduct to be charged for what it is and not, for example, as an assault (if at all).

45. North Queensland WLS also emphasised that non-fatal strangulation is distinct and should not be charged under alternative offences such as common assault:³⁶

We cannot stress enough how meaningful this will be for victims to have this type of conduct recognised as an offence of strangulation, and not a more generic assault offence. [Non-fatal strangulation] has a markedly different quality to other assaults. It is deeply disturbing and chilling behaviour that traumatises victims, often making them fear for the lives. The psychological effects can be ongoing and are not visible as an injury or 'result'.

46. Similarly, legal practitioners in a city said the conduct-only offence would provide a better option than downgrading or withdrawing charges because it would recognise the seriousness of the conduct and may lead to faster resolution of charges. However, there were other legal practitioners in different regions that disagreed. They thought alternative charges like common assault are appropriate.
47. Regional and city police and health professionals believed a conduct-only offence would send a strong message that non-fatal strangulation conduct is unacceptable, which may lead to increased reporting.³⁷ However, regional legal practitioners said there are inconsistencies between offences which may limit the intended messaging. They said the first proposed offence (with higher penalties) would denounce non-fatal strangulation, however most matters would likely be resolved under the second proposed offence which would carry a lesser penalty. Regional police agreed but told us that while fewer matters may be prosecuted under the first offence, more occurrences of non-fatal strangulation would be captured.
48. North Queensland WLS submitted that victim-survivors report for reasons other than getting certain penalties. They said a conduct-only offence would likely lead to victim-survivor satisfaction:³⁸

[W]e believe most victims would prefer a conviction for the offence with the smaller maximum, if it avoids a hearing and still recognises the unique harm they have suffered at the hands of the perpetrator ... They will care about being believed, not having to endure cross-examination, the shorter time they spend waiting for an outcome, and having the person who has terrorised them convicted of an offence that recognises what they have experienced. We predict more women will be confident to come forward as complainants as word of successful prosecutions filters into the community.

49. Regional legal practitioners expressed concern about over-criminalisation, particularly for marginalised communities. Legal Aid Queensland (CLS) submitted the offence was too broad and the reason for introducing the offence — to reflect likelihood of future risk — was not appropriate. They relied on caselaw which stated a 'fundamental principle [in criminal law is] that no one should be punished for an offence of which the person has not been convicted'.³⁹
50. We also received feedback on how the conduct-only offence could be reconstructed. Professor Heather Douglas recognised this offence may be used where it would be difficult to prove respiration and/or blood circulation was restricted. She suggested⁴⁰

one possible way forward is to merge offence 1 and 2, maintain a 7 year offence with an aggravation (and higher penalty of 14 years) in cases where the prosecution can prove that breath or blood flow is restricted.

51. The Bar Association of Queensland preferred this approach to non-fatal strangulation in a domestic setting.⁴¹ The Victims' Commissioner and others also thought the harm caused could be reflected in a circumstance of aggravation.⁴²

Penalties

52. In our consultation paper, our proposed new three offence framework for non-fatal strangulation included penalties for each offence. Many stakeholders supported the proposed penalties in general.⁴³
53. The Victims' Commissioner questioned whether the 'current sentences for non-fatal strangulation are actually meeting the community's expectations'.⁴⁴ Regional legal practitioners and DFV and sexual violence support and advocacy workers told us the current penalty for non-fatal strangulation does not adequately reflect the seriousness of the conduct.
54. Stakeholders submitted that the proposed penalties better recognised the seriousness of non-fatal strangulation.⁴⁵ Banerjee submitted:⁴⁶
- I believe that the penalties allotted to each of the offences are reasonable, just and proportionate, particularly for Offence 1 as it directly punishes and generally deters family violence ... [T]he risk of 'death' enables [non-fatal strangulation] laws to operate more punitively, recognising not only that strangulation is a key indicia in forecasting femicides, but also that prolonged injuries may indeed yield terminal or irreversible damage.
55. Victim-survivors agreed the proposed penalties were more appropriate for non-fatal strangulation and better aligned with the maximum penalty for the new coercive control offence. However, Legal Aid Queensland (CLS) disagreed, submitting:⁴⁷
- [I]t is inappropriate to simply peg the penalty of offence 1 based on a comparison to that other offence. (CLS) submits the choice of 14 years imprisonment for coercive control may not reflect the evidence as to what will in fact deter and protect the community from coercive control. ... Coercive control is [an] offence that is yet to be tested.
56. Regional police said higher penalties would better denounce and deter this type of offending. However, Legal Aid Queensland (CLS) argued that raising penalties does not reduce offending and an increase that doubles the current maximum penalty where there has been restriction of respiration and/or blood circulation is unjustified.⁴⁸ Professor Douglas also recognised that⁴⁹
- while the 14 year sentence is in line with the offence of grievous bodily harm, it is extremely high regarding current practice in sentencing for [non-fatal strangulation]. However, it is possible to imagine 'worst case scenarios' where this level of sentencing may be warranted.
57. The Queensland Law Society suggested increased penalties could lead to more contested charges.⁵⁰
58. There were stakeholders who said the proposed penalties were not high enough. The Victims' Commissioner submitted the penalty for the conduct-only offence should be 10 years despite not requiring proof of results because the conduct alone in the context of domestic settings still indicates increased risk of death.⁵¹ Clinical Excellence Queensland also queried why the penalty for the first offence was not comparable to s 315 of the Criminal Code (Qld) (disabling to commit an indictable offence) which carries a maximum penalty of life imprisonment.⁵²

Non-fatal strangulation beyond domestic settings

59. Most stakeholders supported expanding the non-fatal strangulation offence beyond domestic settings (offence three).⁵³ The Gold Coast Centre Against Sexual Violence Inc ('GCCASV') submitted that our proposed model⁵⁴

appropriately broadens the scope to apply to all members of the community, not solely those in domestic or family relationships.

60. The Victims' Commissioner also supported criminal responsibility for non-fatal strangulation beyond domestic settings:⁵⁵

I recognise the importance of holding individuals who commit acts of non-fatal strangulation outside of a domestic relationship accountable, given the serious harm that such acts can cause to victim-survivors.

61. Stakeholders discussed the inherent dangerousness of non-fatal strangulation. Across the State we heard from academics, health professionals and DFV and sexual violence support and advocacy workers that there is no safe away to strangle.⁵⁶ Regional health professionals told us non-fatal strangulation differs from other types of violence, like assault, because:

- victim-survivors often report high levels of distress
- the perpetrator is in a very close position of control and can observe the victim-survivor's suffering.

62. Injury following strangulation can also occur without an intention to cause harm. For example, North Queensland WLS shared an experience of non-fatal strangulation that resulted in serious disability. This involved a casual setting between young friends who were waiting for a martial arts class to begin. They described how a brief strangulation event without intention to cause harm resulted in a life-long disability.⁵⁷

63. Other stakeholders said non-fatal strangulation was not as dangerous in certain settings. For example, statewide sporting groups and associations and national government agencies told us non-fatal strangulation in regulated sports is less risky and less likely to result in serious harm than in domestic settings.

64. The Bar Association of Queensland did not accept that non-fatal strangulation carries a distinctive danger to justify a new offence beyond domestic settings.⁵⁸

65. City DFV and sexual violence support and advocacy workers told us that non-fatal strangulation was increasing in more settings. This included among young people, in the context of sex, and sex work. They told us power and control dynamics exist in other types of relationships not captured by the non-fatal strangulation offence.

66. Similarly, North Queensland WLS submitted:⁵⁹

[T]he status quo does not reflect the modern world where, for example, dating apps are extensively used for casual encounters that do not meet the definition of a domestic relationship. It is likewise unacceptable that victims of this insidious type of offending who do not know their attacker, can never have their attacker convicted of a [non-fatal strangulation] offence.

67. The Queensland Law Society said current evidence only connects non-fatal strangulation in intimate relationships with increased risk of death. The Society submitted that there is insufficient evidence to support expanding the offence beyond domestic settings.⁶⁰

68. Stakeholders discussed whether current offences adequately capture non-fatal strangulation beyond domestic settings. North Queensland WLS submitted:⁶¹

[It] is also necessary to capture matters that are currently out of reach of s 315A. It is unacceptable that no offence currently exists that effectively addresses conduct of this terrifying nature when there is no domestic relationship between the offender and victim.

69. QIFVLS submitted that the offences of common assault and assault occasioning bodily harm⁶²

do not adequately recognise the inherent seriousness of the physical act of strangulation and may be hard to prove where injuries are not visible and/or independently captured by the victim-survivor reporting to a medical/health care professional.

70. Other stakeholders argued a new offence was unnecessary because existing offences already criminalise non-fatal strangulation in relationships outside domestic settings.⁶³ These offences include common assault, assault occasioning bodily harm, grievous bodily harm, and attempted murder.
71. Stakeholders who opposed creating a separate offence suggested the definition of 'domestic relationship' be expanded for the purposes of the non-fatal strangulation offence to cover currently excluded relationships.⁶⁴ Other stakeholders who supported expanding the non-fatal strangulation offence also supported expanding the definition of domestic relationship.⁶⁵
72. During consultations, city and regional DFV and sexual violence support and advocacy workers, health professionals and legal practitioners told us that expanding non-fatal strangulation beyond domestic settings would be important to send a consistent message that such conduct is serious no matter the circumstances.

Penalties

73. Many stakeholders supported our proposed penalties for the non-fatal strangulation offence beyond domestic settings.⁶⁶ As with penalties for our two proposed offences within domestic settings, those who supported increasing penalties for the offence beyond domestic settings felt such an increase would appropriately recognise the risks of strangulation. However, others raised concerns about over-criminalisation.
74. For a specific offence beyond domestic settings, North Queensland WLS submitted:⁶⁷

[T]he maximum penalty of 10 years is appropriate in our view as it traverses the middle ground between the risk of future lethality that strangulation poses in domestic relationships, and the conduct-only offence of proposed offence two.
75. Legal Aid Queensland (CLS) submitted that there is not enough evidence to show that non-fatal strangulation beyond domestic settings is lethal. As such, a 10-year maximum penalty is not justified, particularly when common assault has a 3-year maximum penalty.⁶⁸

Clarifying non-fatal strangulation

76. In our [consultation paper](#), we asked how 'choking', 'suffocation' and 'strangulation' should be defined.
77. Regional legal practitioners told us the definition for these terms should be clear and accessible.⁶⁹ The Victims' Commissioner supported an offence name 'which is easily understood by the community'.⁷⁰
78. North Queensland WLS suggested removing the terms 'chokes', 'suffocates', and 'strangles' as elements of the offence but retaining them in the offence heading to assist 'the general community to immediately understand the terrifying style of conduct that forms the gravamen of the offending'.⁷¹
79. Dr Kimberley Bruce supported removing separate, individual terms and favoured a 'catchall' definition.⁷² Arya Banerjee agreed a more practical definition was preferable 'as opposed to the trifecta' of choking, suffocation or strangulation.⁷³
80. In our consultation paper, we also asked what conduct should be captured by the proposed offences. During consultations across different regions, police and DFV and sexual violence

victim-survivors and their support and advocacy organisations provided the following examples of conduct they had encountered:⁷⁴

- compression of the victim-survivor's neck with either one or two hands, forearms, knees or feet
- sitting on the victim-survivor's back or compressing their chest
- using ligatures, including household items, clothing, jewellery or seatbelts
- holding pillows and other objects over the victim-survivor's face, or otherwise covering the nose and mouth
- immersing the victim-survivor in water.

81. Respect Inc raised concern that the scope of the current non-fatal strangulation offence excludes pressure to the chest and suggested it should be included in any new definition.⁷⁵
82. In contrast, the Bar Association of Queensland was concerned that including pressure to the chest would risk over-criminalisation, particularly if the element of 'without consent' was removed. The Association suggested other offences could manage unlawful pressure to the chest.⁷⁶ Legal Aid Queensland (CLS) raised similar concerns that an expanded definition could include conduct that 'may not be said to terrorise victims more than other common assault'.⁷⁷
83. There were stakeholders who suggested conduct of non-fatal strangulation should be taken to mean the effect of the conduct.⁷⁸ However, the Bar Association of Queensland said it was important to distinguish between conduct and results to avoid a 'circular definition'.⁷⁹ This would be particularly relevant for the conduct-only offence. The Red Rose Foundation identified the need for a definition that does not refer to results for the conduct-only offence. They proposed the conduct for this offence should be conduct that 'simulates or threatens' to restrict respiration and/or blood circulation.⁸⁰

The role of consent

84. In our [consultation paper](#), we asked about the role of consent in the non-fatal strangulation offence. We asked:
- whether to retain or remove the 'without consent' requirement
 - if consent was retained, whether it be an element or a defence
 - if consent was retained, how it should be defined.

Retaining or removing 'without consent'

85. Many stakeholders supported removing any reference to consent from the non-fatal strangulation offence.⁸¹
86. However, select stakeholders' views about whether consent should be retained or removed depended on the setting. For example, Banerjee submitted the 'without consent' requirement should not apply to non-fatal strangulation in domestic settings where there are results (offence one), but that it should be retained for all other cases.⁸²
87. Stakeholders agreed that removing any ability to consent to non-fatal strangulation would recognise the risk of serious harm from the conduct.⁸³ Legal Aid Queensland (FLS) stated 'it must be concluded that the action is so high-risk to a person's safety as to be unacceptable'.⁸⁴ Women's Legal Service submitted:⁸⁵

The law recognises that certain forms of conduct are so inherently harmful that, as a matter of public policy, consent cannot be given — grievous bodily harm being one such example. We consider non-fatal strangulation to fall within this category.

88. There were stakeholders who supported removing consent while acknowledging it would limit individual autonomy in settings like consensual sex. However, the Victims' Commissioner submitted removing consent was still necessary because⁸⁶
- the unknown risk of harm, the seriousness of the harm caused by non-fatal strangulation, and the emerging medical evidence mandates a legal response that guides us away from that harm. While there is a need to balance a limitation of freedoms with a person's bodily autonomy and choice, the above factors support a position that no one should be able to consent to non-fatal strangulation.
89. We also heard there are issues with providing and maintaining consent. City health professionals described how the neurological impacts of non-fatal strangulation mean valid consent cannot be provided or maintained throughout the strangulation, even if safe words or actions have been agreed upon.⁸⁷
90. In the context of a coercive and controlling relationship, stakeholders argued that people cannot freely and voluntarily consent to non-fatal strangulation.⁸⁸ The Domestic Violence Action Centre ('DVAC') explained how victim-survivors may respond to violence with 'freeze' and 'fawn' responses in an attempt to⁸⁹
- please or placate the person using violence to avoid further violence and abuse or find themselves unable to stand up for themselves or their safety in the face of a threat. We commonly hear from women 'consenting' to strangulation in a domestic violence relationship to placate and reduce the risk of their partner escalating in violence towards themselves and their children.
91. Yumba-Meta Limited ('Yumba-Meta') expressed that consent to non-fatal strangulation during sex was 'extremely complex'.⁹⁰
92. Because of these difficulties, there were stakeholders who suggested no consent model would work for non-fatal strangulation.⁹¹ Health professionals and DFV and sexual violence support and advocacy workers in different regions told us a simple, or 'blanket', approach would overcome the complexities of including consent in the non-fatal strangulation offence.
93. Regional health professionals, DFV and sexual violence support and advocacy workers, police officers and Aboriginal organisations and Torres Strait Islander organisations also told us that general awareness of the risks of non-fatal strangulation, as well as models of consent, are low. They said this issue was particularly the case for young people.
94. Another reason provided for removing consent was that it delivers a simple, clear message. QSAN said removing consent 'sends a clear message that the behaviour is dangerous and will not be tolerated in our community'.⁹² Regional police officers expressed that if consent was removed from the offence, complaints would not likely be made by people who participate in consensual non-fatal strangulation.
95. A few stakeholders supported retaining consent to safeguard against over-criminalisation, preserve individual autonomy and because concerns about consent can be addressed by the law.⁹³
96. Stakeholders like the Bar Association of Queensland raised concern that removing consent could mean 'large sections of the Queensland community will be subject to criminal sanctions for engaging in otherwise consensual activities'.⁹⁴

97. The Queensland Law Society said removing consent would criminalise conduct including ‘medical treatment, acts of self-defence, certain sexual activity and acts in a sporting context’.⁹⁵ Below at [130] we discuss non-fatal strangulation in sports.
98. Stakeholders noted the increasing prevalence of non-fatal strangulation during sex between young people.⁹⁶ Professor Douglas was concerned that ‘an unintended consequence of a too draconian approach could be to prosecute a generation of individuals’.⁹⁷ There were city, regional and remote legal practitioners and police who told us that legislating against individual preferences was a step backwards in the law.
99. Legal Aid Queensland (CLS) submitted:⁹⁸
- While consensual restrictions on breath may involve some risks to health, the criminal law is an incredibly poor tool to encourage, or try to force, people to make decisions about their health. Attempts to do so have adverse consequences, and typically result in the over-incarceration of disadvantaged groups.
100. Respect Inc submitted that sex workers negotiate consent verbally or in writing. It submitted, ‘Criminalisation without nuance would put sex workers at greater legal risk despite operating in ways that prioritise consent and safety’.⁹⁹
101. Stakeholders who supported retaining consent said the law can recognise where consent was not provided in the true sense. The Bar Association of Queensland submitted the perceived challenges do not justify a ‘blanket approach’ of removing consent entirely. The Association said:¹⁰⁰
- [S]uch concerns do not appear to take into account recent legislative amendments such as the availability of expert evidence concerning the nature of domestic and family violence; jury directions about the nature of domestic violence, including coercive control; and the introduction of the offence of coercive control.
102. Legal Aid Queensland (CLS) also submitted that common law distinctions between levels of harm and consent already operate well and in accordance with policy perspectives that balance risk of harm to an individual with individual autonomy.¹⁰¹
103. Regional legal practitioners told us that whether consent has been provided or not is usually clear on the facts.¹⁰²

Consent as an element or defence

104. If consent was retained, we asked stakeholders whether it should be an element of the offence or be available as a defence.
105. Stakeholders who supported retaining consent as an element argued that to retain consent as a defence would inappropriately place the onus of proof on the perpetrator. The Bar Association of Queensland suggested this would move non-fatal strangulation closer to a ‘strict liability model’ which could:¹⁰³
- impact vulnerable perpetrators with poor understanding of the risks of non-fatal strangulation
 - increase trial complexities
 - be misused in related family disputes.
106. Legal Aid Queensland (CLS) made similar submissions and added the current ‘without consent’ element was operating well and was consistent with other assault offences and jurisdictions.¹⁰⁴
107. Stakeholders who supported including consent as a defence argued it was an appropriate balance between removing consent and allowing some protection for perpetrators. For

example, Professor Douglas suggested that non-fatal strangulation was serious but protection was needed particularly for younger perpetrators engaging in non-fatal strangulation during sex.¹⁰⁵

108. City and regional health professionals told us that combining an affirmative consent model with a defence of consent would place the onus on the perpetrator to show how they obtained consent.
109. The Queensland Law Society noted:¹⁰⁶
- [A] narrow defence premised on the Victorian approach might be appropriate, if appropriately constrained by affirmative consent standards (including the absence of coercion), and if it is not available where injury is caused.

Defining consent

110. If consent was retained, we asked how it should be defined.
111. A few stakeholders supported a simple model of informed consent. However, city DFV and sexual violence support and advocacy workers said an informed consent model for non-fatal strangulation would be difficult to understand, particularly in communities that are culturally and linguistically diverse.
112. We found stakeholders tended to raise:
- an affirmative consent model
 - a combination of informed and affirmative consent
 - not including a statutory definition and leaving consent to common law.
113. At times stakeholders proposed different models of consent for different settings. For example, city legal practitioners told us different models of consent should apply for sexual settings and non-sexual settings.
114. An affirmative model of consent tended to be raised in the context of sex. Respect Inc supported an affirmative consent model because it negates the relevance of prior consent to non-fatal strangulation.¹⁰⁷ Regional legal practitioners said using an affirmative consent definition for non-fatal strangulation during sex would be a simple and consistent approach.
115. DVAC did not support retaining reference to consent in the non-fatal strangulation offence. However, if consent was ultimately retained, DVAC submitted that an affirmative model could recognise trauma responses like freezing.¹⁰⁸
116. In the Criminal Code (Qld), the affirmative consent model does not require consent to be informed.¹⁰⁹ As such, academics and health professionals across regions said a combination of informed and affirmative consent would be appropriate for non-fatal strangulation in sexual contexts.¹¹⁰
117. City health professionals considered a combined definition — described as the ‘FRIES’ model of freely given, informed, enthusiastic and specific consent — would not operate well for non-fatal strangulation because of the lack of awareness of risks and the difficulties of withdrawing consent.
118. The Victims’ Commissioner expressed similar concerns.¹¹¹ Health professionals added that this model may be less accessible for people with limited access to information or those affected by DFV experiences.¹¹²
119. We also heard an alternative option not to define consent. The Queensland Law Society noted that the current non-fatal strangulation offence does not define consent and it could be left to the common law to consider whether express or implied consent had been provided.¹¹³ Legal

Aid Queensland (CLS) similarly suggested it would be inconsistent with other assault offences to define consent and that doing so could add complexity to the Criminal Code (Qld). Rather, they considered consent should be left to develop with caselaw.¹¹⁴

Lawfulness

120. In our [consultation paper](#), we asked when non-fatal strangulation should be lawful. Many stakeholders suggested non-fatal strangulation should be lawful in some circumstances.¹¹⁵
121. Stakeholders who supported retaining the 'lawfulness' element of the non-fatal strangulation offence said:
 - there are circumstances where criminal responsibility should not attach to non-fatal strangulation
 - lawful non-fatal strangulation can be appropriately limited through:
 - legislative requirements of reasonableness, reasonable necessity or proportionality
 - internal governance, training and monitoring or oversight.
122. Some stakeholders submitted an element of lawful or unlawful non-fatal strangulation was not appropriate.¹¹⁶

Circumstances involving lawful non-fatal strangulation

123. There were stakeholders who discussed a range of circumstances where it may be inappropriate for non-fatal strangulation to result in criminal responsibility. These included:
 - in situations where there was no intent
 - use by police, corrective services, private security and others responsible for restraint and protection
 - in certain sports
 - for medical treatment
 - in self-defence or defence of another
 - as part of a consensual sexual act.
124. The Queensland Law Society considered removing the unlawfulness element would result in 'the unintended capture of innocuous behaviour or behaviour that should not reach the threshold of criminality'.¹¹⁷ Asset College and ASIAL expressed a similar concern, submitting that the non-fatal strangulation offence should include a clear distinction between 'intentional, coercive strangulation and incidental physical contact'.¹¹⁸ It suggested application 'without malicious intent' as an element for lawful non-fatal strangulation.¹¹⁹ Professor Andrew Hemming also supported using fault elements rather than relying on unlawfulness.¹²⁰
125. Police in very remote, remote and regional areas told us non-fatal strangulation should be permitted as part of law enforcement as a last resort. Queensland Corrective Services referred to its commitment to ensure 'officers and offenders can interact without the fear of violence, physical harm, intimidation or threatening behaviour'.¹²¹
126. When discussing whether non-fatal strangulation could ever be considered reasonable, police acknowledged vulnerable cohorts such as Aboriginal peoples and Torres Strait Islander peoples are likely to have higher risks factors (such as heart disease) which can increase the dangers of non-fatal strangulation.

127. While we heard that in health contexts physical restraint is generally avoided where possible, staff sometimes use the five point method if required. City health professionals told us this form of restraint could potentially result in some restriction of airways. Clinical Excellence Queensland referred to the Mental Health Act 2016 as providing appropriate limitations on the use of non-fatal strangulation during restraint.¹²²
- While non-fatal strangulation is a serious act with significant risks, and any such incidents would be exceptionally rare in authorised mental health services, its lawful use in the context of restraint — where it is reasonably necessary to prevent imminent harm or violence by an involuntary patient or forensic disability client — should remain permissible under Criminal Code s 266, provided such force is proportionate, justified, and remains subject to strict safeguards.
128. We heard that security staff are increasingly confronted with escalations of violence and have less access to use-of-force equipment than police and corrections. Asset College and ASIAL discussed the best practice for security staff is to ‘disengage, isolate the threat, and request police attendance’. However, they noted there is¹²³
- a capability gap in situations where verbal de-escalation fails, and physical control is necessary to prevent imminent harm ... In the absence of alternatives, certain physical control techniques that may incidentally restrict breathing or blood flow can, in limited and time-critical situations, represent the only viable means of stopping a violent assault or preventing serious injury.
129. For these reasons they submitted that there should not be a strict approach to lawfulness but instead the circumstances should be considered to determine whether an instance of non-fatal strangulation was a reasonable and lawful response.¹²⁴
130. During consultations, sporting groups and associations told us regulated sports that include non-fatal strangulation should not be criminalised. Other stakeholders agreed.¹²⁵ Sporting groups and associations told us there are characteristics of non-fatal strangulation in sports that make it different from intimate or domestic settings. These characteristics include clear forms of providing consent, training, rules and penalties that regulate non-fatal strangulation, and supervision during training and competitions. National government agencies told us sports that feature violence still bring recognised social benefits. City academics told us there are a range of sports that feature violence that would not be accepted in other settings, but some violence is accepted in sports where it is properly regulated.
131. Legal Aid Queensland (FLS) recognised the need for conduct that may restrict respiration or blood circulation, that could amount to non-fatal strangulation, being lawful in medical contexts:¹²⁶
- [N]on-fatal strangulation should be lawful when performing a surgical operation or medical treatment.
132. Stakeholders emphasised the importance of ensuring genuine self-defence or defence of another should always be available as a lawful excuse for non-fatal strangulation.¹²⁷ Legal Aid Queensland (CLS) submitted that ‘[i]n (CLS)’s experience the most common defences raised in these matters are self-defence and, defence of another’.¹²⁸ Defences are discussed further below from [143].
133. Stakeholders also raised that consensual non-fatal strangulation during sex should be lawful.¹²⁹ Consent to strangulation during sex is discussed above from [88].
134. There were stakeholders who told us non-fatal strangulation should never be lawful.
135. Legal Aid Queensland (FLS) noted even in the context of policing ‘the act of strangulation carries too many risks to be safely utilised’.¹³⁰ This was a particular concern given police and others exercising restraint may be dealing with members of vulnerable cohorts.

136. Legal practitioners and DFV and sexual violence support and advocacy workers said the dangers of non-fatal strangulation mean that it should not be a lawful method of restraint and other methods should be used.¹³¹
137. There were also concerns that allowing non-fatal strangulation to be lawful in some circumstances would contradict the messaging that it is serious, harmful conduct. Academics and DFV and sexual violence support and advocacy workers across regions warned that permitting lawful use of non-fatal strangulation, in any context, would normalise the conduct and undermine messaging about its dangers. Banerjee drew comparison with the strong messaging campaign of one-strike offences, noting:¹³²
- [O]ne-punch laws worked to criminalise single-strikes as unlawful and dangerous acts, [non-fatal strangulation] should be treated similarly. My analogy rests in the fact that both forms of assault involve damage to the head and neck regions as particularly vulnerable sites of the human body.

Limits on lawfulness

138. Stakeholders who supported retaining the ‘unlawfulness’ element considered that concepts of reasonableness, necessity and proportionality appropriately restrict the circumstances in which non-fatal strangulation is considered lawful. For example, Asset College and ASIAL submitted:¹³³
- [A] blanket prohibition or criminalisation of such conduct — without reference to context, intent, and proportionality — would expose security personnel to potential liability for actions taken in good faith to protect the public.
139. To ensure greater flexibility and consideration of individual circumstances, we were told reasonableness should not be defined.¹³⁴ City police and corrections told us officers may use a range of restraints that could result in non-fatal strangulation, but only if it is reasonable and necessary, which may be determined by whether it is consistent with policy.
140. Other stakeholders also discussed the relevance of internal governance, training and potential disciplinary outcomes for misapplication. For example, the Red Rose Foundation submitted:¹³⁵
- Non-fatal strangulation should only be lawful in highly regulated contexts where strict safeguards prevent serious harm and ensure informed consent.
141. Police, corrections and private security in different regions told us regulatory and disciplinary mechanisms exist to monitor whether the use of force was lawful.¹³⁶ We heard that for police, vascular neck restraints are no longer an approved technique of restraint. Instead, other means of restraint can be used. Queensland Corrective Services also regulates, for instance, certain equipment to assist in the use of force.¹³⁷ Security stakeholders acknowledged during consultations that private security have less training and oversight than police and corrections. Remote community members and police told us that private security staff should not be able to lawfully use non-fatal strangulation.
142. Sporting groups and associations discussed how non-fatal strangulation in sports was limited and regulated by sporting codes and rules. During consultations with sports academics and national government agencies there was support for a carve-out for sports — similar to the carve-out for unlawful striking causing death in the Criminal Code (Qd)¹³⁸ — that includes elements of reasonableness. This would place some limits on when non-fatal strangulation in sports is lawful. Sports academics told us that whether non-fatal strangulation is considered reasonable could be assessed against the rules of the sport and the adequacy of oversight mechanisms. Sporting groups and associations acknowledged that whether a sport has sufficient oversight will depend on the sophistication of the sporting association or organisation.

Defences

143. In our [consultation paper](#), we proposed the defences of provocation to assault (s 269 of the Criminal Code (Qld)), prevention of repetition of insult (s 270) and domestic discipline (s 280) should not apply to the three new non-fatal strangulation offences.¹³⁹ We also asked whether there were other defences that should not apply to one or more of the new proposed offences.
144. Stakeholders either supported removing all the defences or supporting all the defences applying to the non-fatal strangulation offences, rather than differentiating between defences.
145. Most stakeholders supported removing the defences.¹⁴⁰ Generally, this was because non-fatal strangulation carries too high a risk of harm. Legal Aid Queensland (FLS) submitted:¹⁴¹
- [T]he act of strangulation is, in (FLS)'s view, too high risk and carries consequences too serious to justify the use of any of these defences.
146. Women's Legal Service agreed that existing defences should not apply to proposed offences, stating:¹⁴²
- Our submission that the defences ought not to apply largely rests on our position that non-fatal strangulation is analogous to grievous bodily harm.
147. The stakeholders who supported retaining the defences emphasised the role of defences as safeguards and the need for culpability to be dependent on the context.¹⁴³ The requirements of reasonableness and proportionality in the defences were thought to provide appropriate protection.¹⁴⁴ Legal Aid Queensland (CLS) considered that although non-fatal strangulation could be serious, it is important for these defences to be available, particularly to protect vulnerable perpetrators.¹⁴⁵ The Queensland Law Society also noted there¹⁴⁶
- are a seemingly endless number of factual scenarios arising in criminal matters — the more defences available to ensure just outcomes, the better.
148. A few stakeholders referred to submissions they had made regarding individual defences in our [criminal defences review](#).¹⁴⁷

Provocation and prevention of repetition of insult

149. Most stakeholders thought the defences of provocation to assault and prevention of repetition of insult should not apply to non-fatal strangulation.¹⁴⁸
150. Provocation does not apply to the current non-fatal strangulation offence. Regional legal practitioners told us, because of the similarity between the two defences, it would be important for consistency that neither apply to non-fatal strangulation.
151. Stakeholders raised concerns that these defences have historically been misused by perpetrators in DFV and other cases. For example, the Red Rose Foundation submitted:¹⁴⁹
- These defences are incompatible with the gravity of strangulation as a high risk, coercive act in domestic violence (DFV) contexts. For instance, s 270 (prevention of insult) and s 269 (provocation) have historically been misused to minimise accountability in DFV cases, despite evidence that strangulation is a deliberate act of control rather than reactive conduct.
- Moreover, these defences directly conflict with modern understandings of DFV as a pattern of coercive control, not isolated incidents. Removing these defences helps ensure that the law prioritises victim-survivor safety over outdated and archaic non-justifications for violence.
152. We also heard how these defences are often misused in situations involving Aboriginal victim-survivors and Torres Strait Islander victim-survivors. QIFVLS submitted:¹⁵⁰

Excluding these defences may also assist with streamlining prosecutions by removing opportunities to place a victim-survivor's behaviour on trial. This is important for Aboriginal and Torres Strait Islander victims, who often already face unconscious bias, character judgments and stereotypes in court. We have witnessed too many occasions where an Indigenous woman's retaliation during abuse or verbal anger becomes fodder for a provocation defence.

153. However, there was a view that removing these defences could operate unfairly against Aboriginal perpetrators and Torres Strait Islander perpetrators. Legal Aid Queensland (CLS) suggested the defences provide a safeguard for such perpetrators.¹⁵¹ The Victims' Commissioner urged us to 'specifically consider any reform through the lens of misidentification', particularly of Aboriginal women and Torres Strait Islander women.¹⁵² Legal Aid Queensland (CLS) referred to the¹⁵³

public interest in preserving the availability of a s 270 defence, including for those who offend as DFV victim-survivors. The Women's Safety and Justice Taskforce previously noted concerns that current laws do not protect the rights of desperate victims when reviewing criminal defences in Queensland. Removing the applicability of the defence could have the unintended consequence of denying the defence to the person who is the one most in need of protection in a relevant relationship who may have acted in circumstances the greater community may find reasonable.

Domestic discipline

154. Most stakeholders agreed the defence of domestic discipline should not apply to non-fatal strangulation.¹⁵⁴
155. We heard at least one stakeholder from each stakeholder group in all locations across the State express that using non-fatal strangulation to discipline a child could never be considered reasonable, particularly when there were other options available.
156. Regional DFV and sexual violence support and advocacy workers told us domestic discipline should be repealed as a defence for all offences. Regional legal practitioners added that parents or guardians can rely on other defences, such as self-defence, sudden or extraordinary emergency or defence of dwelling.
157. A few stakeholders supported a defence of domestic discipline applying to non-fatal strangulation.¹⁵⁵ Legal Aid Queensland (CLS) thought it was unnecessary to remove the defence of domestic discipline because, in its experience it¹⁵⁶
is infrequently relied upon and rarely successful. Where the defence has been successful, it has turned on very specific, unusual features of a limited number of cases.
158. Legal Aid Queensland (CLS) added that while it may not have been raised frequently, it provides a safeguard that may be more relevant with the expansion of the non-fatal strangulation offence.¹⁵⁷
159. City legal practitioners identified there were issues with reasonableness tests being misapplied in some cases, but this was a policing issue rather than a legislative issue. Professor Hemming suggested reform to police procedures to rectify this issue.¹⁵⁸
160. Very remote Aboriginal organisations and Torres Strait Islander organisations said domestic discipline should be limited. This is because there are lore implications in communities where domestic discipline is broadly accepted. These organisations submitted that the broader kinship relationships in Aboriginal communities and Torres Strait Islander communities needed to be considered when reviewing the domestic discipline defence.

Other defences

161. There were stakeholders who considered defences beyond those we proposed. For example, North Queensland WLS said defences such as prevention of breach of the peace and compulsion were difficult to conceive as a reasonable excuse for non-fatal strangulation of an intimate partner. They said this would not align with community expectations.¹⁵⁹
162. The Red Rose Foundation submitted that self-defence, ignorance of the law, accident, mistake of fact and intoxication should not be available defences for non-fatal strangulation.¹⁶⁰

Forum

163. In our [consultation paper](#), we proposed that adult perpetrators who plead guilty to the non-fatal strangulation offence should be sentenced in the Magistrates Court:
 - unless the perpetrator elects otherwise, and
 - subject to the Magistrate's overriding discretion about whether to sentence in the Magistrates Court or send the matter up to a superior court.
164. The impact of delay was one of the main issues stakeholders identified when discussing where non-fatal strangulation matters should be finalised.
165. Stakeholders discussed perceived benefits and disadvantages of finalisation in the Magistrates Court, as well as different models for finalisation.

The impact of delay

166. Stakeholders shared views about the impact of delay to finalisation of non-fatal strangulation matters. QSAN noted issues of delay are well-known and deter victim-survivors from making reports to police.¹⁶¹ A victim-survivor shared one of the reasons for withdrawing her complaint was that she 'wanted to move on with life and not be re-traumatised by the criminal court system'.¹⁶² North Queensland WLS similarly expressed that delay causes distress to victim-survivors and who, because of this, decide to withdraw their complaint:¹⁶³

Proceedings for [non-fatal strangulation] are far too long and too onerous on victims. It is a regular occurrence that the women we support in [non-fatal strangulation] prosecutions as complainants cannot make it through to the end of the process and withdraw their complaint. This happens even in the face of compelling evidence. To have proceedings hanging over them for an average of 14 months (for a guilty plea), causes immeasurable distress and disruption to a victim.

167. QIFVLS connected the need to address court delay with target 13 of the National Agreement on Closing the Gap.¹⁶⁴
168. Regional and city legal and police stakeholders said delay can also impact perpetrators, who can spend significant time on remand awaiting an outcome.¹⁶⁵ During this time they cannot access therapeutic support that may address causes of the alleged offending.¹⁶⁶

Finalising matters in the Magistrates Court

169. We heard about the benefits of finalising non-fatal strangulation matters in the Magistrates Court, including benefits for victim-survivors, perpetrators and the public interest overall.
170. According to the Queensland Law Society:¹⁶⁷

The public interest is in the conviction of the guilty. The most efficient conviction is a plea of guilty. Early pleas of guilty should be encouraged. A capacity to, where

appropriate, dispose of a charge under s 315A as a sentence in the summary jurisdiction will result in more defendant's pleading guilty to the charge and, in particular, giving early notice of their intention to plead guilty. This will, in turn, facilitate the expeditious disposition of the proceedings and maximise benefits for victims, witnesses and the community.

171. Finalisation in the Magistrates Court was also supported as it could allow access to Murri Court and other services. Aboriginal and Torres Strait Islander community justice groups said Murri Courts provide more transformative justice and support self-determination and lore to respond to needs within community.¹⁶⁸ City DFV and sexual violence support and advocacy workers also noted that finalisation in the Magistrates Court would allow for more connections with social services.
172. The Bar Association of Queensland added that superior courts would be able to better reallocate time and resources with fewer matters. In addition, family legal disputes that may be contingent on a non-fatal strangulation offence outcome would be settled sooner.¹⁶⁹ Although the Bar Association of Queensland supported our proposal, it noted that summary disposition on a plea of guilty could result in more 'pleas of convenience'. However, the Association recognised some factors, such as social disadvantage, are likely to weigh more heavily in those decisions.¹⁷⁰

Summary disposition means the matter is finalised in a magistrates-level court.

Finalising or finalisation means a court matter is resolved. Matters can be resolved by trial or without a trial.

173. Legal Aid Queensland (CLS) identified other savings that could result from earlier finalisation. These included reduced costs of grants of legal aid and remand.¹⁷¹
174. However, we also heard there are disadvantages to finalising non-fatal strangulation matters in the Magistrates Court. There were stakeholders who were concerned that finalisation in the Magistrates Court undermines the original policy objective of non-fatal strangulation being confined to superior courts. DVAC submitted:¹⁷²

Whilst DVAC is supportive of enhancing the speed with which criminal matters progress to sentencing, to alleviate stress on victim-survivors, there are concerns that the Magistrate's Court being limited to sentencing offenders with up to 3 years imprisonment may create case law which supports smaller sentences for offenders and create the perception of strangulation being a less serious offence in the broader community.

175. Banerjee similarly considered offence one too serious for summary disposition.¹⁷³ Stakeholders like the Red Rose Foundation and GCCASV considered all circumstances of non-fatal strangulation as too serious to be finalised summarily, by way of trial or sentence.¹⁷⁴ The Red Rose Foundation preferred non-fatal strangulation matters to be heard in superior courts and the issue of delay dealt with by fast-track processes:¹⁷⁵

We acknowledge that delays can force victim-survivors to disengage, particularly when compounded by retraumatising processes. However, addressing these issues by lowering the judicial level trivialises [non-fatal strangulation]'s lethality and risks perpetuating inconsistent sentencing, as Magistrates Courts are less equipped to assess coercive control dynamics or impose penalties reflecting [non-fatal strangulation]'s homicide risks.

176. North Queensland WLS submitted differently:¹⁷⁶

[W]hether a [non-fatal strangulation] matter is finalised in the Magistrates Court or District Court will be of little importance to most victims. The benefits in real-life practical terms of having matters dealt with closer to the actual offending and in a much timelier manner, far outweigh any argument that such a serious indictable offence must be finalised in a [superior] court.

177. Regional DFV and sexual violence support and advocacy workers told us Magistrates were not consistent in sentencing across regions. They were concerned at the possibility of Magistrates issuing non-custodial sentences which would be an inappropriate penalty for non-fatal strangulation. Others raised the inconsistency between the higher maximum penalties for the proposed offences and the current 3-year upper limit of imprisonment that Magistrates can order.¹⁷⁷
178. The Victims' Commissioner noted that finalising matters in the Magistrates Court means victim-survivors will have less opportunity to be involved. The Commissioner said they had¹⁷⁸
heard from victim-survivors how critical the ability to participate in the justice process and share their experience, in their own words, is to their empowerment and healing. I cannot understate the importance of prioritising hearing victims' voices, notwithstanding the delay this may cause to a sentence proceeding.
179. For this reason, the Victims' Commissioner expressed it was critical to consider how Victim Impact Statements could be taken and how sentencing remarks could be provided in matters sentenced in the Magistrates Court.

Models of Magistrates Court finalisation

180. Most stakeholders supported finalisation in the Magistrates Court,¹⁷⁹ although different models were suggested.
181. Most stakeholders favoured non-fatal strangulation matters being finalised in the Magistrates Court on a plea of guilty, unless the defence elected otherwise or the Magistrate exercised their discretion.¹⁸⁰ In this context, the discretion of the Magistrate means the Magistrate decides whether to hear a matter in their court or to send it to a superior court.
182. In consultations, a few legal practitioners in different regions thought non-fatal strangulation matters should be able to be finalised in the Magistrates Court on trial or sentence.
183. There were stakeholders who suggested allowing the prosecution to elect where the matter should be finalised was preferable. They argued this approach would be consistent with the way the coercive control offence can be finalised, reduce delays for victim-survivors and allay concerns about perpetrators 'weaponising' the system.¹⁸¹
184. However, legal practitioners expressed concerns about inconsistency of approach between prosecutors and about whether police prosecutors with significant workloads would choose to finalise a non-fatal strangulation matter in the Magistrates Court even where that was the victim-survivor's preference.¹⁸² Other stakeholders considered it more appropriate to allow the defence to elect for the matter to be dealt with otherwise.¹⁸³
185. City legal practitioners and DFV and sexual violence support and advocacy workers said the Magistrate's discretion was an important safeguard. These stakeholders suggested Magistrates would benefit from training to apply a DFV lens when assessing if a non-fatal strangulation matter was particularly serious or if the perpetrator would not be adequately punished in the Magistrates Court. Training is discussed further below from [210].

Practice and procedure

186. In our [consultation paper](#), we asked what reforms to practice and procedure are needed to ensure just and effective operation of the three proposed non-fatal strangulation offences. A key finding from our consultations and submissions was that legislative reforms are necessary, but supportive, systemic changes are equally as important.
187. The Red Rose Foundation emphasised the importance of practice and procedure operating alongside legislative reforms:¹⁸⁴
- The Queensland Government needs to ensure that targeted funding and capacity-building across all relevant sectors to support both the immediate and long-term needs of victim-survivors accompany these reforms. Without adequate investment in police, courts, forensic services, and victim support infrastructure, there is a risk that the intended benefits of the legislation, will not be realised.
188. Yumba-Meta similarly submitted that without ‘structural and procedural improvements, the proposed model risks being underutilized, ultimately failing to provide the intended protections for victim-survivors’.¹⁸⁵
189. Stakeholders acknowledged navigating health and justice systems can be traumatic for victim-survivors and told us of the importance of trauma-informed reforms. Professor Douglas and the Red Rose Foundation submitted that a trauma-informed approach to service delivery is necessary.¹⁸⁶ Ongoing engagement with victim-survivors and ensuring their access to information would assist.¹⁸⁷ These approaches should be adaptable to the needs of victim-survivors based on socio-demographic factors.¹⁸⁸ DFV and sexual violence support and advocacy workers across the State considered that embedding trauma-informed practice into systems could address withdrawal and empower victim-survivors.
190. We received feedback about a broad range of potential practice and procedure reforms, focused on two key areas:
- improving understanding of non-fatal strangulation to inform decision-making, increase reporting, and improve evidence collection
 - improving victim-survivor experiences of the criminal justice system, alternative justice options and the health system.
191. The Victims’ Commissioner made a catch-all recommendation to support other practice and procedure recommendations:¹⁸⁹
- [A] resource hub for non-fatal strangulation training and resources which is easily accessible for law enforcement, legal professionals, medical professionals and domestic and family violence support sector to contribute to knowledge sharing and uplift.

Improving understanding, evidence collection and informed decision-making

192. Stakeholder feedback generally focussed on training for criminal justice system personnel and health professionals, helping jurors, and public and perpetrator education. Stakeholders said trauma-informed training for criminal justice system personnel and health professionals was important.¹⁹⁰

Training for criminal justice system personnel

193. Many stakeholders agreed more trauma-informed training for criminal justice system personnel, including police, legal professionals (particularly prosecutors), Magistrates and Judges would improve evidence collection and informed decision-making and result in a better experience for victim-survivors. Various DFV and sexual violence support and advocacy workers across the State told us training had to be 'meaningful' and facilitated by specialists.
194. DVAC submitted:¹⁹¹
- Many women report feeling let down by the system due to the lack of response to their experience, feeling that health care professional, police and other responders did not believe them or care about them when they disclosed, they were strangled, choked or suffocated.
195. The Red Rose Foundation and Legal Aid Queensland (CLS) both supported developing best practices for engaging with victim-survivors of non-fatal strangulation.¹⁹²

Police

196. Stakeholders thought training could improve first response and evidence collection by police.
197. Victim-survivors told us their experiences with responding police were often poor. These experiences included:
- police taking statements from victim-survivors at their home while family members or the perpetrator were present
 - police attributing a perpetrator's conduct to a victim-survivor beginning a new relationship
 - police returning a perpetrator to a victim-survivor's house after taking a statement.
198. Trauma-informed training for police (and all first responders) on non-fatal strangulation could improve victim-survivor experiences and evidence collection.¹⁹³ The Red Rose Foundation noted this was consistent with recommendations of the Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence.¹⁹⁴
199. Across regions, DFV and sexual violence support and advocacy workers told us targeted training for police in non-fatal strangulation and DFV dynamics is necessary and could address issues of misidentification of the person most in need of protection by first responders. Victim-survivors described the serious impacts of police misidentification, including having domestic violence orders ('DVOs') issued against them and barriers to employment. Aboriginal organisations and Torres Strait Islander organisations and DFV and sexual violence support and advocacy workers told us training should include intersectional experiences of victim-survivors, noting that Aboriginal women and Torres Strait Islander women are frequently misidentified. DFV and sexual violence support and advocacy workers in major cities also expressed that culturally and linguistically diverse victim-survivors are regularly misidentified.
200. Regional police told us they are aware of the problem of misidentification. They said to address the issue, some stations developed a process to review all cases where a woman is identified as the perpetrator in a DFV matter.
201. Stakeholders stressed the need for improved evidence collection with standardised processes for non-fatal strangulation matters because of the unique evidentiary issues, including delayed or no visible injuries and the potential need to document injuries over time. The Victims' Commissioner considered:¹⁹⁵

[A]ccurate and early recording of evidence is fundamental to the successful prosecution of non-fatal strangulation offences, which are often difficult to prove due to the lack of visible injuries.

202. Victim-survivors and their advocates said screening questions could be one way to standardise evidence collection. There were stakeholders who were concerned if screening questions were too particular, this may undermine the admissibility of evidence. Other stakeholders said questions needed to be more direct and descriptive, particularly where victim-survivors may be unfamiliar with medical or legislative terminology.
203. Stakeholders supported video-recorded statements as a means of improving police evidence collection. Some stakeholders discussed the video-recorded evidence-in-chief ('VREC') scheme permitted under the Evidence Act 1977. This scheme is limited to trials and committals in Magistrates Courts and does not extend to jury trials.¹⁹⁶ Others appeared to be referring to body-worn camera evidence or pre-recorded statements equivalent to those that child witnesses can provide under s 93A of the Evidence Act 1977.
204. Regional police and city legal practitioners told us VREC allows juries to see the real-world impact of non-fatal strangulation in a way that a written statement does not. However, a few stakeholders raised concerns VREC could be used against victim-survivors who do not present as a 'perfect victim'. Other regional legal practitioners accepted this may be an issue but told us courts are well equipped to manage any issues in relation to credibility.
205. We heard that the ability to use VREC could empower victim-survivors' choice as long as it is accompanied with information on the advantages and disadvantages of engaging. For this reason, informed consent to record or use VREC is important to respect the rights and autonomy of victim-survivors.¹⁹⁷
206. Legal Aid Queensland (CLS) acknowledged 'the benefit of VREC statements with respect to allowing for the provision of contemporaneous evidence and notes the aim of avoiding re-traumatising victims'. However, it submitted that VREC 'does not reflect trauma-informed practice' for victim-survivors. It also noted that it increases the complexity in representing perpetrators, which can present resourcing challenges and lead to delay.¹⁹⁸ Stakeholders stressed the need for police who undertake VREC to be trained in appropriate questioning to avoid further traumatisation to victim-survivors and potential challenges to its admissibility as evidence.¹⁹⁹

Legal professionals (including prosecutors)

207. During consultations, victim-survivors told us all legal professionals need training about the impacts of non-fatal strangulation. A victim-survivor submitted that prosecutors in particular need training to improve their assessment of the evidence and ensure they make informed charging decisions.²⁰⁰
208. The Queensland Law Society emphasised that a challenge for prosecuting non-fatal strangulation is obtaining sufficient evidence. The Society suggested further training for those involved in the prosecution of these offences.²⁰¹ Interstate health professionals told us that in their jurisdiction prosecutors were not reading forensic medical examination reports when considering charge options. City health professionals in Queensland said, at times, prosecutors do not ask informed questions of health professionals and miss key medical findings. During consultations, victim-survivors told us prosecutors had a poor understanding of how non-fatal strangulation affects memory.
209. Yumba-Meta submitted an access to justice barrier that victim-survivors face, particularly Aboriginal women and Torres Strait Islander women, is prosecutors downgrading or

discontinuing charges because of perceived evidentiary challenges. They suggested guidelines to prevent minimisation of offences.²⁰²

Magistrates and Judges

210. Stakeholders also thought Magistrates and Judges would benefit from training about the impacts of non-fatal strangulation and DFV.²⁰³ A victim-survivor submitted that the dynamics and circumstances of DFV can be complex and suggested additional training for Judges to better understand the impacts of trauma and violence.²⁰⁴ The Red Rose Foundation submitted that training for Judges should be mandatory and be developed in consultation with DFV and subject matter experts.²⁰⁵
211. Stakeholders generally agreed that training on non-fatal strangulation and DFV dynamics are required for Magistrates that will be involved in non-fatal strangulation matters. DVAC suggested an increased understanding of the impacts of non-fatal strangulation would help Magistrates understand the serious health impacts of non-fatal strangulation.²⁰⁶ Regional DFV and sexual violence support and advocacy workers considered training on DFV could help address some issues of misidentification that progress to the courts. Legal Aid Queensland (FLS) added that Magistrates may benefit from increased awareness of the impacts of non-fatal strangulation and DFV in the context of using their discretion to decide if a matter should be referred to a superior court.²⁰⁷
212. The Victims' Commissioner recommended consideration should be given to how a judicial commission may provide²⁰⁸
- ongoing professional development in relation to judicial officers' contemporary understanding of domestic and family violence, and sexual violence.
213. We also heard training or guidelines for Magistrates and Judges would assist providing jury directions to target misconceptions about non-fatal strangulation and DFV. For example, Professor Douglas proposed legislative guidelines should accompany jury directions.²⁰⁹ Jury directions are discussed further below from [227].

Training for health professionals

214. There were some stakeholders who agreed further training for health professionals would improve evidence collection and support decision-making.²¹⁰
215. A key issue for victim-survivors and their support and advocacy organisations was the difficulty obtaining evidence. DVAC was concerned²¹¹
- about the lack of support for victim-survivors to gather evidence of the assaults by forensic medical examinations. Lack of evidence has been identified as a theme when victim-survivors attempt to report their experiences to Police and have charges laid against the offender.
216. We were told that a key training point would be to ensure all health professionals are aware non-fatal strangulation, despite lack of visible injury, still needs investigation and documentation. RACGP Queensland noted '[a]wareness of the significance of non-fatal strangulation is increasing in health and justice settings'.²¹² However, the Victims' Commissioner submitted that non-fatal strangulation is not currently well understood:²¹³
- Despite the prevalence of strangulation and its potentially fatal consequences, non-fatal strangulation remains poorly understood with the medical sector. Approximately half of all strangulation events leave little or no visible injuries. Visible injuries may not appear until hours or days after the non-fatal strangulation. Other injuries such as brain injury, miscarriage or stroke may be further delayed. Many healthcare providers lack the appropriate training to recognise, screen for and address possible brain

injuries resulting from strangulation. Medical professionals should screen everyone who seeks services for brain injury, and, when a brain injury is suspected, refer for specialised screening, evaluation, and services.

217. The Red Rose Foundation shared one victim-survivor's experience:²¹⁴
- I went to the doctor. They didn't record it. They just noted I had a bruise, a punch in the face. They didn't say anything really about [the strangulation]. She just checked my throat. She also said, 'oh, you don't have any marks?'.
218. Health professionals may also need training to address misconceptions about non-fatal strangulation and DFV. Regional health professionals told us that hospital records can reflect misconceptions about DFV relationships, for example, misidentifying the victim-survivor or making notes of mutual violence. Where these records are inaccurate, they are difficult to change. Stakeholders also suggested health professionals, in general practice and in hospitals, should receive training on screening questions for DFV and non-fatal strangulation presentations.
219. RACGP Queensland submitted that in the context of general practice, documentation can give victim-survivors more choice about what steps they want to take:²¹⁵
- Although many victim-survivors may not wish to proceed with a prosecution when they initially present to the GP, victim-survivors may choose to proceed at some future time. Ensuring that non-fatal strangulation is well-documented empowers victim-survivors to make the choice to proceed into the future.
220. We heard that health stakeholders understood the role they play in supporting victim-survivors. For example, RACGP Queensland noted general practitioners were well placed to record evidence of non-fatal strangulation and DFV events:²¹⁶
- GPs can support the prosecution of criminal charges of non-fatal strangulation through routine practice, particularly when injuries are not visible to the naked eye. GPs have a range of investigative tools with differing sensitivity available to reveal and record evidence of non-fatal strangulation and assist clinical investigation.
221. However, in consultations, city health professionals raised lack of understanding of their medico-legal obligations when preparing notes that could be relied upon as evidence. They suggested guidance should be provided on the importance of detail in medical notes, such as including the perpetrator's name.
222. DFV and sexual violence support and advocacy workers and health professionals in different cities told us the assessment matrix for non-fatal strangulation was not clear and late disclosure of non-fatal strangulation, hospital resourcing and triage necessities present challenges.
223. Stakeholders shared ideas about how training and support should be designed and implemented. City health professionals told us training material needed ongoing development, while working with community support and advocacy workers provided helpful insights into how to respond to and record DFV incidents.
224. We also heard training should be trauma-informed. Regional health professionals told us it is important to be aware of, and work to mitigate, the interpersonal trauma hospital settings can present to Aboriginal peoples and Torres Strait Islander peoples. We were told that remote and regional hospitals rarely have the equipment or staff to carry out proper assessments, and that patient transport to a better resourced hospital does not include transportation home. Remote and very remote health professionals told us how these challenges can compound for victim-survivors.

225. Despite receiving substantive feedback on the requirement for training in the health profession, DFV and sexual violence support and advocacy workers and health professionals in a city told us that resourcing demands meant that further training, especially mandatory training, for health professionals was rarely supported by the profession.

Helping jurors

226. In our consultation paper, we discussed different procedural reforms that may assist juries. These included introduction of jury directions and the availability of alternative verdicts.

Jury directions

227. In our consultation paper, we discussed jury directions similar to those available in sexual offence matters, including directions about:

- the lack of physical injury resulting from non-fatal strangulation
- potential explanations for inconsistencies in victim-survivors' accounts
- victim-survivors' responses to giving evidence.

Victim-survivors and community support and advocacy workers supported this approach.²¹⁷

228. City health professionals told us the introduction of jury directions could reduce the need for health professionals to give expert evidence in trials.

229. DFV and sexual violence support and advocacy workers across the State emphasised that jury directions needed to be clear and accessible.

230. Legal Aid Queensland (CLS) suggested mandatory jury directions were not appropriate as it would remove the ability of parties to ventilate relevant issues about directions. They suggested criminal justice personnel could provide better trial support to victim-survivors to manage trauma and²¹⁸

misconceptions regarding non-fatal strangulation and its effects are better overcome by broad public awareness campaigns and education programs.

231. The Bar Association of Queensland also suggested jury directions should be discretionary rather than mandatory.²¹⁹

232. A victim-survivor proposed an alternative option could be to remove juries and have specialist Judges trained in DFV. The reason for this was because of²²⁰

the prevalence of domestic violence and lingering community attitudes, it is likely that some of those on the jury either engage in or have ingrained beliefs with regards to domestic violence.

Alternative verdicts

233. In our consultation paper we also discussed legislating alternative verdicts so jurors could potentially convict a perpetrator of an offence other than that charged.

234. The Red Rose Foundation did not think there should be any alternatives to non-fatal strangulation.²²¹ Legal Aid Queensland (CLS) said this approach would result in complexity for the prosecution and the defence, and potentially cause trial delay.²²²

235. However, legal practitioners in a major city supported alternative verdicts as it would mean prosecutors could make decisions about what offence should be left to the jury after having heard the evidence, rather than beforehand.

Education

Educating perpetrators

- 236. All stakeholders who engaged with this topic supported providing education for perpetrators.
- 237. Professor Douglas submitted perpetrators are often not aware of the impacts of non-fatal strangulation and consider it safer than other forms of violence.²²³
- 238. The Red Rose Foundation supported education and intervention programs for perpetrators of non-fatal strangulation. They suggested these programs should be conducted by DFV specialists and emphasised research which indicates steps to prevent violence are 'needed to disrupt cycles of violence and reduce recidivism'.²²⁴
- 239. Legal Aid Queensland (CLS) supported education for perpetrators but argued that it should not be mandatory.²²⁵

Public education

- 240. Most stakeholders agreed public education on non-fatal strangulation is necessary, considering that this would raise awareness about the dangers of non-fatal strangulation and avoid over-criminalisation.²²⁶
- 241. Stakeholders emphasised there is generally a lack of awareness about the harms of non-fatal strangulation in the community. DVAC and the Victims' Commissioner noted the normalisation of non-fatal strangulation during sex.²²⁷ The Commissioner referred to recent studies that found more than half of young people were using non-fatal strangulation during sex and that these people tended to consider it safe.²²⁸
- 242. The Red Rose Foundation highlighted '[m]any victim-survivors are unaware of the potentially life-threatening consequences of strangulation'.²²⁹ QSAN reported their services were increasingly interacting with young people who have experienced non-fatal strangulation:²³⁰

Our services are responding [to] increasing presentations of strangulation of young people in the context of sexual violence. In young people, victim-survivors are presenting in circumstances where they may have been subject to strangulation multiple times a week and where losing consciousness is perceived as normal ... The normalisation of strangulation in young relationships and more broadly in the community makes it very difficult to educate young people.
- 243. During consultations with DFV and sexual violence support and advocacy workers across the State we were told people who engaged in non-fatal strangulation during sex are rarely able to provide informed consent because of the widespread lack of awareness about the associated dangers.
- 244. Stakeholders emphasised public education about amendments to the criminal law would be necessary to prevent over-criminalisation of certain groups. The Victims' Commissioner recommended:²³¹

[A] public education and health campaign, tailored to diverse cohorts and communities, be developed and delivered to ensure that the community is aware of any expansion of the offence and of the health impacts of non-fatal strangulation.
- 245. The Victims' Commissioner also submitted:

The criminal justice system plays a vital role in holding perpetrators accountable and deterring future violence. However, it is not an appropriate or sufficient tool for preventative education. The complexities and severity of non-fatal strangulation demand a broader, whole of society response.

246. Regional health professionals and DFV and sexual violence support and advocacy workers agreed education campaigns needed to reach young people who may be least aware of the harms of non-fatal strangulation or that such conduct may be illegal.
247. Remote police and Aboriginal organisations and Torres Strait Islander organisations indicated that any amendments to the law needed public education to reach the community. Ideally this education would precede any legislative reform or police response.
248. Other stakeholders were concerned public education would not be sufficient to address the likelihood of over-criminalisation. The Bar Association of Queensland suggested if consensual non-fatal strangulation is not desirable, increased education about risks should be explored, rather than criminalisation.²³² Legal Aid Queensland (CLS) noted that perpetrators from groups or areas with outreach barriers, including Aboriginal peoples and Torres Strait Islander peoples, would be the most difficult to reach in terms of a public education campaign, yet the most likely to be convicted of new offences.²³³
249. We were told any public education campaign should include information about consent and healthy relationships. Legal Aid Queensland (CLS) considered education on consent and non-fatal strangulation is 'crucial ... for achieving change on a societal level'.²³⁴ QSAN indicated young people feel they are not receiving enough education about healthy relationships.²³⁵ City DFV and sexual violence support and advocacy workers told us adults can also have limited understanding of consent and healthy relationships.
250. We were told education needs to be delivered in a way that promotes accessibility. It should be targeted at young people and rolled out in school environments and online. Very remote Aboriginal organisations and Torres Strait Islander organisations expressed the importance of education campaigns being tailored for specific communities and carried out in person by an appropriate community member. DFV and sexual violence support and advocacy workers in a major city emphasised an education campaign should be in multiple languages and be available in many formats so that it is accessible to culturally and linguistically diverse community members.
251. DVAC and Legal Aid Queensland (CLS) submitted it was important for DFV specialists to design and facilitate education campaigns.²³⁶

Improving victim-survivor experiences

252. Stakeholders thought that systems designed to support victim-survivors could do more. We also heard victim-survivors of strangulation may disengage from the criminal justice system because:
- they are not believed
 - they do not meet perceptions of an 'ideal victim'
 - their injuries are not considered serious enough
 - they do not have enough information or support to navigate the health and legal systems
 - they experience protracted delays
 - they have to recount their stories repeatedly and experience retraumatising responses
 - their justice needs are greater than what the criminal justice system can provide.
253. These findings are consistent with those in our [research report 1](#) and [research report 2](#).
254. To address these issues, stakeholders suggested further information and assistance for victim-survivors, and faster and alternative justice responses to improve victim-survivor experiences.

Information and navigation for victim-survivors

255. Most stakeholders supported more being done to enhance access to information for victim-survivors about the legal system and about the health consequences of non-fatal strangulation. Stakeholders told us what was working and what is needed to address systemic gaps and navigation challenges.
256. Victim-survivors and their support and advocacy workers across the State told us that victim-survivors need to know where to go and what support services are available.
257. Stakeholders told us victim-survivors are not getting adequate information about the legal process. They told us that victim-survivors need information about what justice options are available to them and where to find legal representatives and advocates. DFV and sexual violence support and advocacy workers across the State told us victim-survivors need information to understand how best to document symptoms and evidence for their matter.
258. Victim-survivors, police and legal practitioners across the State said police and prosecutors commonly 'lose touch' with victim-survivors and do not tell them about important dates and steps in their matter in a timely manner. The Victims' Commissioner stated that many victim-survivors 'describe feelings of isolation and confusion when navigating the criminal justice system' and victim-survivors are²³⁷
- becoming frustrated at not being kept adequately informed of the process [which] relates to an affected victim's right to be provided with updates about the investigation and prosecution.
259. QIFVLS submitted that victim-survivors and their families²³⁸
- are often simply not informed about the progress of the prosecution, further entrenching distrust in the legal system to report violence in the first place.
260. Victim-survivors told us they needed more information about the health consequences of non-fatal strangulation. They said police did not consistently inform them about the potential health impacts of non-fatal strangulation and the importance of seeking medical attention. Nor did police ensure victim-survivors received appropriate medical care after making a complaint.²³⁹ Queensland Ambulance Service emphasised timely responses are critical, and this is best facilitated by the attending police crews.²⁴⁰ Victim-survivors provided examples of subsequently attending hospitals for scans only to discover it was too late to be assessed.
261. Regional DFV and sexual violence support and advocacy workers told us victim-survivors should be told what physical and neurological signs they should look out for. RACGP Queensland expressed a similar view adding that general practitioners could inform victim-survivors of what the 'red flag signs and symptoms' were, including 'subtle bruises or petechiae to significant oedema, focal neurological deficits and cognitive impairment'.²⁴¹
262. Stakeholders identified positive efforts to improve victim-survivor experiences and suggested other solutions.
263. Victim-survivors and police told us that police stations with Vulnerable Persons Units and embedded DFV and sexual violence workers improve victim-survivors' experiences.
264. However, there were stakeholders who observed that prosecutors could do more to improve ongoing engagement with victim-survivors. Legal Aid Queensland (FLS) commented on the role of victim liaison officers ('VLOs') that operate within the ODPP and noted:²⁴²
- [I]t is the experience of (FLS) practitioners that the direct communication between VLOs and victim-survivors is often inconsistent, incomplete, and lacking in detail. For example, in matters where the victim-survivor has provided a victim impact statement

(VIS), (FLS) practitioners have observed that the victim-survivor is often left unsure as to whether the VIS has been put before the court and considered in sentencing.

265. Legal Aid Queensland (FLS) suggested that a review of VLO accreditation standards and role definition would improve processes and experiences for victim-survivors.²⁴³
266. City DFV and sexual violence support and advocacy workers advocated for a co-response model which ensures immediate risk assessment and better supports victim-survivors. We were told that coordinating a co-response model requires resourcing and cultural 'buy in'. Regional police said that although there could be more supports for victim-survivors with a co-response model, there would need to be further police resourcing because it would require extra officers to accompany a support worker to complaint locations to ensure safety.
267. Victim-survivors said information should be tangible and readily available to them and they required consistency of support throughout the process. DFV and sexual violence support and advocacy workers across the State suggested a central online portal about non-fatal strangulation that was accessible to victim-survivors. Professor Douglas proposed that victim advocates could support victim-survivors accessing information.²⁴⁴ DFV and sexual violence support and advocacy workers across the State expressed similar views. They added that technology could streamline communication and interpreters should be available to assist victim-survivors, particularly in remote areas.
268. Legal Aid Queensland (CLS) supported further research into 'appropriate' support service programs for victim-survivors. However, they cautioned against introducing victim advocates with legal standing.²⁴⁵
269. It was stressed that improving experiences for victim-survivors means ensuring they feel supported and can access culturally appropriate services and information. DFV and sexual violence support and advocacy workers across the State told us a trauma-informed approach means providing information to promote accessibility, including providing information in different languages or different formats, so a victim-survivor has choice about how to receive information that best suits them.

A fast-track process

270. In our consultation paper, we also discussed a fast-track process for matters that progress to superior courts. The stakeholders who engaged with this topic generally agreed that a fast-track process could assist in reducing delays, which may improve victim-survivor experiences.²⁴⁶
271. The Red Rose Foundation preferred a fast-track process as opposed to finalising matters in the Magistrates Court. It suggested DFV specialist courts that feature strict timelines for case resolution, coordinated victim support and consist of specialist Judges to²⁴⁷
streamline Queensland's handling of non-fatal strangulation offences by addressing systemic delays, victim attrition, and evidence preservation challenges.
272. Professor Douglas said that whether to use fast-track processes was a resourcing question. She thought sexual offences should be prioritised given their high attrition rates, as well as matters involving children, followed by gendered violence offences like non-fatal strangulation and other DFV matters.²⁴⁸
273. Legal Aid Queensland (CLS) supported a fast-track process but suggested an evaluation of current pilots of sexual violence court lists should be carried out before implementing a similar approach for non-fatal strangulation matters.²⁴⁹

Restorative justice

274. We also discussed restorative justice options for strangulation victim-survivors in our consultation paper. Stakeholders were divided on this topic. Some supported improving access to restorative justice.²⁵⁰ Much of the support was conditional on appropriate safeguards. Others discussed restorative justice specifically in the context of Aboriginal peoples and Torres Strait Islander peoples and their communities.
275. Restorative justice can sometimes meet the justice needs of victim-survivors in ways the criminal justice system may not. A victim-survivor shared: ²⁵¹
- I wanted to move on with my life and not be re-traumatised by the criminal court system. The criminal court process puts the victim on trial ... My aim was for my ex-partner to understand what he did was wrong — not necessarily impose a jail sentence.
276. Victim-survivors were generally supportive of restorative justice on the basis that it would provide them with more options. The Victims' Commissioner submitted '[d]ignity, choice and control are fundamental principles that respect an individual's autonomy and empower individuals to make informed decisions about their next steps' and that restorative justice is an option 'where conventional justice processes and procedures may not always be appropriate or effective'.²⁵² The Commissioner considered: ²⁵³
- It is essential that victims are provided comprehensive, accessible, and timely information about restorative justice including the nature of the process, potential outcomes, and associated implications to ensure they are fully informed and empowered with autonomy, choice, and control.
277. Stakeholders who supported restorative justice raised a number of conditions for their support. They said restorative justice should be: ²⁵⁴
- victim-centred
 - party-led and flexible
 - safe and respectful
 - fully informed and voluntary.
278. Stakeholders, including victim-survivors, said that while they supported restorative justice, it would not always be appropriate or safe, depending on the relationship. Where the relationship features coercive control, restorative justice may be too dangerous. DFV and sexual violence support and advocacy workers across the State expressed that reluctance to use and minimal uptake of restorative justice options in the DFV and sexual violence sector is because of concerns about safety, training of facilitators and adequate funding. They noted best practice for restorative justice is still evolving.
279. Legal Aid Queensland (CLS) supported restorative justice underpinned by an appropriate framework to support participants.²⁵⁵ In this regard, the Victims' Commissioner made reference to the Women's Safety and Justice Taskforce recommendations to develop restorative justice services supported by legislative frameworks.²⁵⁶
280. Aboriginal peoples and Torres Strait Islander peoples and organisations across the State said that restorative justice could particularly benefit Aboriginal communities and Torres Strait Islander communities. A remote Aboriginal organisation and Torres Strait Islander organisation told us many women continue living with their partners and 'just want the behaviour to stop'. They suggested restorative justice options in the community with Elders would work well. We heard from very remote Aboriginal organisations and Torres Strait

Islander organisations that cultural mediation is already being used but that not all matters are referred to cultural mediation as it is subject to Magistrates' discretion.

281. We were also told Aboriginal victim-survivors and Torres Strait Islander victim-survivors often experience family and/or community pressure which may challenge the effectiveness of restorative justice.

Contextual factors

282. Stakeholders told us about a number of issues that are relevant to our review. These provide holistic context for developing reforms and understanding reform impacts.
283. **Community justice, leadership and lore are important for addressing non-fatal strangulation in Aboriginal communities and Torres Strait Islander communities.** During consultations with Aboriginal organisations and Torres Strait Islander organisations across different regions, including very remote areas, we heard that solutions for non-fatal strangulation must come from communities. They told us that law is often applied to Aboriginal communities and Torres Strait Islander communities after insufficient consultation. Law and associated police and health systems have not earned the trust of Aboriginal peoples and Torres Strait Islander peoples. As such, law is less relevant to those communities, has unintended impacts and is poorly understood. For example, we were told that DVO conditions can be challenging to comply with and are poorly understood. Aboriginal perpetrators and Torres Strait Islander perpetrators also readily plead guilty to charges.
284. During consultations we also heard that Aboriginal peoples and Torres Strait Islander peoples use lore to respond to issues like non-fatal strangulation. While there is an important role for law in communities, law reform needs to recognise how to work with lore to support self-determination and culturally appropriate justice in communities. This could include the involvement of community justice groups, restorative justice, liaison officers for Aboriginal peoples and Torres Strait Islander peoples, Murri Courts, and education and therapeutic programs designed for and by Aboriginal peoples and Torres Strait Islander peoples.
285. **There are many social drivers of non-fatal strangulation and DFV.** During consultations with various stakeholders in different regions, including Aboriginal peoples and Torres Strait Islander peoples and their organisations, we heard that the social drivers of DFV and non-fatal strangulation included drug and alcohol use, poor mental health, housing and overcrowding, and unemployment. Stakeholders also said that non-fatal strangulation is increasingly normalised through social media and pornography.²⁵⁷
286. **Stakeholders value prevention and therapeutic supports.** During consultations with Aboriginal organisations and Torres Strait Islander organisations in different regions, we heard that targeting the drivers of non-fatal strangulation and DFV is important to victim-survivors and the community. While coercive control is often closely associated with non-fatal strangulation in domestic settings, we heard that for Aboriginal communities and Torres Strait Islander communities, causes of non-fatal strangulation may be more associated with social drivers rather than interpersonal and individual dynamics.
287. **There are many barriers to reporting.** Stakeholders spoke of numerous reasons victim-survivors do not report non-fatal strangulation or DFV. These reasons included fear of mandatory reporting to child safety and children being taken away from Aboriginal peoples and Torres Strait Islander peoples. We also heard that people often feel ashamed about non-fatal strangulation and DFV and experience lateral community pressures not to report.
288. Other barriers include lack of support to report. For instance, victim-survivors may not have sufficient funds or access to support services (including health services) or legal advice or

representation. In culturally and linguistically diverse communities, Aboriginal communities and Torres Strait Islander communities, there can be a mistrust of police which discourages reporting.²⁵⁸ People in culturally and linguistically diverse communities may not report because of visa concerns. Sex workers and people who are criminalised may not report due to distrust of police.

289. **Trial experiences re-traumatise victim-survivors.** Victim-survivors told us how trial experiences are daunting. The re-traumatising experience of cross-examination is well known in the community and deters victim-survivors from reporting in the first place or proceeding through the justice process.²⁵⁹
290. **Access to health and justice is harder in regional and remote communities.** Stakeholders in regional, remote and very remote areas shared how remoteness exacerbates access issues. We heard about funding challenges for smaller and more regional communities and that it is difficult to report, investigate and determine non-fatal strangulation matters because of lack of access to the right people or services. Regional and remote communities have to wait for visiting police or designated court dates. Victim-survivors have to travel for medical attention, to get legal advice and to attend court. Sometimes victim-survivors have poor service experiences.
291. **Non-fatal strangulation can be associated with sexual violence.** During consultations with various stakeholders in different regions, we heard that non-fatal strangulation is often associated with, or presents in conjunction with, sexual violence. Non-fatal strangulation can begin during sex and then transfer to non-sexual settings.
292. **Non-fatal strangulation can be referenced in or result in DVOs but these may not be effective in keeping victim-survivors safe.** Stakeholders told us in consultations that DVOs were often applied for where there had been non-fatal strangulation in a DFV setting. Victim-survivors tended to recall poor experiences of civil DVO proceedings. For example, DVO applications were made without the victim-survivor knowing this. Alternatively, victim-survivors told us that after speaking with police, they were told to apply for a DVO themselves. We also heard that breaches of DVOs were frequent and inconsistently policed.
293. **There may be systems abuse in accessing Victim Assist payments from persons alleging and perpetrating non-fatal strangulation.** There were a few stakeholders in different regions who reported second-hand accounts of systems abuse where persons reported non-fatal strangulation to obtain the Victim Assist payment. This included where the victim-survivor was encouraged to make a report of non-fatal strangulation to obtain a Victim Assist payment that would ultimately be taken by the perpetrator. This was thought to be a particular problem for non-fatal strangulation given proof of injury was not required.

Appendix A: List of submissions

1. Name withheld
2. Arya Banerjee
3. Yumba-Meta Limited
4. Royal Australian College of General Practitioners Queensland
5. Kimberley Bruce
6. Heather Douglas
7. North Queensland Women's Legal Service
8. Andrew Hemming
9. Gold Coast Centre Against Sexual Violence Inc
10. Confidential
11. Queensland Sexual Assault Network
12. Women's Legal Service
13. Red Rose Foundation
14. Asset College and Australian Security Industry Association Limited
15. Confidential
16. Domestic Violence Action Centre Inc
17. Clinical Excellence Queensland
18. Queensland Ambulance Service
19. Respect Inc
20. Bar Association of Queensland
21. Queensland Indigenous Family Violence Legal Service
22. Victims' Commissioner
23. Queensland Law Society
24. Legal Aid Queensland (Criminal Law Services)
25. Legal Aid Queensland (Family Law Services)
26. Queensland Corrective Services

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 - 2 Queensland Sexual Assault Network, Submission 11.
 - 3 Asset College and Australian Security Industry Association Limited, Submission 14; ASIAL Australian Security Industry Association Limited, 2025 ASIAL Annual and Financial Report 7.
 - 4 Respect Inc, Submission 19.
 - 5 As at 30 June 2024: Bar Association of Queensland, 2024 Annual Report (Report, 28 October 2024) 10.
 - 6 As at 30 June 2024: Queensland Law Society, Annual Report 2023–2024 (Report, 5 September 2024) 8.
 - 7 Royal Australian College of General Practitioners Queensland, Submission 4.
 - 8 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Asset College and Australian Security Industry Association Limited, Submission 14; Domestic Violence Action Centre Inc, Submission 16; Queensland Ambulance Service, Submission 18; Queensland Indigenous Family Violence Legal Service, Submission 21; Legal Aid Queensland (Family Law Services), Submission 25.
 - 9 Andrew Hemming, Submission 8; Bar Association of Queensland, Submission 20; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24.
 - 10 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; Women's Legal Service, Submission 12.
 - 11 Royal Australian College of General Practitioners Queensland, Submission 4.
 - 12 Red Rose Foundation, Submission 13.
 - 13 Legal Aid Queensland (Criminal Law Services), Submission 24.
 - 14 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Royal Australian College of General Practitioners Queensland, Submission 4; Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Respect Inc, Submission 19; Bar Association of Queensland, Submission 20; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Queensland Law Society, Submission 23; Legal Aid Queensland (Family Law Services), Submission 25; Aboriginal and Torres Strait Islander Legal Service, Submission 25.
 - 15 Queensland Law Society, Submission 23. See also Bar Association of Queensland, Submission 20; Legal Aid Queensland (Family Law Services), Submission 25.
 - 16 Office of the Victims' Commissioner, Submission 22.
 - 17 Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Asset College and Australian Security Industry Association Limited, Submission 14; Domestic Violence Action Centre Inc, Submission 16; Queensland Ambulance Service, Submission 18; Queensland Indigenous Family Violence Legal Service, Submission 21; Legal Aid Queensland (Family Law Services), Submission 25.
 - 18 Andrew Hemming, Submission 8; Bar Association of Queensland, Submission 20; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24.
 - 19 Bar Association of Queensland, Submission 20. See also Queensland Law Society, Submission 23.
 - 20 Criminal Code Act 1899 (Qld), sch 1, s 552H(1)(b) ('Criminal Code (Qld)').
 - 21 Heather Douglas, Submission 6; Bar Association of Queensland, Submission 20; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Criminal Law Services), Submission 24.
 - 22 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Asset College and Australian Security Industry Association Limited,

Submission 14; Domestic Violence Action Centre Inc, Submission 16; Queensland Ambulance Service, Submission 18; Bar Association of Queensland, Submission 20; Queensland Indigenous Family Violence Legal Service, Submission 21; Legal Aid Queensland (Family Law Services), Submission 25.

23 See, eg, Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Queensland Indigenous Family Violence Legal Service, Submission 21; Legal Aid Queensland (Family Law Services), Submission 25.

24 Yumba-Meta Limited, Submission 3; North Queensland Women's Legal Service, Submission 7; Red Rose Foundation, Submission 13.

25 Queensland Indigenous Family Violence Legal Service, Submission 21.

26 North Queensland Women's Legal Service, Submission 7.

27 Legal Aid Queensland (Criminal Law Services), Submission 24.

28 Domestic and Family Violence Protection Act 2012 (Qld) ss 8-9, 13-20.

29 Heather Douglas, Submission 6; Clinical Excellence Queensland, Submission 17; Bar Association of Queensland, Submission 20.

30 Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Asset College and Australian Security Industry Association Limited, Submission 14; Domestic Violence Action Centre Inc, Submission 16; Queensland Ambulance Service, Submission 18; Bar Association of Queensland, Submission 20; Queensland Indigenous Family Violence Legal Service, Submission 21; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24; Legal Aid Queensland (Family Law Services), Submission 25.

31 Clinical Excellence Queensland, Submission 17.

32 Office of the Victims' Commissioner, Submission 22. See also Clinical Excellence Queensland, Submission 17; Legal Aid Queensland (Family Law Services), Submission 25.

33 Legal Aid Queensland (Family Law Services), Submission 25.

34 Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Asset College and Australian Security Industry Association Limited, Submission 14; Domestic Violence Action Centre Inc, Submission 16; Clinical Excellence Queensland, Submission 17; Queensland Ambulance Service, Submission 18; Bar Association of Queensland, Submission 20; Queensland Indigenous Family Violence Legal Service, Submission 21; Legal Aid Queensland (Family Law Services), Submission 25.

35 North Queensland Women's Legal Service, Submission 7.

36 North Queensland Women's Legal Service, Submission 7. See also Arya Banerjee, Submission 2.

37 See also North Queensland Women's Legal Service, Submission 7.

38 North Queensland Women's Legal Service, Submission 7.

39 Legal Aid Queensland (Criminal Law Services), Submission 24, citing *R v De Simoni* (1981) 147 CLR 383, 389; *Nguyen v The Queen* (2016) 256 CLR 656, 666-7 [28]-[29].

40 Heather Douglas, Submission 6.

41 Bar Association of Queensland, Submission 20.

42 Office of the Victims' Commissioner, Submission 22. See also Legal Aid Queensland (Criminal Law Services), Submission 24.

43 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Queensland Ambulance Service, Submission 18; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Family Law Services), Submission 25.

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Foundation, Submission 13; Office of the Victims’ Commissioner, Submission 22.

46 Arya Banerjee, Submission 2.

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49 Heather Douglas, Submission 6.

50 Queensland Law Society, Submission 23.

51 Office of the Victims’ Commissioner, Submission 22.

52 Clinical Excellence Queensland, Submission 17.

53 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Kimberley Bruce, Submission 5;
North Queensland Women’s Legal Service, Submission 7; Queensland Sexual Assault Network, Submission
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Legal Service, Submission 21; Office of the Victims’ Commissioner, Submission 22; Legal Aid Queensland
(Family Law Services), Submission 25.

54 Gold Coast Centre Against Sexual Violence Inc, Submission 9.

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56 See also Red Rose Foundation, Submission 13.

57 North Queensland Women’s Legal Service, Submission 7.

58 Bar Association of Queensland, Submission 20.

59 North Queensland Women’s Legal Service, Submission 7.

60 Queensland Law Society, Submission 23. See also Bar Association of Queensland, Submission 20; Legal Aid
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63 Legal Aid Queensland (Criminal Law Services), Submission 24.

64 Heather Douglas, Submission 6; Clinical Excellence Queensland, Submission 17; Bar Association of
Queensland, Submission 20.

65 Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims’ Commissioner,
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66 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6;
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Red Rose Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Queensland
Ambulance Service, Submission 18; Queensland Indigenous Family Violence Legal Service, Submission 21;
Office of the Victims’ Commissioner, Submission 22; Legal Aid Queensland (Family Law Services),
Submission 25.

67 North Queensland Women’s Legal Service, Submission 7.

68 Legal Aid Queensland (Criminal Law Services), Submission 24.

69 See also Kimberley Bruce, Submission 5; Red Rose Foundation, Submission 13; Bar Association of
Queensland, Submission 20.

70 Office of the Victims’ Commissioner, Submission 22.

71 North Queensland Women’s Legal Service, Submission 7.

72 Kimberley Bruce, Submission 5.

73 Arya Banerjee, Submission 2.

74 See also Yumba-Meta Limited, Submission 3; Domestic Violence Action Centre Inc, Submission 16; Office of
the Victims’ Commissioner, Submission 22.

75 Respect Inc, Submission 19. See also Gold Coast Centre Against Sexual Violence Inc, Submission 9; Red
Rose Foundation, Submission 13; Clinical Excellence Queensland, Submission 17; Office of the Victims’
Commissioner, Submission 22.

76 Bar Association of Queensland, Submission 20.

77 Legal Aid Queensland (Criminal Law Services), Submission 24.

78 See, eg, Gold Coast Centre Against Sexual Violence Inc, Submission 9; Respect Inc, Submission 19.

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80 Red Rose Foundation, Submission 13.

81 See, eg, Yumba-Meta Limited, Submission 3; North Queensland Women's Legal Service, Submission 7; Gold Coast Centre Against Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Red Rose Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Clinical Excellence Queensland, Submission 17; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Family Law Services), Submission 25.

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86 Office of the Victims' Commissioner, Submission 22. See also Queensland Indigenous Family Violence Legal Service, Submission 21.

87 See also Red Rose Foundation, Submission 13.

88 Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; Domestic Violence Action Centre Inc, Submission 16; Clinical Excellence Queensland, Submission 17; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Family Law Services), Submission 25.

89 Domestic Violence Action Centre Inc, Submission 16.

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91 See, eg, Office of the Victims' Commissioner, Submission 22.

92 Queensland Sexual Assault Network, Submission 11.

93 See, eg, Kimberley Bruce, Submission 5; Heather Douglas, Submission 6; Andrew Hemming, Submission 8; Respect Inc, Submission 19; Bar Association of Queensland, Submission 20; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24.

94 Bar Association of Queensland, Submission 20.

95 Queensland Law Society, Submission 23. See also Bar Association of Queensland, Submission 20.

96 See, eg, Heather Douglas, Submission 6; Queensland Sexual Assault Network, Submission 11; Domestic Violence Action Centre Inc, Submission 16; Respect Inc, Submission 19; Office of the Victims' Commissioner, Submission 22.

97 Heather Douglas, Submission 6.

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101 Legal Aid Queensland (Criminal Law Services), Submission 24.

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105 Heather Douglas, Submission 6.

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 154 See, eg, Arya Banerjee, Submission 2; Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6;
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 155 See, eg, Andrew Hemming, Submission 8; Bar Association of Queensland, Submission 20; Queensland Law
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 156 Legal Aid Queensland (Criminal Law Services), Submission 24. See also Queensland Law Society,
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 157 Legal Aid Queensland (Criminal Law Services), Submission 24.
 158 Andrew Hemming, Submission 8.
 159 North Queensland Women's Legal Service, Submission 7.
 160 Red Rose Foundation, Submission 13. See also Gold Coast Centre Against Sexual Violence Inc, Submission
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 161 Queensland Sexual Assault Network, Submission 11.
 162 Name Withheld, Submission 1.
 163 North Queensland Women's Legal Service, Submission 7.
 164 Queensland Indigenous Family Violence Legal Service, Submission 21.
 165 See also Legal Aid Queensland (Criminal Law Services), Submission 24.
 166 Heather Douglas, Submission 6.
 167 Queensland Law Society, Submission 23.
 168 See also Bar Association of Queensland, Submission 20.
 169 Bar Association of Queensland, Submission 20. See also Heather Douglas, Submission 6; Legal Aid
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 176 North Queensland Women's Legal Service, Submission 7.
 177 Legal Aid Queensland (Criminal Law Services), Submission 24.
 178 Office of the Victims' Commissioner, Submission 22.

179 See, eg, Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Andrew Hemming, Submission 8; Queensland Sexual Assault Network, Submission 11; Women's Legal Service, Submission 12; Queensland Ambulance Service, Submission 18; Bar Association of Queensland, Submission 20; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24; Legal Aid Queensland (Family Law Services), Submission 25.

180 See, eg, Heather Douglas, Submission 6; North Queensland Women's Legal Service, Submission 7; Women's Legal Service, Submission 12; Bar Association of Queensland, Submission 20; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24; Legal Aid Queensland (Family Law Services), Submission 25.

181 Women's Legal Service, Submission 12; Office of the Victims' Commissioner, Submission 22.

182 See also Queensland Law Society, Submission 23.

183 Arya Banerjee, Submission 2; Queensland Law Society, Submission 23; Legal Aid Queensland (Criminal Law Services), Submission 24; Legal Aid Queensland (Family Law Services), Submission 25.

184 Red Rose Foundation, Submission 13.

185 Yumba-Meta Limited, Submission 3.

186 Heather Douglas, Submission 6; Red Rose Foundation, Submission 13.

187 Office of the Victims' Commissioner, Submission 22.

188 Yumba-Meta Limited, Submission 3; Queensland Indigenous Family Violence Legal Service, Submission 21.

189 Office of the Victims' Commissioner, Submission 22.

190 Heather Douglas, Submission 6; Red Rose Foundation, Submission 13; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Criminal Law Services), Submission 24.

191 Domestic Violence Action Centre Inc, Submission 16.

192 Red Rose Foundation, Submission 13; Legal Aid Queensland (Criminal Law Services), Submission 24.

193 Yumba-Meta Limited, Submission 3; Red Rose Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Bar Association of Queensland, Submission 20; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Family Law Services), Submission 25.

194 Red Rose Foundation, Submission 13.

195 Office of the Victims' Commissioner, Submission 22.

196 Evidence Act 1977 (Qld) pt 6A, div 2.

197 Office of the Victims' Commissioner, Submission 22.

198 Legal Aid Queensland (Criminal Law Services), Submission 24.

199 Bar Association of Queensland, Submission 20; Legal Aid Queensland (Criminal Law Services), Submission 24.

200 Name Withheld, Submission 1.

201 Queensland Law Society, Submission 23.

202 Yumba-Meta Limited, Submission 3.

203 Name Withheld, Submission 1; Red Rose Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Legal Aid Queensland (Family Law Services), Submission 25; Office of the Victims' Commissioner, Submission 22.

204 Name Withheld, Submission 1.

205 Red Rose Foundation, Submission 13.

206 Domestic Violence Action Centre Inc, Submission 16.

207 Legal Aid Queensland (Family Law Services), Submission 25.

208 Office of the Victims' Commissioner, Submission 22.

209 Heather Douglas, Submission 6.

210 See, eg, Red Rose Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Bar Association of Queensland, Submission 20; Queensland Indigenous Family Violence Legal Service, Submission 21; Office of the Victims' Commissioner, Submission 22; Queensland Law Society, Submission 23; Legal Aid Queensland (Family Law Services), Submission 25.

211 Domestic Violence Action Centre Inc, Submission 16.
212 Royal Australian College of General Practitioners Queensland, Submission 4.
213 Office of the Victims' Commissioner, Submission 22.
214 Red Rose Foundation, Submission 13.
215 Royal Australian College of General Practitioners Queensland, Submission 4.
216 Royal Australian College of General Practitioners Queensland, Submission 4.
217 See also Heather Douglas, Submission 6; Bar Association of Queensland, Submission 20; Legal Aid
Queensland (Family Law Services), Submission 25.
218 Legal Aid Queensland (Criminal Law Services), Submission 24.
219 Bar Association of Queensland, Submission 20.
220 Name Withheld, Submission 1.
221 Red Rose Foundation, Submission 13; Legal Aid Queensland (Criminal Law Services), Submission 24.
222 Legal Aid Queensland (Criminal Law Services), Submission 24.
223 Heather Douglas, Submission 6.
224 Red Rose Foundation, Submission 13.
225 Legal Aid Queensland (Criminal Law Services), Submission 24.
226 See, eg, Yumba-Meta Limited, Submission 3; Heather Douglas, Submission 6; Gold Coast Centre Against
Sexual Violence Inc, Submission 9; Queensland Sexual Assault Network, Submission 11; Red Rose
Foundation, Submission 13; Domestic Violence Action Centre Inc, Submission 16; Bar Association of
Queensland, Submission 20; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland
(Family Law Services), Submission 25.
227 Domestic Violence Action Centre Inc, Submission 16; Office of the Victims' Commissioner, Submission 22.
228 Office of the Victims' Commissioner, Submission 22.
229 Red Rose Foundation, Submission 13.
230 Queensland Sexual Assault Network, Submission 11.
231 Office of the Victims' Commissioner, Submission 22.
232 Bar Association of Queensland, Submission 20.
233 Legal Aid Queensland (Criminal Law Services), Submission 24.
234 Legal Aid Queensland (Family Law Services), Submission 25. See also Office of the Victims' Commissioner,
Submission 22.
235 Queensland Sexual Assault Network, Submission 11.
236 Domestic Violence Action Centre Inc, Submission 16; Legal Aid Queensland (Criminal Law Services),
Submission 24.
237 Office of the Victims' Commissioner, Submission 22.
238 Queensland Indigenous Family Violence Legal Service, Submission 21.
239 See also Office of the Victims' Commissioner, Submission 22.
240 Queensland Ambulance Service, Submission 18.
241 Royal Australian College of General Practitioners Queensland, Submission 4.
242 Legal Aid Queensland (Family Law Services), Submission 25.
243 Legal Aid Queensland (Family Law Services), Submission 25.
244 Heather Douglas, Submission 6.
245 Legal Aid Queensland (Criminal Law Services), Submission 24.
246 See, eg, Heather Douglas, Submission 6; Red Rose Foundation, Submission 13; Legal Aid Queensland
(Criminal Law Services), Submission 24; Legal Aid Queensland (Family Law Services), Submission 25.
247 Red Rose Foundation, Submission 13.
248 Heather Douglas, Submission 6.
249 Legal Aid Queensland (Criminal Law Services), Submission 24.

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- 250 See, eg, Name Withheld, Submission 1; Queensland Sexual Assault Network, Submission 11; Bar Association of Queensland, Submission 20; Office of the Victims' Commissioner, Submission 22; Legal Aid Queensland (Criminal Law Services), Submission 24; Legal Aid Queensland (Family Law Services), Submission 25.
- 251 Name Withheld, Submission 1.
- 252 Office of the Victims' Commissioner, Submission 22.
- 253 Office of the Victims' Commissioner, Submission 22.
- 254 See, eg, Name Withheld, Submission 1; Queensland Sexual Assault Network, Submission 11; Office of the Victims' Commissioner, Submission 22.
- 255 Legal Aid Queensland (Criminal Law Services), Submission 24.
- 256 Office of the Victims' Commissioner, Submission 22.
- 257 See, eg, Queensland Sexual Assault Network, Submission 11; Domestic Violence Action Centre Inc, Submission 16; Office of the Victims' Commissioner, Submission 22. For a different perspective, see Respect Inc, Submission 19.
- 258 See, eg, Queensland Indigenous Family Violence Legal Service, Submission 21.
- 259 See, eg, Name Withheld, Submission 1; North Queensland Women's Legal Service, Submission 7; Office of the Victims' Commissioner, Submission 22.



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