

Telephone: 07 3900 6000

Reference: [REDACTED]

Community Support and Services Committee

Via email: [REDACTED]

Dear Committee

Thank you for the opportunity to make a submission about the Child Safe Organisations Bill 2024 (the Bill).

The Queensland Family and Child Commission (QFCC) is a statutory body of the Queensland Government and will oversee child safe organisations and reportable conduct, should this Bill be passed.

The QFCC's purpose is to influence change that improves the safety, wellbeing and rights of Queensland's children and their families. Under the Family and Child Commission Act 2014, the QFCC has been charged by government to review and improve the systems that protect and safeguard Queensland's children and young people. My role as Commissioner has a particular focus on the two commitments in the QFCC's strategic plan, including (I) a commitment to Aboriginal and Torres Strait Islander children and their families and (II) a commitment to advancing the rights of children. My submission is made within the context of these two commitments.

Child rights

I welcome the introduction of this Bill and the related child safe standards that should assist in bringing a stronger child rights focus into Queensland entities working with children. I note several parts of the Bill explicitly refer to child rights, i.e.:

- the second main purpose of the Bill is to promote the safety, wellbeing and best interests of children (s3(1) (b)).
- standard (b) children are informed about their rights and participate in decisions affecting them (s.9)
- standard (f) processes to respond to complaints and concerns are child-focussed (s.9)

- the main principle for administering the reportable conduct scheme is to ensure that children are protected from harm and that their wellbeing and best interests are paramount (s25(2)).
- children should be given the opportunity to express their views freely, (s25(2)(b)), as stated in Article 12 of the [UN Convention on the Rights of the Child](#).

I therefore suggest an addition be made to the functions of the commission in s.13 (1)(a) to include the promotion of child rights. This will better align the QFCC's functions to the standards we are meant to oversee and ensure the functions put the child's best interests first when promoting, monitoring or enforcing the standards.

Reportable conduct

I support reportable conduct principle s25(3(a)), about the right to cultural safety, having the same wording as the universal principle, thereby ensuring this right is protected by child safe organisations and reportable conduct chapters.

I suggest that s25(3)(b) be strengthened to fully align with Article 12 by removing the phrase "and [if] it is appropriate in the circumstances to consult the child". Article 12 asks states to 'assure' to the child the right to express those views freely and to be provided the opportunity to be heard in any judicial and administrative proceedings affecting them. A rights affirming approach would ensure that a child able to form a view on the matter would be consulted about how they wish to be involved, whereas this phrase implies that a decision may be made by others. This change would also better align with standards (b) and (f).

I suggest that s25(3(d)) and s46(5) be strengthened to make it clear that a decision to prioritise a police investigation is never at the expense of a child's safety, their rights or best interests.

Meaning of reportable conduct (s26) does not currently include racism, unless clause (f) about behaviour is meant to cover this. I suggest racism and other forms of discrimination be explicitly mentioned in 'reportable conduct', even if the remedy is to deal with the matter under the *Queensland Human Rights Act 2019*.

Section 44(5), Commission may interview child, refers to Aboriginal and Torres Strait Islander children being offered a respected member of the community as a support person if they are "from an Aboriginal community or Torres Strait Islander community". This phrase is confusing, but if it is referring to a remote or discrete community, it should be dropped. Respected Elders provide leadership across the state, not only in remote Queensland and so the offer should be made to all Indigenous children.

Under section 44(4)(a)), where the interviewee is an Aboriginal or Torres Strait Islander child, any interviewer must hold the appropriate cultural competence and knowledge. This should be added to the attributes already in this section, to align with the universal principle.

Universal principle

The Bill defines the universal principle as follows: *a child safe entity must provide an environment that promotes and upholds the right to cultural safety of children who are Aboriginal persons or Torres Strait Islander persons (s11(2)).*

The commission's functions, outlined in the Bill, include several references to the universal principle. In turn, child safe entities must comply with the universal principle and may be subject to an enforceable undertaking if the QFCC believes the entity has not implemented or complied with the universal principle (s.18(2)(b)).

Similarly, under s.108(2) of the draft Bill, the QFCC may make guidelines about the child safe standards and the universal principle, meaning that both the commission and child safe entities must understand how to apply the universal principle. This makes the universal principle a crucial aspect of workforce knowledge, suitability and capability outlined in standards (e) and (g).

Guidelines about the implementation and enforcement of the universal principle should only be developed through shared decision-making with First Nations communities in accordance with commitments made by state and federal governments (i.e. Closing the Gap priority reforms). This should be made explicit in the Bill.

The role of the commissioner(s)

The Family and Child Commission Act permits the appointment of two commissioners, one of whom must be Indigenous. Currently this Bill refers to "a" commissioner and occasionally "the" commissioner (s50(3)), or the principal commissioner (s100(6)) with no role definition offered, as is also the case with the Family and Child Commission Act. However, the guidelines, application and compliance relating to the universal principle must be led by the Indigenous commissioner and this should be made explicit in this Bill.

If you have any queries in relation to this matter, please don't hesitate to contact me directly via email at [REDACTED]

Yours sincerely

Natalie Lewis
Commissioner
Queensland Family and Child Commission
9 July 2024