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Child Safe Organisations Bill 2024

Submission to Community Support
and Services Committee



Queensland
Family & Child
Commission



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Foreword

The Queensland Family and Child Commission (QFCC) welcomes the proposed legislation, the *Child Safe Organisations Bill 2024*, to implement a model for Child Safe Standards (CSS) and a Reportable Conduct Scheme (RCS) system. We recognise the intent to create a strong safeguarding system to protect Queensland children from child sexual abuse and exploitation through the establishment of a single integrated Child Safe Organisations (CSO) system within the Queensland Family and Child Commission as the independent oversight body.

The *Child Safe Organisations Bill 2024* represents important progress for children, young people and families of Queensland. As the statutory body responsible for promoting the safety, wellbeing and best interests of children, young people, and families, the QFCC is committed to implementing a successful, coordinated system of safeguarding and we welcome the additional responsibilities the model will bring to the Commission.

There is a very strong alignment between the Reportable Conduct Scheme functions as described in the Bill, and the responsibilities currently undertaken by the QFCC in our core functions. The QFCC's legislative mandate is to scrutinise, support and build capacity in systems and agencies focused on children. Additionally, as the host of the Child Death Review Board (the Board), QFCC staff undertake complex and sensitive systems reviews on behalf of the Board. Our functions, and these reviews, involve careful consideration of all available information from various sources including government and non-government sector, timely analysis and synthesis of information, identification of systemic risks, causes and drivers, stakeholder consultation, and report writing. The team responsible for these functions has recently undertaken a Certificate IV in Investigations to strengthen their skills with specific relevance to those that would be required in a Reportable Conduct Scheme. As an established oversight entity in the child protection system, the QFCC is well positioned to expand on the existing inherent knowledge and expertise of our workforce to implement and manage the Child Safe Organisations scheme.

The QFCC acknowledges the work undertaken in developing the *Child Safe Organisations Bill 2024* to implement the recommendations of the Royal Commission and emphasises the importance of timely implementation of this system in Queensland to respond to the needs of our children and young people and contribute to a nationally consistent child safe model. In the seven years since delivery of the *Royal Commission into Institutional Responses to Child Sexual Abuse* (Royal Commission) Final Report¹, Victoria, Western Australia and New South Wales have implemented coordinated child safe standards and reportable conduct schemes.

The model set out in the *Child Safe Organisations Bill 2024* will be a collaborative regulatory model based on expert opinion and evidence, to implement mandatory CSS (based on the *National Principles for Child Safe Organisations*) and ensure compliance by in-scope organisations and provide oversight of reporting and investigations of institutional child abuse complaints and allegations through a nationally consistent Reportable Conduct Scheme. This approach addresses the policy objectives and intent of

¹ Royal Commission into Institutional Responses to Child Sexual Abuse (2017). *Final Report - Recommendations*. [Final Report - Recommendations \(childabuseroyalcommission.gov.au\)](https://www.childabuseroyalcommission.gov.au)

recommendations made by the Royal Commission and will include a Universal Principle for cultural safety for Aboriginal and Torres Strait Islander children and young people.

Additionally, we recognise the necessary reforms proposed in the current *Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024* and acknowledge the need for timely and efficient implementation of reform to the Blue Card scheme alongside the implementation of the Child Safe Organisations system.

Queensland is home to more than five million people; children make up around 20 per cent of the State population.² It is critical to realise that organisations are an essential part of childhood. Over the next decade millions of Queensland children will attend early childhood education, engage with schools, will have health checks with doctors, be supported by disability services and will play in sport and recreation clubs. Children will attend religious institutions and participate in community engagement activities. These organisations must be responsible for delivering services in safe places and in safe ways where children can thrive and are free from harm.

The Royal Commission reported a sobering reality that tens of thousands of children experienced sexual abuse in almost every type of institution where children lived or attended for educational, recreational, sporting, religious or cultural activities. The findings of the Royal Commission highlighted the failings of these organisations charged with their protection and recommended the implementation of 10 Child Safe Standards (CSS) and to establish nationally consistent reportable conduct schemes (RCS).

The QFCC has persistently provided support for a mandatory compliance approach to safeguarding processes relevant to child-related activity and consider this to be the most effective way to compel organisations to fulfill their obligations to protect children and young people in Queensland. The powers afforded to the QFCC will increase the likelihood of compliance and will set the foundations for long-term cultural change to create and maintain child safe organisations.

Implementing a Child Safe Organisations model will require a responsive, risk-based approach to regulation with an emphasis on capacity building and working collaboratively with sector regulators to support organisations to implement the CSS and to administer the RCS. This enhanced level of oversight will more effectively respond to individuals and organisations who pose a risk to children and young people and provide a unified system which works cohesively, and pre-emptively to ensure children and young people are protected.

The Explanatory notes to the current Bill indicated that the proposed model is likely to have significant and positive social and economic impacts for Queensland with an expected reduction in the annual prevalence of child abuse occurring in Queensland organisations, as well as a reduction in the average harm incurred where cases of child abuse continue to occur.³

² Queensland Government Statistician's Office (2021). *Queensland compared with other jurisdictions, Census 2021*. <https://www.qgso.qld.gov.au/issues/11951/qld-compared-other-jurisdictions-census-2021.pdf>

³ Queensland Parliament (2024). *Explanatory Notes – Child Safe Organisations Bill 2024*. [\[Insert name of Bill\] \(parliament.qld.gov.au\)](#)

Analysis of police data prepared for the Royal Commission suggested that child sexual abuse in contemporary institutional contexts accounts for approximately 5 per cent of all child sexual abuse reported to police.^{4,5} Data collected through the Australian Bureau of Statistics' 2021-22 Personal Safety Survey^{6,7} estimates that there are at least 195,200 people in Australia who were sexually abused before the age of 15 within an institution by a foster carer, guardian or other person associated with care placement, doctor, nurse or other health professional, disability support worker or carer, teacher, other school-related staff, childcare worker, recreational leader, priest, minister, rabbi, nun or other person in an official position associated with a place of worship, staff in a children's home, residential care or orphanage, corrective services or detention facility personnel, and other staff member in an institution.

The 2023 Australian Child Maltreatment Study⁸ found that within a random sample of 8,503 Australians aged 16-65 years, over 23 per cent had experienced one or more types of contact child sexual abuse. Of those respondents who experienced child sexual abuse, more than three quarters (78 per cent) experienced repeat instances of abuse.

The National Redress Scheme provides support to people who experienced institutional child sexual abuse. Since commencing 1 July 2018, as at 7 June 2024, there have been 42,791 applications to the Scheme Australia-wide. Of these 15,657 payments have been made totalling approximately \$1.4 billion. Child Safety administers the Queensland Government's participation in the Scheme. Queensland's participation has involved a financial provision at 30 June 2024 estimated at \$409.4 million.⁹

It is estimated that each incident of maltreatment has a total cost to the child of approximately \$400,000 in lifetime impacts. This cost attempts to quantify the impact on the child's quality of life and reduced lifespan related to the increased vulnerability and psychosocial impacts of maltreatment.¹⁰

The QFCC supports the additional intent of the Bill to ensure children and young people who are at risk of abuse or who have already experienced abuse in institutional settings are provided the support and trauma-informed care needed. The QFCC recognises the financial commitment from the Queensland Government of \$43.525million over four years, and ongoing funding for the QFCC to undertake the oversight role and support the ongoing roles of the Department of Child Safety, Seniors and Disability Services (DCSSDS) and the Department of Youth Justice (DYJESBT) as collaborative regulators for the CSO system.

⁴ https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_2_nature_and_cause.pdf

⁵ P Anderson, M Bamblett, D Bessarab, L Bromfield, S Chan, G Maddock, K Menzies, M O'Connell, G Pearson, R Walker & M Wright, Aboriginal and Torres Strait Islander children and child sexual abuse in institutional settings, report prepared for the Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2017, pp 7-11

⁷ <https://www.abs.gov.au/statistics/people/crime-and-justice/childhood-abuse/2021-22#data-downloads>

⁸ Mathews B, Pacella RE, Scott JG, Finkelhor D, Meinck F, Higgins DJ, Erskine HE, Thomas HJ, Lawrence D, Haslam DM, Malacova E, Dunne MP. The prevalence of child maltreatment in Australia: findings from a national survey. *Med J Aust* 2023; 218 (6 Suppl): S13-S18. <https://doi.org/10.5694/mja2.51873>. <https://www.acms.au/findings/>

⁹ https://budget.qld.gov.au/files/Budget_2023-24_SDS_Department_of_Child_Safety_Seniors_and_Disability_Services.pdf

¹⁰ Queensland Government (2023). *Growing Child Safe Organisations in Queensland – Decision Impact Analysis Statement*. [Growing Child Safe Organisations in Queensland – Decision Impact Analysis Statement web link](#).

Oversight by the Queensland Family and Child Commission

The Child Safe Standards and Reportable Conduct Scheme are expected to achieve positive impacts in not only preventing further incidents of harm, but also providing specific education to organisations around providing child safe services and the appropriate responses to allegations of unsafe interactions or abuse. From the models already in operation in other Australian states, we have an understanding of the short to medium term impacts of these schemes, including a higher rate of reporting activity around non-compliance with Child Safe Standards and incidents of abuse (reportable conduct), as the capacity building of the sector is improved, and the schemes are embedded in organisations' practice. These schemes are crucial in ensuring that organisations are held to a standard to support child safe spaces and report unsafe behaviours, and that incidents of abuse of children are prevented through coordinated system approaches to safety.

The QFCC's response to the 2023 *Consultation Regulatory Impact Statement (CRIS) Growing Child Safe Organisations in Queensland* noted our support for option 3(a): to establish an independent oversight body to regulate and oversee mandatory implementation of the CSS and a collaborative regulatory model supporting in-scope organisations to comply.¹¹

The Bill sets out the primary functions of the QFCC for the purpose of Child Safe Standards to be:

- to promote the safety of children, the prevention of child abuse, and proper responses to allegations of child abuse
- to promote continuous improvement and best practice by child safe entities
- to promote and monitor implementation of, and compliance with, the CSS and Universal Principle by child safe entities, and
- to collaborate with sector regulators in relation to performing its functions.

The Bill also sets out supporting functions for the QFCC such as education and capacity building, facilitating information exchange, collecting, analysing and publishing data, and reporting on the CSS and Universal Principle to promote continuous improvement. The training and education component of implementation will be critical to the success of the scheme.

In earlier consultations contributing to development of the Bill the QFCC highlighted the strategic links between the CSS and RCS, and the QFCC's existing functions to conduct oversight of the child and family support system in Queensland. Noting that the QFCC already has legislative powers to improve the systems that impact children and young people it has established relationships and skillsets that will make implementation and service delivery efficient and effective. As host of the Child Death Review Board (the Board) and the lead systemic oversight body for child safety the Commission hosts review and analysis skills and capabilities and consequently the introduction of both schemes is viewed as being complementary to the QFCC's current role and functions. We maintain the opinion that managing regulation of both the CSS and RCS within one independent agency will enable efficient flow of

¹¹ QFCC (September 2023), *Consultation Regulatory Impact Statement (CRIS)- Growing Child Safe Organisations in Queensland* (Policy Submission) [Submission - Consultation Regulatory Impact Statement Growing Child Safe Organisations \(qfcc.qld.gov.au\)](https://qfcc.qld.gov.au)

information between both schemes as well as a consistent approach in the development of resources, education, and training. This combination of functions has proved successful in Vitoria.

Furthermore, the involvement of children and young people in strategic decision-making of the oversight body would assist in the targeting and ongoing monitoring of activities to where most needed. The QFCC has a Youth Advisory Council who currently fulfills a role similar to this to support the work of the QFCC and will be well placed to provide this type of advice.

In earlier consultations contributing to development of the Bill, the QFCC suggested the oversight body should apply a degree of compliance activities based on the level of projected risk, noting that some organisations will have a higher degree of risk than others. This approach is reflected in the Bill and will allow for targeted monitoring and improvement activities to be focused on high-risk sectors. To implement this approach, access to good quality data is essential to the oversight body being able to target monitoring and improvement activities.

The QFCC advised that the oversight body should have powers to:

- Enter premises to undertake impromptu audits where there is reasonable cause to do so
- Receive complaints about organisational non-compliance
- Audit complaints made to organisations randomly and periodically to identify trends and use complaints as a continual learning tool
- Compel information from co-regulators and government agencies that is required to perform functions
- Facilitate cross agency information sharing to support effective protection of children's rights and continually improve the scheme.
- Encourage compliance instead of punish non-compliance however still have the capacity to impose penalties. Any penalties should reflect both the importance of meeting the requirements of CSS as well as provide an incentive for organisations to comply.
- Undertake training and education about the scheme to ensure organisations are supported to meet their obligations.
- Hold a public register of child safe organisations that have met the standards to motivate compliance, and to strengthen public confidence in the system.

The QFCC will utilise additional funding to increase staff resourcing and expand upon the existing skillset and expertise of the Commission's workforce to administer a staged implementation process in bringing the Reportable Conduct Scheme and Child Safe Standards to realisation.

Phasing of sectors

The Bill establishes a phased approach to commencement under clause 2 with the CSS and Universal Principle commencing to provide a foundation for child safe environments ahead of the RCS. Sectors will be phased in over three stages for both the CSS and Universal Principle and the RCS to allow the QFCC to provide targeted support to sectors as obligations are introduced.

The first phases will apply to more highly regulated and mature sectors that are engaged with the most vulnerable children (for example, child protection services, services for children with disability, youth

justice services), providing more time for less regulated sectors (for example, sport and recreation services, religious bodies) to prepare for commencement.

Information Sharing and Disclosure of Information

The QFCC agrees with the framework for information sharing provided for in the Bill (between prescribed entities, the QFCC, sector regulators and other entities). Information sharing is essential to protect children and must be enabled for intelligence relating to CSS to highlight compliance issues and ensure successful operation of the CSS scheme.

The QFCC's response to the *CRIS*, noted the importance of strong information sharing exchange provisions between government agencies and non-government organisations to facilitate collaboration when providing services to vulnerable children and young people. Harm or risk of harm can sometimes only be identified when information from a number of sources reveals what is actually occurring for a child or young person. This is why proactive information sharing is key to identify when cumulative harm may be occurring.¹²

The QFCC emphasises the importance of including a broad information sharing requirement between prescribed entities, such as the QFCC and equivalent oversight bodies in other RCS jurisdictions, sector regulators, reporting entities, government departments, the police (all jurisdictions), and select independent oversight bodies such as the Queensland Ombudsman (clauses 49-51) to reduce or prevent serious risk or threat to the life, health or safety of a child or class of children. The QFCC also supports other information sharing provisions noted in the Bill which include the sharing of information with the child subject to an investigation, their parent, person with parental responsibility, or guardian (clause 50); the chief executive of the department administering the *WWC Act* (clause 51); and with the Director of Public Prosecutions (DPP) (clause 52).

Child Safe Standards

The Child Safe Standards provide a framework to promote organisational cultures that priorities the safety and wellbeing of children. The Bill states organisations that are already required to have a Child and Youth Risk Management Strategy under the Blue Card system will be considered a priority group to implement the CSS and that the current Queensland Child and Youth Risk Management Strategy (RMS) requirements will be repealed and replaced by Child Safe Standards. This is congruent with advice provided by the QFCC to the *CRIS* which was to see any future scheme to implement the increased scope of CSS build upon this already familiar process.¹³

The QFCC previously suggested the Queensland Government could strengthen the implementation of CSS by introducing child rights impact assessments into decision-making processes. This was also highlighted in the 2023 QFCC *Queensland Child Rights Report* as a way of evaluating the potential effects

¹² QFCC (September 2023), *Consultation Regulatory Impact Statement (CRIS)- Growing Child Safe Organisations in Queensland* (Policy Submission) [Submission - Consultation Regulatory Impact Statement Growing Child Safe Organisations \(qfcc.qld.gov.au\)](https://qfcc.qld.gov.au)

¹³ QFCC (September 2023), *Consultation Regulatory Impact Statement (CRIS)- Growing Child Safe Organisations in Queensland* (Policy Submission) [Submission - Consultation Regulatory Impact Statement Growing Child Safe Organisations \(qfcc.qld.gov.au\)](https://qfcc.qld.gov.au)

of policies, legislation, and programs on children and young people.¹⁴ A children's rights framework which includes building awareness of the *United Nations Convention on the Rights of the Child* (UNCRC)¹⁵ and establishing ways to include the voices of children and young people in decision making processes is also important to ensure CSS are a fundamental consideration for organisations.

Universal Principle

The Royal Commission found that a strong connection to culture is a protective factor against child sexual abuse for Aboriginal and Torres Strait Islander children. The Royal Commission recommended that child safe organisations pay particular attention to cultural safety.

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)). 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)). The Bill directs Child Safe entities to comply with the universal principle, and that noncompliance with the principle may result in enforcement by the QFCC, as the responsible body. Explicit understanding of the intention of the universal principle and application of the principle in conjunction with the child safe standards is crucial in the meaningful application of this aspect of the Child Safe Organisations Bill 2024.

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). Upon the passage of the legislation the QFCC will produce guidelines about the implementation of the universal principle. These will be developed through shared decision-making with First Nations communities in accordance with commitments made by state and federal governments (including in the Closing the Gap reforms). This work will be led by the QFCC Commissioner who is an Aboriginal or Torres Strait Islander person in accordance with section 11 of the Queensland Family and Child Commission Act.

Reportable Conduct Scheme

Principles of the Reportable Conduct Scheme

The Bill sets out guiding principles for the RCS with the overarching principle that the protection of children from harm and promotion of a child's best interests is paramount (clause 25(2)). The QFCC also agrees with the additional guiding principles set out in clause 25(3). These principles reflect other schemes in operation in other Australian jurisdictions, in particular, NSW, Victoria and Western Australia.

Scope of Reporting Entities and Reportable Conduct

The QFCC supports the scope of reporting entities noted in the Bill under Schedule 2 or by regulation (clause 29) which align with both the recommendations from the Royal Commission and generally with

¹⁴ QFCC (2023), *Queensland Child Rights Report 2023* [Queensland Family & Child Commission :: Queensland Child Rights Report 2023 \(qfcc.qld.gov.au\)](https://www.qfcc.qld.gov.au)

¹⁵ United Nations (1989), *Convention on the Rights of the Child*, [Convention on the Rights of the Child | OHCHR](https://www.unhcr.org/refugees/article/43c47645/convention-on-the-rights-of-the-child/)

the current scope of other Australian jurisdictions already operating a RCS, and include education services, early childhood education and care services, disability services, supported accommodation or residential services, religious bodes, health services, child protection services, justice and detention services and government entities.

The QFCC's response to the 2023 *Consultation Regulatory Impact Statement (CRIS) Growing Child Safe Organisations in Queensland* noted our support for option 2: *to establish an independent oversight body to administer a reportable conduct scheme with powers to scrutinise institutional systems and work collaboratively with existing regulators as well as build capacity within organisations to respond to allegations of misconduct.*¹⁶ The definitions in the Bill are clear and distinct, and reflect recommendations made by the Royal Commission to clearly explain the meaning of 'reportable conduct' in Australian jurisdictions. These specific definitions will improve the ability to capture patterns of behaviour that result in cumulative harm for Queensland children and young people.

The QFCC supports the obligations set out within the Bill for heads of entities to be able to prevent reportable conduct, to enable reporting of reportable conduct (to the QFCC), and to investigate and respond to reportable conduct allegations and convictions of their workforce. The head of an entity is clearly defined in the Bill (clause 7) as either the chief executive officer or, depending on the roles within the entity, a principal officer or other approved position. This defines clear accountability pathways for each relevant organisation.

Functions and powers of the Commission

The QFCC is supportive of the specific functions set out within the Bill, which will be the responsibility of the QFCC in relation to the Reportable Conduct Scheme (clause 40) to:

- administer, monitor and enforce compliance with the RCS
- facilitate the appropriate exchange of information under the Bill
- educate and provide advice to the public, sector regulators and reporting entities in relation to the RCS and ways to prevent reportable conduct
- facilitate cooperation between the public, reporting entities, sector regulators and other entities in relation to the conduct of investigations of reportable allegations and reportable convictions, and
- report to the Minister about matters relating to the RCS.

We also agree with the specific investigatory powers and enforcement measures available to the QFCC which include consideration of the public interest (clause 41), the ability to instruct sector regulators to undertake investigations (clause 42), and to conduct own motion investigations (clause 43). The QFCC acknowledges the additional functions for the QFCC as enabled in the Bill, to interview a child for the QFCC's own investigations with the appropriate safeguards provided for (clause 44).

¹⁶ QFCC (September 2023), *Consultation Regulatory Impact Statement (CRIS)- Growing Child Safe Organisations in Queensland* (Policy Submission) [Submission - Consultation Regulatory Impact Statement Growing Child Safe Organisations \(qfcc.qld.gov.au\)](https://qfcc.qld.gov.au)

In addition to noting support for Option 2 in the QFCC's response to the *CRIS*, the QFCC recommended that the Working With Children Check (WWCC) functions be consolidated and align under the independent oversight regulatory body (similar to the NSW model).¹⁷ The WWCC will continue to be undertaken as a function of Blue Card Services with the Explanatory Notes to the Bill stipulating that the Bill requires *"the Commission share findings of reportable conduct with the chief executive of the department in which the WWC Act is administered (clause 51), which may be considered a s part of a Working With Children Check (WWCC) application or re-assessment"*. As this indicates an obligatory requirement under legislation the QFCC is supportive and will ensure there is clear operational guidance that sets out the roles and responsibilities of each entity in the sharing of information, coordination, collaboration and capacity building to deliver efficient and effective responsive and preventative efforts.

Historical Conduct

The QFCC agrees that a balance needs to be achieved to avoid placing an onerous obligation on organisations to consider all historical conduct they are aware of, while still ensuring that historical conduct may be considered under the RCS in appropriate circumstances. We support the proposed obligations under the RCS to align with the start date of the entity as set out in the Bill (clause 112).

Conclusion

Every time that news breaks that a child has been sexually exploited, we ask what more could have been done to prevent this abuse. The opportunity presented withing this Bill to implement the Child Safe Standards and the Reportable Conduct Schemes - recommended many years ago by the Royal Commission - provides for a more coordinated and effective system to prevent, detect and respond to child sexual exploitation.

The benefits of a community that protects and safeguards its children from harm and abuse are far reaching.

This Bill should be passed in this term of Parliament so that critical implementation can commence.

The QFCC appreciates the years of planning, research and consultation which has culminated in the *Child Safe Organisations Bill 2024*. The QFCC is prepared to undertake the critical role in implementing and managing the Child Safe Standards and Reportable Conduct Scheme for Queensland and welcomes the opportunity to drive this much needed safeguarding framework for children and young people in our community.

¹⁷ QFCC (September 2023), *Consultation Regulatory Impact Statement (CRIS)- Growing Child Safe Organisations in Queensland* (Policy Submission) [Submission - Consultation Regulatory Impact Statement Growing Child Safe Organisations \(qfcc.qld.gov.au\)](https://qfcc.qld.gov.au/submission-consultation-regulatory-impact-statement-growing-child-safe-organisations)