COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:
Mr A Tantari MP—Chair
Mr JP Lister MP (via teleconference)
Mr MC Berkman MP
Ms CL Lui MP (via teleconference)
Dr MA Robinson MP (via teleconference)
Mr RCJ Skelton MP

Staff present:
Ms M Salisbury—Committee Secretary
Dr K Kowol—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE CHILD SAFE ORGANISATIONS BILL 2024

TRANSCRIPT OF PROCEEDINGS

Tuesday, 9 July 2024

Brisbane

TUESDAY, 9 JULY 2024

The committee met at 9.45 am.

CHAIR: Good morning. I declare open this public briefing for the committee's inquiry into the Child Safe Organisations Bill 2024. My name is Adrian Tantari. I am the member for Hervey Bay and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people whose lands, winds and waters we all share.

With me here today are Michael Berkman MP, the member for Maiwar, and Rob Skelton MP, the member for Nicklin. Appearing via teleconference are: Cynthia Lui MP, the member for Cook; James Lister MP, the member for Southern Downs, who is substituting for Stephen Bennett MP, the member for Burnett; and Mark Robinson MP, the member for Oodgeroo.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Please assist the committee by turning your mobile phones off or to silent mode.

BANDARANAIKE, Ms Sakitha, Director, Strategic Policy and Legislation, Department of Justice and Attorney-General

BURNETT, Ms Donna, Director, Child Safety Policy Responses, Strategic Policy and Legislation, Department of Child Safety, Seniors and Disability Services

PLATZER, Ms Rachael, Principal Policy Officer, Strategic Policy and Legislation, Department of Child Safety, Seniors and Disability Services

NGUYEN, Ms Charlotte, Acting Principal Policy Officer, Strategic Policy and Legislation, Department of Justice and Attorney-General

CHAIR: I welcome representatives from the Department of Child Safety, Seniors and Disability Services and the Department of Justice and Attorney-General. Good morning, Ms Burnett. As director, would you like to make an opening statement before we start questions?

Ms Burnett: Good morning. I also begin by acknowledging the traditional owners of the lands on which we meet today in Meanjin, the Yagara and Turrbal peoples, and pay my respects to elders past and present. I thank the committee for the opportunity to appear to provide a briefing on the Child Safe Organisations Bill 2024 to assist with its inquiry. My colleague Rachael Platzer is with me and I am also joined by colleagues from the Department of Justice and Attorney-General, Sakitha Bandaranaike and Charlotte Nguyen, who will provide information relating to the reportable conduct scheme.

By way of background, over five years the Royal Commission into Institutional Responses to Child Sexual Abuse heard from over 8,000 people with lived experience of child sexual abuse in institutional contexts. In its examination, it held 57 public hearings and commissioned an extensive research and policy agenda. The Royal Commission presented its final report on 15 December 2017 and concluded that further reform was required to make institutions safer for children and young people and to improve the reporting of child sexual abuse in institutional contexts. The Royal Commission recommended that state and territory governments require the implementation of 10

child safe standards and establish nationally consistent reportable conduct schemes. The Queensland government has accepted or accepted in principle all child safe standards and reportable conduct scheme related recommendations.

On 10 August 2023, the Queensland government released the *Growing child safe organisations in Queensland consultation regulatory impact statement*, which I will refer to as the CRIS, to seek feedback on options for the implementation of child safe standards and a reportable conduct scheme in Queensland. The options that were set out in the CRIS were informed by the results of targeted consultation with key stakeholders in 2021 as well as independent actuarial analysis. The results of consultation highlighted that stakeholders agree there is a need for action to make children safer in Queensland organisations and there was strong support for the implementation of the child safe standards and establishment of a reportable conduct scheme.

On 22 March 2024, the Queensland government published a decision impact analysis statement that summarised the result of consultation and detailed the final recommendation to establish a legislative integrated child safe organisations model in Queensland. In April 2024, the Department of Child Safety, Seniors and Disability Services and the Department of Justice and Attorney-General conducted targeted consultation on an exposure draft of the bill with select government and non-government stakeholders. This feedback informed further development of the bill.

I will now discuss the bill's establishment of a child safe organisations system in Queensland. The bill is new legislation for Queensland that is intended to establish an integrated child safe organisations system that includes mandatory child safe standards and a reportable conduct scheme to improve the safety and wellbeing of children within organisations. The bill establishes the Queensland Family and Child Commission, or QFCC, as the oversight body responsible for monitoring and overseeing the implementation of both the child safe standards and reportable conduct scheme by in-scope organisations. The bill proposes a collaborative regulatory model for the QFCC's oversight of the child safe organisations system, which involves the QFCC working collaboratively with existing sector regulators to boost its oversight capacity.

I will now turn to the child safe standards aspects of the bill. The bill establishes a requirement for certain organisations, defined as 'child safe entities' in the bill, that provide services specifically for children or facilities specifically for children who are under the organisation's supervision to implement and comply with 10 child safe standards and a universal principle for embedding cultural safety for Aboriginal children and Torres Strait Islander children. The 10 child safe standards have been adapted from the National Principles for Child Safe Organisations as these were strongly supported by stakeholders in consultation and are consistent with the approach in other jurisdictions as well.

In implementing and complying with the 10 child safe standards, the bill provides that child safe entities are required to provide an environment that promotes and upholds the right to cultural safety of children who are Aboriginal persons or Torres Strait Islander persons. Submissions on the CRIS overwhelmingly supported embedding cultural safety in Queensland's child safe standards and strongly preferred the adoption of a universal principle as the most suitable approach to doing so. The wording of the universal principle in the bill was developed in consultation with Aboriginal and Torres Strait Islander peoples through drafting of the bill.

The child safe standards and universal principle are designed to be applied flexibly, taking into account the characteristics of each organisation, its level of risk and the vulnerability of children. It is not a one-size-fits-all approach. The child safe standards do not prescribe actions that organisations must take but provide best practice and a principles-based framework for organisations to follow. It is not intended or expected that organisations will implement the child safe standards and universal principle in the same way.

With regard to scope of child safe standards, in its final report the Royal Commission recommended that institutions that engage in child related work be required to implement the child safe standards. The organisations required to implement the child safe standards are referred to as 'child safe entities' in the bill, as I mentioned, and they reflect the sectors proposed to be in scope as per the recommendations of the Royal Commission. The child safe entities prescribed under schedule 1 of the bill also reflect the existing scope of organisations that are required to develop a risk management strategy under the Working with Children (Risk Management and Screening) Act 2000. This includes schools; early childhood education and care; child protection and youth justice services; health and disability services; art, sport and recreation groups; religious organisations; accommodation and residential services; community services; transport services; and commercial businesses. To avoid duplication of obligations to implement child safe standards and develop a risk

management strategy under the Working with Children Act, the bill amends the Working with Children Act to repeal the risk management strategy requirements. The child safe standards and universal principle will replace the risk management strategy.

To ensure organisations are supported to meet their obligations, the bill provides specific functions and powers for the QFCC to oversee the child safe standards framework. In its final report, the Royal Commission recommended oversight bodies should have functions such as providing advice and education on the child safe standards, coordinating the exchange of information relating to institutions' compliance and partnering with sector leaders to work with institutions to enhance the safety of children. The bill reflects this recommendation by providing that its functions include, for example, promoting continuous improvement and best practice by child safe entities to ensure the safety of children and to implement the 10 child safe standards and universal principle. This includes assisting child safe entities by providing education and information about the child safe standards and universal principle and collaborating with sector regulators to support its functions.

While the focus of the QFCC is intended to be on supporting entities to implement the child safe standards and universal principle in the first instance, the bill does provide for certain powers for enforcing compliance as part of a responsive regulatory approach. These powers have been modelled on the powers of oversight bodies in other jurisdictions and include, for example, the ability to issue compliance notices for failure to meet child safe standards obligations and accepting enforceable undertakings.

It is important to note that it is expected most of the work of the QFCC will be to support organisations to implement and comply with the child safe standards through education and capacity building. This could include, for example, developing training webinars, guidance material and other resources to assist organisations to understand their responsibilities under the bill. Where organisations are not implementing or complying, the intent is to establish a responsive regulatory approach with a graduated suite of compliance and enforcement powers. This framework aims to support the QFCC to take a flexible and proportionate response to noncompliance, tailored to the characteristics and risk profile of the organisation.

To further support the QFCC's oversight role, the bill enables information to be shared between prescribed entities for the purpose of responding to concerns about failures to comply with the child safe standards and universal principle. This is intended to enable organisations to advise the QFCC of noncompliance and enable the QFCC to target its responses, including by collaborating with existing sector regulators of the relevant child safe entity.

I will now turn to the reportable conduct scheme components of the bill. The bill establishes a nationally consistent reportable conduct scheme for Queensland that delivers on the Royal Commission's recommendations. The scheme is intended to address systemic problems identified by the Royal Commission across many sectors and organisations that engage with children. This includes a lack of clear and accessible policies and procedures for handling complaints of child abuse, poor investigation standards and under-reporting to authorities where abuse was known or suspected. Most states and territories have established reportable conduct schemes, including New South Wales, Victoria, the Australian Capital Territory, Tasmania and Western Australia. The Queensland bill is broadly consistent with and has been informed by the approach taken in these states and territories.

A reportable conduct scheme provides independent oversight of how organisations investigate and respond to allegations of child abuse and misconduct by their workers. 'Worker' is defined broadly in the bill to include an individual who performs work of any kind for an organisation, such as an employee, volunteer or contractor. Reportable conduct covers a range of behaviour that may include criminal conduct such as a child sexual offence as well as behaviour that includes sexual misconduct, ill-treatment, significant neglect, physical violence and behaviour that causes significant emotional or psychological harm to a child. This definition is consistent with the Royal Commission's recommendation and with the forms of reportable conduct prescribed in other jurisdictions' schemes.

Organisations in scope of the reportable conduct scheme are known as reporting entities. This means an entity that cares for, supervises or exercises authority over children as part of its primary functions or otherwise and is prescribed under schedule 2 or by regulation. Under the bill, schedule 2 sets out reporting entities consistent with the Royal Commission's recommendations for scope. This includes education services, early childhood education and care services, disability services, supported accommodation or residential services, religious bodies, health services, child protection services, justice and detention services as well as government entities. The range of organisations in scope for reportable conduct is narrower than the child safe standards. This reflects the Royal

Commission's recommendation that the reportable conduct scheme focus on organisations that have a higher degree of responsibility over children and engage in activities that involve heightened risk of child sexual abuse due to institutional characteristics.

The ability to prescribe additional reporting entities by regulation will enable flexibility for the Queensland reportable conduct scheme to include other sectors in the future. This may occur after a review of the scheme once it is well established and in response to learnings within sectors in Queensland and other jurisdictions. Reporting obligations under the scheme apply to the head of a reporting entity, which generally includes the chief executive officer or principal officer of an organisation. If the head of an entity becomes aware of a reportable allegation or reportable conviction about a worker, they must report this to the QFCC. The head of a reporting entity must arrange for an investigation and provide a report to the QFCC regarding its findings from this investigation, including whether the worker has engaged in reportable conduct within the prescribed timeframes.

Consistent with the approach to child safe standards, a key function of the QFCC will be to educate and provide guidance to organisations to assist them to meet their reporting and investigation obligations under the scheme. This may include, for example, to determine whether an incident should be reported, what is required for an adequate investigation, and whether a finding of reportable conduct can be substantiated in the circumstances.

In limited circumstances, the QFCC may ask a sector regulator to conduct an investigation into a reportable allegation or reportable conviction where that sector regulator has the necessary functions and powers to do so. The bill also enables the QFCC to directly investigate reportable conduct in limited circumstances, including if it is in the public interest or if the head of a reporting entity is unable to investigate the matter.

In addition to these functions and powers, the bill enables the QFCC to administer, monitor and enforce the scheme through an information-sharing framework with a focus on facilitating cooperation between reporting entities, sector regulators and relevant government bodies. The bill also facilitates the exchange of information between the QFCC and Blue Card Services to inform assessments under the Working with Children Check system. Collaborative regulation will allow the QFCC to draw on the experience and expertise of existing sector regulators to support implementation, streamline investigations and reduce duplication for organisations where possible.

I will now speak to the general regulatory powers of the QFCC for both child safe standards and the reportable conduct scheme. Chapter 6 of the bill provides for authorised officers to be appointed by the QFCC to investigate and monitor compliance where necessary. The powers of authorised officers have been modelled on other Queensland regulatory frameworks and include powers of entry with consent or under a warrant in order to investigate and search premises for evidence of an offence. These powers of authorised officers are only intended to be exercised where proportionate to the noncompliance demonstrated and the characteristics of the organisation.

In terms of implementation of the bill, clause 2 provides a staggered and phased rollout of child safe standards to certain sectors in three stages from October 2025 to April 2026, followed by the reportable conduct scheme in three stages from July 2026 to July 2027. This staggered and phased approach is intended to enable the QFCC and in-scope organisations to prepare for commencement by firstly building child safe standards and the universal principle into policy and practice, prior to establishing reporting systems for the reportable conduct scheme. Sectors such as child protection, disability and youth justice services and government entities will be required to commence their obligations first in consideration of the higher degree of existing regulation in anticipated readiness.

That concludes my opening statement. Thank you for your time. We are happy to answer any questions that committee members may have about the bill.

CHAIR: Thank you, Ms Burnett, for your opening statement.

Mr BERKMAN: I really appreciate your very detailed opening statement, thank you. I am interested in the additional resourcing that the QFCC might require to conduct all of these new functions. I imagine that, despite the intended collaborative oversight approach, there will, no doubt, be an additional burden on the QFCC. How much additional resourcing do you think the QFCC might require and how well has that been provided for?

Ms Burnett: The Queensland government has committed approximately $43.5 million to support implementation of the bill, and that includes supporting the QFCC in its oversight functions, as well as some funding for agencies to support their collaborative regulatory roles under the scheme. There is some funding that is allocated to the QFCC to support its oversight functions. The

independent actuarial modelling that was undertaken that informed the costings that are set out in the CRIS and the decision impact analysis statement informed the costings that were provided to inform that process as well.

Mr BERKMAN: Thank you, that is helpful. Can you break that down at all to give an indication of what the ongoing additional funding for the QFCC might look like? There will be those initial resourcing and expense concerns, but obviously this is a long-term additional role.

Ms Burnett: Ongoing funding has been committed. I am not sure I can provide the details of that. I will have to seek advice.

Mr BERKMAN: If you are able to, that would be helpful, thanks.

Dr ROBINSON: Thank you to the department for coming in this morning and for your opening statement. I could hear most of what was said, but excuse me if I am repeating something you have partly addressed already. Take it as an opportunity to expand. In terms of the modelling in other jurisdictions, you made some comment in your opening statement along the lines of taking into account what has happened in other states. Perhaps you could expand on that with regard to what challenges perhaps other states have experienced and how that may factor into this legislation. The second part of my question is: here in Queensland we have not developed this yet, so why the delay in implementing similar schemes in Queensland?

Ms Burnett: In terms of the first component of that in relation to other jurisdictions and what their experiences have been, it is worth mentioning that there are continuing national conversations in terms of alignment of approaches around implementation of both child safe standards and reportable conduct and, of course, the commitment in relation to reportable conduct was to establish a nationally consistent scheme. I will speak to the child safe standards and some of the things we have heard from other jurisdictions in terms of their experiences, outlined in a recent Victorian review that they undertook in relation to their child safe standards. I should note as well that Victoria has a slightly different model to what is being proposed in Queensland. They have a co-regulatory rather than a collaborative regulatory model, which is slightly different to the model that is proposed for Queensland and slightly different to the approach that most other jurisdictions have taken.

Some of the findings that Victoria had in its review of the child safe standards were in relation to aligning with the national principles. You may be aware that Victoria's child safe standards were implemented before the Royal Commission. They were, in fact, in response to an earlier inquiry that was held in Victoria, so the implementation of their child safe standards predated the Royal Commission's recommendations. In Victoria's review there were recommendations focused on aligning their child safe standards with the national principles. There were also recommendations around the need to strengthen oversight and compliance functions of the oversight body, which is the Victorian Commission for Children and Young People. I am not sure whether Sakitha wants to add anything in relation to reportable conduct in terms of the experiences of other jurisdictions. Then I can speak to the other component of that question about the delay in implementation.

Ms Bandaranaike: In terms of the reportable conduct scheme, the starting point was the Royal Commission's recommendations for a nationally consistent reportable conduct scheme that was modelled at that time on New South Wales. They were the only jurisdiction that had a reportable conduct scheme at the time. In terms of general consistency with reportable conduct schemes across other jurisdictions compared to the proposed Queensland model, at the moment New South Wales, Victoria, WA, ACT and Tasmania all have reportable conduct schemes. Generally speaking, their key elements across the jurisdictions are broadly consistent. For example, the obligation is on the head of a reporting entity to notify an oversight body of a reportable allegation or conviction. The types of conduct that need to be reported are broader than the criminal threshold. The child abuse allegations that need to be reported to the oversight body are generally consistent amongst the jurisdictions that have a reportable conduct scheme, as are the functions and the powers of the oversight body. Generally speaking, scope is also consistent among the jurisdictions that have a reportable conduct scheme, with some minor differences.

In terms of location, the scheme is overseen by the oversight body, and in our case it is the Queensland Family and Child Commission, but location differs amongst jurisdictions. The reportable conduct schemes in New South Wales and Victoria are overseen by our equivalent of the children's commission. The reportable conduct schemes in Western Australia and the ACT are overseen by the ombudsman, and in Tasmania it is an independent regulator. That probably gives a summary of the Queensland reportable conduct scheme.

In terms of modelling, I think Donna mentioned that as part of the consultation regulatory impact statement that both departments published there was some independent costs modelling done to better assess the impact of a legislated reportable conduct scheme. That was primarily benchmarked off the Victorian scheme, but there were some adjustments for Queensland based on relative child population size and regional and rural areas.

CHAIR: Does that answer your question, member for Oodgeroo?

Dr ROBINSON: Yes, the first part. There are upsides to the processes involved, from what we have gleaned from other models and what we have put into place. In fact, it is answered, but I am expressing a little concern that we have not moved faster than this. It is not a criticism of the department. It is probably covered adequately.

Ms LUI: My first question is in relation the member for Oodgeroo's first question but more so around some of the key issues that were raised during the government's consultation process and how the bill as drafted reflects this input. Can you provide your views around key issues?

Ms Burnett: As I mentioned in my opening statement, the Queensland government released a decision impact analysis statement on 22 March, and that summarised the results of consultation on the consultation regulatory impact statement that was undertaken in 2023 and detailed the final recommended model for implementation of the scheme in Queensland. The results of consultation in that process very much mirror the results of targeted consultation that was held back in 2021 as well, with very consistent themes coming through from stakeholders in both of those consultation processes. The preferred option for both child safe standards and reportable conduct that was outlined in the CRIS was strongly supported in those consultation processes, so with the legislative integrated system there was strong support for there being a central oversight body and for it being a legislated model that mandates compliance with the schemes.

The vast majority of organisations that we spoke to, or that engaged in consultation with us, have said that they had already implemented child safe standards to varying degrees, and most said that they would be well placed to comply with those mandatory requirements in terms of it being the legislated model. Stakeholders did talk extensively about the success of a child safe organisation system relying very heavily on the capacity of the oversight body to support organisations to build child safe cultures. They spoke very much about the importance of the support and central oversight that would be provided by the oversight body in enabling them to implement it well.

From young people there was strong support for the introduction of legislation to mandate the child safe standards in particular. We heard a lot that there is more to be done to make sure children and young people feel safe and valued in organisations, and some of the functions and powers that are reflected in the bill are based on the strong support that we heard for there to be a suite of compliance powers that are able to be utilised, as required by the QFCC.

There was also really strong support in consultation for the Queensland model to include a focus on cultural safety for Aboriginal and Torres Strait Islander children, young people and families. We had some direct consultation sessions with Aboriginal and Torres Strait Islander young people, engaged with Aboriginal and Torres Strait Islander organisations, both internal and external to the department, in our consultation processes. What we heard is that cultural safety needs to be led by Aboriginal and Torres Strait Islander peoples. From organisations we heard again a very strong need for support from the oversight body to improve their cultural safety and cultural capability in that as well. The role of the QFCC has been very much designed to reflect the needs we have heard from stakeholders and the support they will require to implement the model well.

CHAIR: Does that answer your question, member for Cook?

Ms LUI: Yes.

CHAIR: Member for Southern Downs, do you have a question? No. I have questions with regard to the implementation. The explanatory notes of the bill explain that the CSS are designed to foster the development of child safe organisational cultures rather than setting prescriptive rules that must be followed or specific initiatives that must be implemented. Can you advise or provide examples of how the CSS may be implemented in different organisations to encourage the fostering of that new culture?

Ms Burnett: The model for Queensland has been designed flexibly, as you have mentioned. That is with the intent to reflect the vast array, sizes and circumstances of organisations that are required to comply with these standards. In terms of some of the examples, as I mentioned earlier as well, it is not expected that a small, say, local sporting club would be implementing the child safe standards in the same way that a large school or other national organisation might be required to do

so. Some examples of the way a small organisation would implement the child safe standards would be things like making a public commitment, establishing a code of conduct that includes a commitment to child safety, providing age appropriate information to children and young people on their rights and how adults should behave in an organisational context. It could be things like posters and brochures and online information.

Some of the differences that we might see in the way that it is implemented in a small organisation relative to a larger organisation might be, I suppose, some more structural or staffing approaches. There might be, for example, a dedicated position that is responsible in a large organisation for development of a child safe culture, relevant policies and practices. There could be identified positions to champion cultural safety or to focus on diversity and other elements that are embedded in the child safe standards. There could be more comprehensive internal training that is provided for staff and other members in terms of how to identify that child abuse may have occurred or how to implement different components of the child safe standards in a larger organisation, while in a smaller organisation there might be, I suppose, smaller indications in terms of resources and information being provided to people and less sophisticated approaches to how families, children and other organisations are included in the approach to implementing the child safe standards and what that looks like.

Mr BERKMAN: Returning to the question of costs but this time on the side of compliance for the entities—what are they called? There are too many terms. The decision impact analysis statement talks about the annual average compliance costs. I understand the department has received some feedback that these costs might be underestimated to some extent. Can you provide comment on that at all?

Ms Burnett: As you will have seen in that document, there was a wide range of costs estimated by the consultant, ranging from roughly $13,000 as an annual cost for the integrated scheme for a small organisation through to somewhere in the vicinity of just over $100,000 annually for a large organisation. Those estimates do not factor in existing things that organisations may be doing. As I mentioned, we did hear in consultation that organisations are already doing a range of things to support their compliance particularly with the child safe standards. There are a number of organisations that are operating nationally in other jurisdictions that are already required to be complying and already have policies and systems and practices in place to comply, so those elements are not taken into account in those costings.

We did not adjust the costings in the decision impact analysis statement on the basis of that feedback that we received from stakeholders because there was very mixed feedback from stakeholders about the extent to which those costs were an accurate reflection of what they anticipate their implementation costs might be. Some said that they thought it might be about right and, yes, some did say they thought the costs would be higher, but that was a very small sample of the many thousands of organisations that we expect to be captured by the schemes.

The other thing worth noting is that largely the feedback around the costs being underestimated in that document was from larger organisations that might have more sophisticated needs in terms of compliance activities, whereas we know that a significant proportion of the organisations that will be in scope and required to comply will be smaller organisations and will not have such significant implementation costs associated. We did not adjust the costings on that basis.

It is also important to note that the funding for the QFCC is intended to support organisations to comply, so we expect that the ways in which organisations will be indirectly supported to comply with those things will be through potentially various resources and templates—those sorts of things that organisations will be able to leverage off—and that will mitigate, to some extent, the impact on organisations and their compliance costs as well.

Mr BERKMAN: That is very helpful, particularly on the observation that it was larger organisations who expressed concern about compliance costs. Were there any other general trends or features of organisations that might make that cost burden higher—for example, location, remoteness or organisations with higher staff turnover? Are there any other features like that that the committee should be made aware of?

Ms Burnett: I could not speak specifically to whether the organisations that provided that type of feedback fall in this category, but we did hear from people that they expect to have higher compliance costs where they do have higher staff turnover. That was certainly a feature for some organisations that said that that is something that they regularly experience. Therefore, the training and other needs in terms of supporting staff awareness and compliance and the activities that are

associated with that would be a greater burden for those organisations. I would need to check whether those were organisations that in fact provided feedback specifically in relation to the accuracy of the estimated costs.

CHAIR: Can the department provide information on the universal principle and how it would operate in conjunction with the CSS?

Ms Burnett: There were a couple of options that we looked at and sought feedback on in terms of the universal principle, and other jurisdictions take different approaches to how they do this as well. One of the options was a universal principle, and the intent is that it will be embedded in the implementation of all of the child safe standards. The alternative was an 11th child safe standard that is specifically around cultural safety. We heard in consultation very strong feedback from stakeholders that there was a preference for it to be embedded in the broader—

CHAIR: What is the reason for that preference?

Ms Burnett: I think certainly for at least some stakeholders if it is separated as an 11th standard it might be seen as an add on and not needed to be taken into consideration more broadly in the implementation of all of the standards. That is really the underlying intent—that cultural safety will be considered in the way that all of the child safe standards are implemented. The expectation will be that when, for example, looking at some of the standards around embedding child safety in institutional leadership, governance and culture, and children participating in decision-making, cultural safety and the universal principle will need to be considered in the implementation of each of those as a separate component. Cultural safety needs to be contemplated in those governance and leadership conversations, as well as decision-making and what those consultative processes look like and how young people are being engaged in those processes.

CHAIR: Member for Cook, do you have any further questions?

Ms LUI: Yes. In relation to the preferred model for the CSS, can the department explain why a collaborative regulation approach was selected over a co-regulation approach?

Ms Burnett: We had a range of feedback on this in consultation on the CRIS. There was a preference for there to be a collaborative regulatory model and that is consistent with most other jurisdictions, although I think I mentioned that Victoria has taken a different approach. I believe that some of the experience in Victoria—and this is reflected in the recent review of their child safe standards—was that that does create some confusion in terms of the roles of existing regulators because under that co-regulatory model, where there is an existing regulator for an organisation, they are responsible for oversight in terms of the child safe organisations model. I believe that that has created some confusion. There were some recommendations that were made through that review in relation to providing clarity around the roles of regulators and who is responsible for regulating which organisations. There is also the potential for duplication in that kind of model as well.

I think the benefits to be seen from a collaborative regulatory model are that there is a single oversight body that has visibility across sectors. That is something that the Royal Commission highlighted as one of the benefits in terms of implementing these recommendations around having that oversight across different sectors and that being something that has been previously lacking. A co-regulatory model does not give the same benefits in that regard in terms of one organisation having central oversight of the model. The collaborative regulatory model does benefit from the involvement though of existing sector regulators through the information-sharing provisions and the capacity for them to work collaboratively with the oversight body and the implementation of the schemes.

Ms LUI: Working across all the entities in my electorate, I know information sharing can be quite challenging at the best of times. What are your views on how information sharing would take place over many different departments?

Ms Burnett: The information-sharing framework that is included in the bill is very much an enabling one. It does not require organisations or regulators or those that are captured under those provisions in the bill to share information. It enables information to be shared where appropriate. The expectation is—and the principles in the bill reflect this—that information will be shared in a timely way to support the QFCC in its oversight functions. We would expect that there will be, as part of the QFCC's support role, guidance provided to organisations that are in scope and others that are captured, including the sector regulators within those provisions, to clarify what type of information and in what circumstances information would be expected to be shared. Did you want to add something, Sakitha?

Ms Bandaranaike: In relation to the reportable conduct scheme, there are specific information-sharing provisions for the purpose of administering the reportable conduct scheme as opposed to the child safe standards. I think it is around clause 49 of the bill. It prescribes the entities

that can. It is a broad information-sharing framework and it applies to a broad range of entities including obviously the Queensland Family and Child Commission but equivalent oversight bodies like the Queensland child commission in other jurisdictions, sector regulators, as Donna mentioned, the actual reporting entities themselves, government departments, the Police Service and also oversight bodies that might have complaint investigation functions. It is quite broad.

The information-sharing provisions describe what information can be shared. It is relevant things, for example the progress of a reportable investigation finding, reasons for actions taken. The information-sharing framework prescribes different reasons entities might need to share information. That really depends on the situation. For example, those entities may be able to share information to lessen or prevent a serious risk or threat to the life, health or safety of a child or a class of children, or the entities might be sharing information that is relevant to their statutory functions if there are two oversight bodies, for example. For the purpose of the reportable conduct scheme, clause 49 spells out that broad information-sharing framework, and of course there are confidentiality provisions in the bill around use and disclosure.

CHAIR: Does that answer the question, member for Cook?

Ms LUI: Yes, thank you.

Mr BERKMAN: Ms Burnett, I think you went some way to answering this question in your response regarding the preference for a collaborative rather than co-regulatory model. Do you see how any residual risk of duplication or conflicting advice between the QFCC and sector regulators could be dealt with or minimised under the bill?

Ms Burnett: I should mention that, in the context of child safe standards, while it is not a requirement, it is intended that the child safe standards will be embedded within existing regulatory frameworks where possible. I know that is being considered in the context of at least some regulatory frameworks and how that might be taken into account. We did hear a lot of concerns from stakeholders about duplication between existing regulatory frameworks and the child safe standards, so that is the intent in terms of how those may be aligned. If an organisation is complying with their existing regulatory requirements they will, by virtue of that—if the child safe standards have been embedded in that—be complying with the child safe standards as well.

In terms of any conflict, the bill does not change the existing roles of current regulators and the current processes and practices that are in place in terms of how an existing regulator may respond to a particular compliance issue, for example the child safe standards. The approach that the QFCC may take in response to any sort of compliance issues in relation to the child safe standards will sit separate to that. In practice, how that might look would be a matter that would depend on the circumstances of each individual case in terms of the role of the existing regulator and what the requirements of that existing regulation look like, whether the child safe standards have in fact been embedded in that existing regulatory framework.

It is a matter for the QFCC to engage with the regulator to determine any appropriate response to compliance issues. I would imagine that the QFCC would take into account information from an existing regulator, for example, in relation to any compliance action they may have taken separately under existing regulation in relation to a particular matter of noncompliance, as that may also relate to noncompliance in relation to the child safe standards in determining what an appropriate response might be from the QFCC in those circumstances.

Ms Bandaranaike: In terms of the reportable conduct scheme, because it is about investigating worker conduct there could be overlap in terms of investigations that an entity might do as part of their regulatory framework, or the sector regulator might do it. In the reportable conduct scheme there are some guiding principles around that where it is acknowledged that sector regulators do have the expertise, knowledge and skills. Where possible, there is a principle which says that the Queensland Family and Child Commission and sector regulator should work together. For example, what that could look like at an investigation would mean that, if there is a reportable allegation or conviction the reporting entity has to report under the reportable conduct scheme which also involves conduct like disciplinary conduct, it might also have to be investigated as part of their regulatory functions. They might be able to leverage off that investigation which they would already do as part of their regulatory obligations for two purposes: for the purpose of the reportable conduct scheme as well as meeting their regulatory obligations; or they might share some of the processes around the investigation. There might be two concurrent investigations, one for the purpose of the reportable conduct scheme and one wearing a sector regulator hat they might share, so they might look at streamlining the investigation process to interview certain people together, for example. Where possible, the bill has tried to enable that collaboration and reduction of duplication.

CHAIR: Are there any members online who want to ask a question? If not, I will move forward with my own question. Regarding your opening comment about the phased approach to implementation, you state—

> The CSS and Universal Principle will commence ahead of the RCS. This is intended to provide a foundation for child safe environments.

For the sectors you propose a phase-in period in three stages, which you indicated would allow the commission to provide more targeted support to specific sectors. With regard to those particular phases, was there a reason you chose particular sectors first and the order in which you did them?

Ms Burnett: The phasing is largely based on existing regulation and the extent to which we anticipate those sectors will be ready to commence participation. The most highly regulated sectors and government entities are in the first phase by virtue of all of the existing regulatory requirements. We think, for example, from our department's perspective, that Child Safety will be well positioned to implement child safe standards and similarly reportable conduct, noting that we will be in the first tranche of child safe standards and the universal principle. We think in large part a lot of the existing policies and practices go a long way toward meeting the requirements of the child safe standards already. We understand that those other sectors that are proposed in the earlier phases are in a similar position in terms of being well positioned to commence implementation early. The second phase is kind of in between, and the third phase really reflects those sectors that currently do not have regulation or have minimal regulation, and we expect they would need more support and time to prepare for implementation. Do you want to add anything from a reportable conduct perspective in terms of phasing?

Ms Bandaranaike: No, only that the general thinking about having the reportable conduct scheme follow child safe standards is that child safe standards sets a foundational piece and it applies to a broader scope of organisations that work with children or engage with children. The reportable conduct scheme is a smaller cohort. It is trying to identify sectors that the Royal Commission thought had a higher degree of risk around children, so the scope for the reportable conduct scheme is smaller. The phasing, as Donna said, is really intended to apply firstly to highly regulated sectors that engage arguably with some of the most vulnerable children and then roll it through to less regulated sectors like religious bodies, for example, really to allow them time to prepare for commencement. It is similar but not identical to the way Victoria rolled out a reportable conduct scheme over a few years.

CHAIR: In your consultation process, particularly with other jurisdictions, did you find that the phasing process had issues and you might be able to assist the rollout this time around to make it a lot easier in Queensland than other jurisdictions? Were there any learnings that you took from other jurisdictions?

Ms Burnett: There was certainly feedback we heard from stakeholders about limited capacity for the oversight body to support implementation where the phasing was quite close together, so that is certainly one of the things that was taken into account in terms of what the phases look like and what the time period should look like to make sure the oversight body does have sufficient capacity. One of the other things we heard from stakeholders was just how much support is required for a number of organisations to implement reportable conduct, the importance of the phasing of that coming later and child safe standards really having been properly embedded at the point that organisations are turning their minds to reportable conduct and any oversight body being able to turn its focus to supporting organisations on the reportable conduct scheme as well.

Ms Nguyen: In terms of a specific child safe standard that an organisation would have to implement first, that could be having processes to respond to complaints and concerns that are child focused, having policies and procedures that document how the entity is safe for children. That would feed into their reportable conduct scheme obligations to then have systems in place to prevent, identify and allow reporting and respond to a reportable obligation under clause 30 of the bill.

CHAIR: You mentioned earlier in your opening statement that you would be providing support to these particular sectors as you roll this out. Can you repeat what that may look like for sectors, particularly transport or transport related services, commercial services and those sorts of things? What sort of support will be provided? Is that documentary support? Is that one-on-one discussions within face-to-face implementation and that sort of thing as well?

Ms Burnett: That will be a matter for the QFCC to work through in implementation. That is why it has that 12-month period to establish itself and prepare to support organisations to participate. The sorts of things that we heard from stakeholders in consultation in terms of the supports they might need were really wideranging. It was things like written resources, templates for different types of policies and practice documents. It could be things like training, webinars. There were suggestions to

have a relationship manager or contact person within the oversight body they could refer to and the importance of those resources being sector-specific as well. While it will be a matter for the QFCC to determine the specific nature of those supports that are provided, that is the range of supports that organisations have suggested they will need in implementation. There is a wide range of resources available in other jurisdictions and nationally as well that have been led by the National Office for Child Safety to support implementation. There are a range of resources existing that the QFCC will be able to leverage off in that space as well.

CHAIR: Are there any other questions from members?

Mr BERKMAN: There was an observation in the brief from the department around the reportable conduct scheme and the exclusion of conduct that is reasonable for the discipline, management or care of a child taking into account characteristics of the child and applicable or relevant codes of conduct, professional standards and the like. Can you elaborate on what that looks like in practice? I suppose my thinking is around the flexibility of ideas of what is reasonable or appropriate in the context of discipline or the management of the child and how the scheme can deal with that grey zone.

Ms Bandaranaike: I cannot comment on specific cases. It would really be up to the Queensland Family and Child Commission as the oversight body to determine that. Generally speaking, the idea of carving that out to portray it is not reportable conduct—basically, it says it is not reportable conduct so you do not have to—is not caught within the scheme if it is, as you said, for the reasonable discipline, management or care of the child having regard to the characteristics of the child, including age, developmental stage and any code of conduct or professional standard.

I am not trying to lock anything in but just give you a flavour—and this is not in the bill, but as an example—of what could be caught and therefore excluded from the scheme, it could be behaviour within a school's policy or code of conduct that is considered appropriate for the discipline of a student. The use of authorised restrictive practices by an NDIS provider could be another potential example of where that would not be considered reportable conduct for the purposes of the scheme. As I said, that is not in the bill but that hopefully gives you a flavour of the intention.

CHAIR: I think we are out of time. Thank you for coming along today and presenting your evidence to us here. That concludes the briefing. I thank everyone who participated today. I thank the Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. We have one question on notice from the member for Maiwar. That related to the ongoing funding for the QFCC. With regard to that question taken on notice, could you have your response back to us by Tuesday, 16 July 2024 so we can include it in our deliberations. I now declare this public briefing closed.

The committee adjourned at 10.45 am.