

Child Safe Organisations Bill 2024

Submission No:	4
Submitted by:	Queensland Catholic Education Commission
Publication:	Making the submission and your name public
Attachments:	See attachment
Submitter Comments:	

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July 2024

The Queensland Catholic Education Commission (QCEC) welcomes the opportunity to provide a submission to the Community Support and Services Committee on the Child Safe Organisations Bill 2024.

QCEC is the peak strategic body with state-wide responsibilities for Catholic schooling in Queensland. This submission is provided on behalf of the five Diocesan Catholic school authorities and 17 Religious Institutes and other incorporated bodies which, between them, operate a total of 312 Catholic schools that educate more than 160,000 students in Queensland.

Queensland Catholic schools have a strong commitment to ensuring the safety and well-being of children and young people in their care. In working to fulfil this commitment, it is recognised that the research, findings and recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse continue to play an important part in informing and guiding future actions. This includes the National Principles for Child Safe Organisations which provide important and useful direction for schools and other institutions in making sure they have in place the appropriate policy settings, systems and structures to keep children safe and minimise risks of harm.

As Catholic entities, all Catholic schools in Queensland (and Australia) are required to comply with the National Catholic Safeguarding Standards which are based on and align closely to the National Principles for Child Safe Organisations. This has been in place since 2019 and audit and other compliance activity is coordinated by Australian Catholic Safeguarding Limited (ACSL).

Additionally, the recent Queensland Government Non-State Schools Accreditation Framework Review has recommended that implementation of the National Principles for Child Safe Organisations be included in the accreditation criteria for non-state schools.

In relation to a Reportable Conduct Scheme, currently Catholic schools actively comply with a broad range of mandatory reporting requirements and other child protection policies and procedures contained in the following legislation:

- a) *Child Protection Act 1999*
- b) *Education (General Provisions) Act 2006.*
- c) *Criminal Code Act 1899*
- d) *Education (Accreditation of Non-State Schools) Act 2017*
- e) *Working with Children (Risk Management and Screening) Act 2000.*

QCEC considers that the introduction of a Reportable Conduct Scheme provides an important opportunity to achieve a more streamlined and coherent child protection reporting regime. The implementation of a new Reportable Conduct Scheme should involve coordination and rationalisation of existing reporting requirements to ensure an aligned and focused child protection framework is in place in Queensland.

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The following comments are provided on the Child Safe Organisations Bill 2024.

Commencement – clause 2

As the legislative codification of the Child Safe Standards and the establishment of a Reportable Conduct Scheme represent significant structural change for child protection arrangements in Queensland, QCEC supports a staged implementation of these two changes.

This will provide time for the Queensland Family and Child Commission (QFCC) as oversight body to develop and provide to regulated entities comprehensive explanatory and education resources to facilitate their compliance with the new requirements. A staged approach focused initially on capacity building will ensure that entities are appropriately prepared and have the opportunity to develop or enhance present systems to give them the best chance of achieving compliance in the most optimal and effective manner.

Head of Entity – clause 7

This clause of the Bill is intended to clarify who is considered the ‘head of the entity’ under the Bill. This is an important clarification as, under the Bill, specific obligations primarily rest with the head of the entity.

None of the proposed elements of the definition provide clarity in relation to the governance arrangements for Catholic schools in Queensland. In accordance with the *Education (Accreditation of Non-State Schools) Act 2017*, the governing body of a non-state school must be a corporation. Therefore, Catholic schools are owned and operated by corporations, with the equivalent position of a chief executive officer not being a school principal, but rather the governing body of the relevant school.

Given this, for the purposes of the draft Bill, it is recommended that for non-state schools, the ‘head of the entity’ be deemed to be the school governing body as accredited under the *Education (Accreditation of Non-State Schools) Act 2017*.

Notifying Reportable Allegations – clause 32

Multiple reporting and doubling handling

The Bill places an obligation on reporting entities (including non-State schools) to report to QFCC any reportable allegations. Currently, non-State schools are subject to the following reporting obligations:

- a) Requirement to report sexual abuse, likely sexual abuse and suspected sexual abuse to the Queensland Police Service under the *Education (General Provisions) Act 2006*
- b) Requirement to report significant harm or risk of significant harm to a child to the Department of Child Safety under the *Child Protection Act 1999*
- c) Requirement to report a sexual offence against a child to the Queensland Police Service under the *Criminal Code Act 1899*

- d) Requirement to report allegations of harm to a child caused by the conduct of a teacher to the Queensland College of Teachers (QCT) under the *Education (Queensland College of Teachers) Act 2005*

These currently existing reporting requirements deal with the same matters that are encompassed under reportable allegations to QFCC, that is, child sexual offences, sexual misconduct involving a child, ill-treatment of a child, and neglect, violence, emotional and psychological harm to a child.

The adding of another duplicate reporting process for the same allegations or incidents to the existing legislative requirements does not contribute to the effective management of allegations and incidents, but rather acts to divert resources and time to double handling and uncertainty of approach.

Greater child safety would be enhanced rather through an effective rationalisation and streamlining of reporting requirements. For example, the preferred way to manage the overlap between the role of QFCC and the QCT would be via an agreed protocol between QFCC and QCT requiring QCT to manage and report back on matters under its jurisdiction. In a similar manner, it is currently a reasonable excuse not to make a report under the *Criminal Code Act 1899*, if a report has already been made under the *Education (General Provisions) Act 2006* or the *Child Protection Act 1999*.

Given that clause 48 of the Bill allows for the sharing of information between relevant entities, including the Queensland Police Service, concerning the reportable conduct scheme, it is considered that the multiple reporting of allegations or incidents should be avoided where possible or kept to a minimum.

Ideally, allegations and incidents should be reported once, with information then appropriately shared between other relevant child protection agencies. If this level of streamlining is not achievable, the multiple duplicate reporting, accompanied by differing legislative requirements and procedures, should at least be reduced to a more manageable level through legislative and administrative coordination.

Investigation of Reportable Allegation – clause 36

Clause 36 of the Bill requiring the head of the entity to conduct an investigation of a reportable allegation as soon as practical after it is known raises a number of issues for Catholic schools.

Under the existing legislative mandatory reporting arrangements, it is not school staff's role to investigate allegations of abuse or harm to students, but rather to report a reasonable suspicion of abuse or harm in accordance with the legislation. It is the role of officers of the Queensland Police Service and qualified officers of the Department of Child Safety to investigate and collect evidence in the required circumstances, such as conducting interviews with students. School staff have been instructed to ask only enough questions to help decide if there are honest and reasonable grounds to form a suspicion, and that any questioning beyond this could cause distress and confusion and could interfere with the integrity of any subsequent investigation undertaken by relevant authorities. School staff must never photograph student injuries or audio/video record the discussion of allegations, as this is the role of the Queensland Police Service.

It is noted that clause 46 of the Bill requires that a reporting entity that becomes aware that the reportable allegation may involve criminal conduct must then notify the Queensland Police Service. It may not be immediately apparent whether a reportable allegation does in fact involve criminal conduct, until the investigation of the matter is being or has been undertaken, by which time evidence and statements may already have been compromised by an investigation being undertaken by unqualified staff.

Similarly, it may take a reasonable amount of time for the Queensland Police Service to be in a position to be able to inform a reporting entity whether a particular matter will be treated as potentially involving criminal behaviour. The Department of Child Safety, with its experience with qualified staff dealing with the complexities of supporting children and their parents/guardians in multifaceted situations, may also not be able to inform a reporting entity immediately of the outcomes of the particular case of alleged abuse or harm.

These issues to do with investigations stem primarily from the approach of the draft Bill of simply adding another layer of reporting on top of the existing legislative framework for child protection reporting, rather than undertaking a rationalisation and coordination of the overall reporting framework.

Given this, it is recommended that until such a rationalisation and coordination is undertaken, clause 33 should not require reporting entities to conduct an investigation 'as soon as practical', but rather to conduct an investigation 'once notified by the agencies to which they report (i.e. Queensland Police Service and the Department of Child Safety) that an investigation may be undertaken'.

Guidelines - clause 108

Clause 11 states that a child safe entity must have regard to the guidelines under clause 108 in implementing and complying with the Child Safe Standards. It is noted that these guidelines are not yet available and therefore cannot be assessed for appropriateness and application. Given that the Child Safe Standards are outcome based rather than input based, specific information and guidance should be provided to assist organisations to understand what compliance with the Standards will entail on a practical basis. The Child Safe Standards articulate an aspirational goal for child safety in particular areas, without specifying how each goal is to be achieved and how the achievement is to be assessed and confirmed. Clear stipulation of compliance requirements in sector specific guides will greatly assist organisations to ensure that they are taking the appropriate steps to implement the standards in their own operational context.

Conclusion

Thank you for the opportunity to make a submission on the Child Safe Organisations Bill 2024. QCEC is happy to be contacted should you have any questions, or require further information, on any of the issues raised.

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