

## Child Safe Organisations Bill 2024

<b>Submission No:</b>	19
<b>Submitted by:</b>	Non-State Schools Accreditation Board
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<b>Submitter Comments:</b>	

# Submission to Community Support and Services Committee - Child Safe Organisations Bill 2024

Submission by Non-State Schools Accreditation Board

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## Background

- 1 On 12 June 2024, the *Child Safe Organisations Bill 2024* (Qld) (**Bill**) was introduced at the 57<sup>th</sup> Assembly of the Queensland Parliament and referred to the Community Support and Services Committee (**Committee**) for detailed consideration.
- 2 The Committee has invited submissions on any aspect of the Bill from all interested parties. The final report of the Committee is due to be completed by 2 August 2024, and it will be considered at the Bill's Second Reading in the Queensland Parliament.
- 3 The Non-State Schools Accreditation Board (**Board**) has previously provided the Queensland Government with two separate submissions for their consideration during the drafting process of the Bill.
- 4 The Board's first submission was in response to the *Growing Child Safe Organisations in Queensland Consultation Regulatory Impact Statement* prepared by the Department of Child Safety, Seniors and Disability Services (**DCSSDS**) and the Department of Justice and Attorney-General (**DJAG**).
- 5 The Board's second submission was also to DCSSDS and DJAG and provided feedback on the confidential exposure draft version of the Bill and corresponding regulations provided exclusively to key stakeholders.
- 6 The Board makes this submission in response to the Committee's invitation with reference to specific provisions of the Bill which the Board submits should be considered in the Committee's final report.

## Considerations for the Committee

### Chapter 2: Child safe standards

#### *Section 17: Assessment reports*

- 7 Under section 17 of the Bill, the Queensland Family and Child Commission (**QFCC**) may provide guidance or make recommendations to a child safe entity about the entity's implementation of, and compliance with, the child safe standards defined in section 9 (**CSS**) and the universal principle defined in section 11(2) (**Universal Principle**) by way of an 'assessment report'.
- 8 The Board submits consideration should be given to including a requirement for copies of assessment reports that are issued to a non-State school to be provided to the Board. This is because the Board expects that assessment reports may be relevant to the Board's functions under the *Education (Accreditation of Non-State Schools) Act 2017* (Qld) (**Accreditation Act**) and *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) (**Accreditation Regulations**).

- 9 For example, in performing its functions under the Accreditation Act and Accreditation Regulations, the Board may consider it relevant to consider if the actions recommended to a non-State school in an assessment report have been substantially implemented and maintained.

*Section 18: Compliance notices*

- 10 Under section 18 of the Bill, if the QFCC believes a child safe entity is failing to implement or comply with the CSS or Universal Principle, the QFCC may give the child safe entity a compliance notice stating, among other things, the action the entity is required to take and the consequences if this notice is not complied with by a certain date.
- 11 The Board acknowledges that it is proposed that the QFCC may publish matters relating to non-compliance pursuant to section 24 of the Bill, which may prompt complaints to the Board and a subsequent investigation under the Accreditation Act and Accreditation Regulations. However, the Board expects that those details may not be published in every case of non-compliance, noting that section 24 is proposed to confer on the QFCC a discretionary power to publish.
- 12 A non-State school's failure to comply with a compliance notice issued under section 18 of the Bill may be relevant to the Board's performance of its functions under the Accreditation Act and Accreditation Regulations.
- 13 For this reason, the Board submits consideration should be given to including a requirement in the Bill for copies of compliance notices that are issued to a non-State school to be provided to the Board where there has been a failure to comply with that notice, along with details of the failure to comply.

*Section 19: Enforceable undertakings*

- 14 Under section 19 of the Bill, the QFCC may accept or reject a written undertaking for compliance from a child safe entity. Under section 20 of the Bill, a child safe entity may apply to amend an enforceable undertaking. Under section 22 of the Bill, a register of enforceable undertakings will be kept and available for inspection by the public.
- 15 While the Board will already have access to the register under section 22 of the Bill, the Board submits consideration should be given to including a requirement in the Bill for the Board to be provided with copies of accepted enforceable undertakings by the QFCC with respect to non-State schools.
- 16 As previously outlined, while the enforcement of undertakings is exclusively a matter for the QFCC, the Board considers enforceable undertakings relating to non-State schools should be provided directly to it to assist the Board in performing its functions under the Accreditation Act and Accreditation Regulations as well as under the Bill.

**Chapter 3: Reportable conduct scheme**

*Section 31: QFCC may require information about systems*

- 17 Under section 31(2)(b) of the Bill, the QFCC may make recommendations for action to be taken by the head of a reporting entity in relation to the reportable conduct scheme (**RCS**) systems the entity is required to keep under section 30.
- 18 Similar to the reasons provided above in relation to section 17 of the Bill, the Board considers any recommendations given by QFCC to non-State schools about their RCS systems under section 31(2)(b) of the Bill may be relevant to the Board's functions under the RCS as well as the Accreditation Act and Accreditation Regulations.

- 19 For this reason, the Board submits consideration should be given to requiring the QFCC to provide the Board with copies of any recommendations issued by it to a non-State school in relation to RCS systems.

*Section 42: QFCC may ask sector regulator to investigate*

- 20 Under section 42(1)(a) of the Bill, the QFCC may ask a sector regulator for a reporting entity, other than the police service, to investigate a reportable allegation or reportable conviction relating to a worker of the reporting entity.
- 21 However, under section 42(4) of the Bill, if the sector regulator agrees to conduct the investigation, the QFCC may, by written notice, ask the sector regulator to give it information relating to:
- (a) the investigation being conducted (section 42(4)(a)); or
  - (b) the person the subject of the investigation (section 42(4)(b)).
- 22 The Board observes that section 42(1)(a) allows the QFCC to ask a sector regulator to investigate a reportable allegation or reportable conviction relating to a worker of the reporting entity (emphasis added). However, section 42(4)(b) of the Bill is not limited in its application to a 'worker', and rather applies to the person the subject of the investigation (emphasis added).
- 23 The Board therefore submits consideration should be given to ensuring the information the QFCC may ask of the sector regulator in relation to an investigation under section 42(4)(b) of the Bill is consistent with the initial circumstances in which a sector regulator is asked to investigate by the QFCC under section 42(1)(a). In particular, the Board submits section 42(4)(b) of the Bill be amended to the 'worker', and not the 'person' the subject of the investigation.

**Chapter 4: Disclosure of information and confidentiality**

*Section 48: Prescribed child safe entities may disclose confidential information*

- 24 Under section 48(2) of the Bill, a 'prescribed CSS entity' may disclose confidential information to another prescribed CSS entity for the prescribed list of purposes under the section.
- 25 Section 49 of the Bill is similar to section 48 in its objectives, however differs primarily by way of the entities it applies to. For example, the functions and powers afforded under section 49(2) of the Bill are confined to the 'head' of a prescribed RCS entity as opposed to the more broad term of prescribed CSS entity and the omission of the word 'head' in section 48(2).
- 26 The Board therefore submits consideration should be given to if the word 'head' should also be inserted into section 48(2) of the Bill to align with section 49(2).
- 27 In the event the Committee does consider 'head' should be inserted into section 48(2) of the Bill, the Board also submits consideration should be given to defining who constitutes the head of a prescribed CSS entity for the reasons repeated in paragraphs 30 and 31 below.

*Section 49: Particular entities may share information for reportable conduct scheme*

- 28 Under section 49(2) of the Bill, the head of a 'prescribed RCS entity', as defined in section 49(1) to include a sector regulator for a reporting entity, may disclose relevant information to the head of another prescribed RCS entity for the prescribed list of purposes under the section.
- 29 The Bill does not currently define who comprises the 'head' of a prescribed RCS entity.

- 30 The Board is comprised of seven members, each appointed for not more than four years but are eligible for reappointment. The Board also consists of a secretariat who is responsible for providing executive support to the Board members. The Board also appoints authorised persons to conduct investigations under the Accreditation Act and Accreditation Regulations.
- 31 Therefore, due to the structure of the Board and to ensure our duties under the Bill are properly discharged, the Board submits consideration should be given for the Bill to specify which position of the Board would constitute the 'head' of a prescribed RCS entity.

*Section 52: Obtaining information from director of public prosecutions or police commissioner*

- 32 Under section 52(2) of the Bill, the head of a prescribed RCS entity may ask the director of public prosecutions (**DPP**) or police commissioner for a written statement or summary of information relating to a charge or conviction.
- 33 Under section 52(1) of the Bill, this section relevantly applies if the prescribed RCS entity:
- (a) becomes aware that a person has been charged or convicted of an offence involving an act or omission that is the subject of a reportable allegation or reportable conviction (section 52(1)(a)); and
  - (b) requires information mentioned in section 52(2) to comply with a requirement under chapter 3, part 3 or section 42 of the Bill to notify or investigate the reportable allegation or reportable conviction (section 52(1)(b)(ii)).
- 34 However, under section 52(4)(b) of the Bill, the DPP or police commissioner may comply with a request made by a prescribed RCS entity under section 52(2) if they believe the requested *'information is necessary to enable the head of the prescribed RCS entity to notify and investigate a reportable allegation or reportable conviction relating to a worker under chapter 3, part 3'*.
- 35 The Board makes two submissions in relation to section 52 of the Bill:
- (a) first, section 52(4)(b) only allows the DPP or police commissioner to comply with a request in relation to a reportable allegation or a reportable conviction relating to a worker under chapter 3, part 3 (emphasis added). However, section 52(1)(a) of the Bill is not limited in its application to a 'worker', and rather applies where a person has been charged or convicted of an offence that is the subject of a reportable allegation or reportable conviction (emphasis added); and
  - (b) secondly, chapter 3, part 3 of the Bill does not extend to circumstances where the Board has been requested by the QFCC to investigate a reportable allegation or reportable conviction under section 42, which is located in chapter 3, part 4 of the Bill. The exclusion of the words 'section 42' in section 52(4) of the Bill is incongruous with section 52(1)(b)(ii) of the Bill.
- 36 The Board therefore submits consideration should be given to ensuring that the circumstances under which a request for information can be made by a prescribed RCS entity under sections 52(1) and 52(2) are consistent with the circumstances for which a request for information can be granted under section 52(4)(b). In particular, the Board submits section 52(4)(b) should:
- (a) be amended to remove the words 'relating to a worker', so that it is consistent with section 52(1)(a); and
  - (b) like section 52(1)(b)(ii), extend to an investigation of a reportable allegation or reportable conviction under section 42 of the Bill.

- 37 The Board also notes the term 'head' is used in section 52(2) of the Bill and for the same reasons outlined in the above paragraphs 30 and 31, the Board also submits consideration should be given to who constitutes the 'head' of the Board for the purpose of section 52 of the Bill.

## **Chapter 6: Investigation and enforcement**

### *Section 91: Power to require information or attendance*

- 38 Under sections 91(2)(e) and 91(3) of the Bill, an authorised officer may request information mentioned in section 42(4) in relation to an investigation by a sector regulator.
- 39 To further assist authorised officers, the Board submits consideration should be given to extending the scope of section 91(2)(e) to also refer to section 42(5) of the Bill.
- 40 By only referring to section 42(4), authorised officers would only have power to request a copy of the written notice from the QFCC to the sector regulator asking the sector regulator to give the QFCC information relating to the investigation being conducted or the person the subject of the investigation. If section 91(2)(e) of the Bill also referred to section 42(5), this would give authorised officers power to request the sector regulator's written notice about the findings of the investigation (which must include the matters set out in section 42(6)).

## **Chapter 8: General**

### *Section 107: Delegation*

- 41 Under section 107(1) of the Bill, the QFCC may delegate a function or power to an appropriately qualified staff member of the QFCC.
- 42 Under section 107(2) of the Bill, the head of a reporting entity may delegate the functions of a head of a reporting entity under chapter 3 to an appropriately qualified person.
- 43 The Board submits consideration should be given by the Committee to assigning a definition to 'appropriately qualified' under section 107 of the Bill to assist reporting entities in their obligations under the Bill and in ultimately ensuring the overall successful implementation of Queensland's child safe organisations model.

## **Conclusion**

- 44 Thank you for considering the Board's submission.
- 45 If you have any questions or wish to discuss this submission further, please contact Carl Smith, Manager, Non-State Schools Accreditation Board Secretariat by email: [REDACTED] or phone [REDACTED].

Yours sincerely

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**Patrea Walton PSM**  
Chairperson