

Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025

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Justice, Integrity and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

Via online submission

Dear Committee Chair

The Office of the Public Guardian (OPG) welcomes the opportunity to make a submission to the Justice, Integrity and Community Safety Committee inquiry into Community Protection and Public Child Sex Offender Register (Daniel's Law) Bill 2025. The views expressed in this submission by the Public Guardian do not necessarily reflect the views of the Queensland Government.

OPG supports the Queensland Government's commitment to protecting children from sexual abuse and prioritising the rights of victims and parents in disclosure decisions. However, OPG is concerned that the public disclosure regime may unintentionally, negatively impact adult offenders with impaired decision-making capacity.

Striking the right balance between community safety, the protection of children, and the rights of adults with impaired decision-making capacity within the criminal justice system is undeniably challenging. OPG respectfully puts forward the recommendations outlined in this submission with the aim of achieving this balance by addressing the fundamental need to safeguard Queensland children while also upholding the rights and dignity of adults with impaired decision-making capacity.

About us

OPG is an independent statutory office established under the *Public Guardian Act 2014 (Qld)*. The Public Guardian's role is to protect the rights and interests of adults with impaired decision-making capacity and children in out of home care and children staying at visitable sites.



Adults with impaired decision-making capacity

OPG's role is to promote and protect the rights and interests of adults with impaired decision-making capacity when the Public Guardian is appointed to provide decision-making services. Adults with impaired decision-making capacity have a range of support needs and are not a homogenous group; they have a diverse range of conditions that impact their ability to make decisions in certain situations, such as acquired brain injury, intellectual disability, and dementia. An adult's capacity can vary in different circumstances, at different times and with the complexity of the decision.

Guardianship

The Public Guardian can be appointed by the Queensland Civil and Administrative Tribunal (QCAT) as a guardian for an adult with impaired decision-making capacity for personal matters, where there is no other appropriate person available. Personal matters include legal matters (not relating to the adult's financial and property matters), and matters relating to where an adult lives, with whom an adult lives, services provided to an adult, the adult's health and who the adult has contact with.

The Public Guardian is the appointed guardian for approximately 15 percent of adults subject to the *Dangerous Prisoner (Sexual Offences) Act 2003 (DPSOA)*, and at present, seven adults facing trial for child sex offences, as well as sex offenders subject to *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (CPOROPA)*. OPG's role is to ensure that the offender's rights and interests are safeguarded.

In these cases, OPG provides decision-making services in relation to the matters for which it has been appointed.

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Public disclosure on the child offenders register must be targeted and risk based to achieve the government's policy of protecting and safeguarding children in Queensland. Australian research indicates that the sexual recidivism rate for offenders under the *DPSOA* is 7.69%.ⁱ

The inclusion of offenders whose risk of reoffending is low or has decreased over time dilutes the effectiveness of the register as a child protection measure, as those who present the greatest risk may become obscured within the statistics. This is particularly important for offenders with impaired decision-making capacity, who face unique challenges in rehabilitation and reintegration. Disclosing the identities of low-risk offenders with cognitive impairments, could lead to the withdrawal of critical support services, increased social isolation, and destabilisation, factors that may inadvertently heighten the risk of reoffending. Within a locality (Tier 2), the release of information about low-risk offenders may also create unnecessary community fear and undermine the register's purpose. It is important that the register is targeted at high-risk offenders to ensure it is a meaningful and useful tool for community safety.

ⁱ Rowlands, M.T. Palk G and Young R, (2021) Recidivism rates of sex offenders managed under the Dangerous Prisoners (sexual Offenders) Act 2003: an evaluation of actuarial justice. *Psychiatry, Psychology and Law* 28(2) 310



A consolidated table of recommendations is included at the end of this submission for ease of reference.

Replication Part 4, Division of the CPOROPOA

OPG recommends the consideration of replicating Part 4, Division 10 of the *CPOROPOA* in respect of public disclosure for the following reasons:

1. Part 4, Division 10 provides a framework for suspending reporting obligations for offenders who pose no risk to the lives or sexual safety of children. Applying this framework to public disclosure would ensure that only high-risk offenders are subject to public identification, maintaining the register's focus on protecting children while avoiding unnecessary harm to low-risk individuals.
2. The provisions in Part 4, Division 10 recognise the unique vulnerabilities of offenders with cognitive impairments, or mental illnesses. Replicating these provisions for public disclosure would ensure that decisions account for the potential harm to these individuals, including the risk of destabilisation, social isolation, and reduced access to support services.
3. Part 4, Division 10 embodies the principle of proportionality by tailoring obligations to the offender's risk level. Extending this principle to public disclosure would ensure that measures are proportionate to the actual risk posed by the offender, avoiding punitive outcomes for those who pose little or no threat to the community.
4. A targeted, risk-based approach to public disclosure would reduce unnecessary community fear and ensure that the register remains a credible and effective tool for child protection. By focusing on high-risk offenders, the register can better serve its purpose without creating unintended consequences for low-risk individuals or the broader community.

If this recommendation is not accepted, the Public Guardian makes the following specific recommendations to achieve the same outcome:

- **Clause 74AE:** Expand the clause to include adults with cognitive impairments that commit a non-sexual contact offence and adults with an intellectual disability with an IQ equivalent to that of a child under 10 years.
- **Clause 74AH:** Requirement to consider the impact of disclosure on offenders with a cognitive impairment when considering whether to publish, or remove, the personal details of a reportable offender under section 74AF (Tier 1) and to provide a photograph of a reportable offender under section 74AG (Tier 2)
- **New notification clause:** When considering publishing an offender under 74AF who has a guardian appointed, the guardian is notified and has an opportunity to provide information to assist in the Commissioner's decision-making process regarding publication.

Non-contact sexual offences

Schedule 1 of the *CPOROPOA* captures both contact and non-contact offences, including possession of child exploitation material (CEM). While very serious, the evidence demonstrates that CEM-only offenders present a different risk profile from contact or dual offenders. Evidence presented to the Joint Committee



on Law Enforcement into law enforcement capabilities in relation to child exploitationⁱⁱ submitted that up to three per cent of CEM offenders subsequently committed a contact sexual offence, and between 1.6 and seven per cent committed a further CEM offence resulting in criminal justice action. This is broadly consistent with researchⁱⁱⁱ that indicates that 1% of those charged with CEM offences are later charged with contact offences. Together, these statistics indicate that most detected CEM offenders are not later detected for contact sexual offences.

Additionally, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, in its Volume 8 report^{iv}, emphasised the need to recognise that some harmful behaviours may be linked to an underlying disability.

Public disclosure of such individuals, risks exacerbating their vulnerabilities, leading to social ostracism, harassment, and even vigilantism. This stigma may also result in the withdrawal of essential services, such as housing and disability supports, further isolating these individuals and increasing their risk of reoffending.

OPG respectfully submits that the Bill should confine disclosure to contact offences and high-risk dual offending. Non-contact offending should remain within the existing CPOROPOA reporting and supervision framework, which already enables risk escalation where evidence emerges. This approach aligns disclosure with the scheme's protective purpose, preserves proportionality, and ensures that the register provides information that is directly relevant to safeguarding children.

Intellectual age

The Public Guardian recommends that adults with an intellectual disability, with an IQ equivalent to a child under 10 years old (the age of criminal responsibility), be excluded from publication on the public register. Adults with impaired decision-making capacity often lack the capacity to fully understand the nature and consequences of their actions, and their inclusion on the register risks further marginalising an already vulnerable group.

Case Study: *Attorney-General for the State of Queensland v Thaiday [2021] QSC 227*

The case of Aloysius John Thaiday illustrates the complexities of managing offenders with significant intellectual disabilities. Thaiday, a 44-year-old Aboriginal and Torres Strait Islander man with an IQ of 61 (equivalent to the intellectual age of a 9-year-old child), has a history of sexual offences committed while intoxicated. Expert psychiatric assessments concluded that his cognitive impairments, combined with chronic alcohol dependence, significantly elevated his risk of reoffending. However, under a strict supervision order, including tailored disability supports through the National Disability Insurance Scheme (NDIS), his risk could be reduced to low.

The above case highlights the importance of tailored interventions to reduce risk of re-offending. Placing individuals like Thaiday on a public register could also expose them to stigma, harassment, and barriers to

ⁱⁱ [Submissions – Parliament of Australia](#) (submission 37)

ⁱⁱⁱ Dowling C, Boxall H, Pooley K, Long C & Franks C 2021. Patterns and predictors of reoffending among child sexual offenders: A rapid evidence assessment. *Trends & issues in crime and criminal justice* no. 632. Canberra: Australian Institute of Criminology. <https://doi.org/10.52922/ti78306>

^{iv} [Final Report - Volume 8, Criminal justice and people with disability | Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#) (part 1.4)



accessing essential services. Instead, structured supervision and disability-specific supports may be more effective in reducing their risk of reoffending and ensuring community safety.

Expanding clause 74AE to exclude individuals convicted of non-contact sexual offences and those with an intellectual age equivalent to a child under 10 years old would ensure a more targeted and effective use of the child sex offender register. This approach prioritises public safety by focusing on high-risk contact offenders while recognising the vulnerabilities of individuals with cognitive impairments. It also aligns with the recommendations of the Disability Royal Commission and promotes a justice system that is fair, rehabilitative and responsive to the needs of all members of the community.

Discretion to disclose, provide or publish information

Consideration of impact on offenders

Clause 74AH provides that the Commissioner may have regard to certain matters when considering whether to publish, or remove, the personal details of a reportable offender under clause 74AF (Tier 1) and to provide a photograph of a reportable offender under clause 74AG (Tier 2). The Public Guardian recommends that the Commissioner should also have regard to the heightened vulnerability of offenders with impaired decision-making capacity particularly the significant challenges they face in securing stable and supportive housing, accessing essential disability services, and maintaining community integration.

Public disclosure of personal details may lead to the loss of existing housing or services, leaving offenders with cognitive impairments unable to secure the support they need. This lack of stability and access to services may significantly increase the risk of reoffending, particularly for individuals who rely on structured environments and specialised positive behaviour support. By considering these factors, the Commissioner can ensure that disclosure decisions appropriately balance public safety with the need to reduce reoffending and support the reintegration of vulnerable individuals.

Notification requirement

The Public Guardian recommends a new clause requiring the Commissioner to notify OPG when considering the disclosure of a reportable offender's identity under Tier 1, where the offender has impaired decision-making capacity, and the offender is subject to an order appointing the Public Guardian. Offenders with impaired decision-making capacity may face significant challenges in meeting reporting obligations or complying with supervision orders. For example, they may be reliant on a service provider to support them to travel to or remember their reporting obligations. Therefore, if they do not meet those obligations, it may not be wilful non-compliance, but rather due to factors over which they have no control. Without notification to OPG, there is a material risk that disclosure could be triggered inappropriately, contrary to the protective purpose of the scheme.



Recommendations

Recommendation 1A

The replication of Part 4, Division 10 of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* in respect of public disclosure.

Recommendation 1B

- If recommendation 1A is not accepted, the Public Guardian makes the following specific recommendations to achieve the same outcome:

- Expand Clause 74AE to include adults who have a guardian appointed that commit a non-sexual contact offence and adults with an intellectual disability with an IQ equivalent to that of a child under 10 years.

- Clause 74AH include a requirement to consider the impact of disclosure on offenders with impaired decision-making capacity when considering whether to publish, or remove, the personal details of a reportable offender under section 74AF (Tier 1) and to provide a photograph of a reportable offender under section 74AG (Tier 2).

- Insert a new notification clause to 74AF to notify a QCAT appointed guardian when considering publishing an offender with impaired decision-making ability.

Recommendation 2

Applications made under clause 74AI to provide for notification to the Public Guardian where the matter concerns an adult for whom the Public Guardian is appointed.

I trust this information is of assistance. Should you require further information, please contact Ms Kelly Eamens, Principal Policy Officer, OPG, by email at [REDACTED] or on [REDACTED]
[REDACTED]

Yours sincerely

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Acting Public Guardian

