JUSTICE, INTEGRITY AND COMMUNITY SAFETY COMMITTEE

Members present:
Mr MA Hunt MP—Chair
Mr MC Berkman MP
Mr RD Field MP
Ms ND Marr MP (via videoconference)
Mrs MF McMahon MP
Mr PS Russo MP

Staff present:
Ms F Denny—Committee Secretary
Ms K Longworth—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE PENALTIES AND SENTENCES (SEXUAL OFFENCES) AND OTHER LEGISLATION AMENDMENT BILL 2025

TRANSCRIPT OF PROCEEDINGS

Wednesday, 18 June 2025

Brisbane

WEDNESDAY, 18 JUNE 2025

The committee met at 9.15 am.

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025. My name is Marty Hunt. I am the member for Nicklin and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today. With me here today are: Peter Russo MP, the deputy chair and member for Toohey; Russell Field MP, the member for Capalaba; Melissa McMahon MP, the member for Macalister; Michael Berkman MP, the member for Maiwar; and joining us via videoconference is Natalie Marr MP, the member for Thuringowa.

This hearing 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 hearing at the discretion of the committee.

These proceedings are being recorded. A transcript will be published in due course. 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 remember to press your microphones on before you start speaking and off when you are finished and please turn your mobile phones off or to silent mode.

BURGIN, Dr Rachael, Chief Executive Officer, Rape and Sexual Assault Research and Advocacy (via videoconference)

HILLS-VINK, Ms Katherine, Management Committee Member, Queensland Sexual Assault Network

LYNCH, Ms Angela, Executive Officer, Queensland Sexual Assault Network

CHAIR: Good morning. I invite you to make an opening statement before we proceed to questions.

Ms Lynch: The Queensland Sexual Assault Network is the peak body for sexual violence prevention and support organisations in Queensland. We have 20 members, including specialist services for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women with intellectual disability, young women, men and children. Our memberships are located throughout Queensland, including in rural and regional locations. Thank you for providing us with the opportunity to speak today.

We support the changes proposed by the Queensland Sentencing Advisory Council in relation to sentencing purposes being expanded to include recognition of harm; a new statutory aggravating factor; and that an absence of details of harm in victim impact statements should not give rise to an inference of no harm. We do not, however, agree with the use of good character references in the sentencing of any sexual violence matters including, as proposed, limitations around their use in respect of rehabilitation and risk of reoffending. We seek an amendment to restrict their use altogether.

As noted in the QSAC report, sexual violence is widespread, committed mainly by men of all backgrounds, ethnicities and financial status. Research by the University of New South Wales referred to in the report found that men who had sexual attraction to children and offended against children were more likely to be well connected, wealthier and have more social supports than those who do not report that same attraction to children or offending against children. As was also noted in the QSAC report, victims often described their offenders as well-respected, high-esteem offenders who had confidence in those around them. The continued use of character references in these instances is particularly affronting to those survivors and, indeed, rewards this offending behaviour.

The use of good character evidence is highly traumatic and offensive to victim-survivors. It demeans, dismisses and minimises their experience of sexual violence. That has lifelong impacts. QSAC expressed concern in its own report that the use of good character evidence that contained subjective, non-professional opinion of an offender's personal traits was problematic but, in our opinion, illogically recommended that the same character references—which are subjective, non-professional opinions—were appropriate in relation to rehabilitation and risk of reoffending. There is better and more informed evidence a court can rely on to obtain this evidence than from the uninformed opinions of family and friends of convicted offenders.

The use of good character evidence, which includes the personal opinions of friends and family, to help determine future risk of convicted rapists and sexual offenders undermines community safety. Their continued use also undermines the community's perceptions of justice, as those who are providing the character references may well have been groomed by the perpetrator in the same way that the perpetrator has groomed other members of the community and the victim to hide their offending.

We wholly reject the arguments by the Queensland Law Society that not using character references will impact on judicial discretion in sentencing. The court can still rely on the particular nature of the offending itself, the trial information, any expert reports that have been utilised, the intentionality of the crime, the criminal record of the offender, other factual information and the submissions of the defence counsel.

QSAN holds grave concerns that this legislation provides false hope to victim-survivors and that the proposed limitations will not change anything in practice. The same references that are used today will continue to be used after this legislative change, only now they will be handed up to the court with the proviso that they relate to risks of reoffending and rehabilitation. Thank you.

CHAIR: On behalf of the committee, I thank you very much for appearing today and for the very important work that you do. I appreciate that your submission focuses on the Penalties and Sentences Act response in relation to the QSAC recommendations so we will focus on those. Can you outline why it is important to include recognition of harm done by an offender to a victim as a sentencing purpose? Do you believe that including recognition of harm caused to a victim by an offender as a sentencing purpose will have a positive impact on victims' experiences of the sentencing process?

Ms Lynch: Yes, I think it does. The whole reason that investigation was done by QSAC was around the issue of how victim-survivors felt about the sentencing process. Many of them felt really disconnected from it. Often the focus of the sentencing process itself can be on safety, but often that is community safety and it does not take into account the particular harm that has been done to the individual. Obviously different judges can take a different approach, but by putting this into the legislation it really directs the court and gets consistency across the state in relation to taking victim harm into account.

Mr RUSSO: In your submission you speak about the experience of your member organisations regarding the use of good character references in sentencing. Could you expand for the committee on your experience from the evidence you have gathered, please?

Ms Hills-Vink: My day-to-day role is also at the Domestic Violence Action Centre, leading our specialist sexual violence services. It is a member of the Queensland Sexual Assault Network. The use of good character references is a disincentive and creates a lot of fear in victim-survivors in respect of decision-making around reporting, particularly if their offender is well known in the community, holds a position of power or influence, holds a role where they are well respected, enjoys significant family support or has access to resources that the victim-survivor does not. It can be incredibly intimidating to go up against an offender who is not only well resourced and well legally represented but also has a cast of people to provide good character references, particularly when a victim-survivor has had to prove themselves to the police, then to prosecutions and then to the court itself. It is incredibly intimidating and it replicates the patterns of coercion and grooming that sexual violence survivors experience. It also reflects the power that a perpetrator of sexual violence holds, not only over the community in general but also over people to influence the reports or statements they may provide to the court.

Mr FIELD: Do you agree that restricting character evidence in relation to all sexual offences, as proposed in this bill, represents a significant step for the victims of these offences, particularly given there is no other jurisdiction that has limited use of character evidence for sexual offences?

Ms Lynch: We do not agree that it is a significant step. We agree that it is somewhat of a step. As we said, we have grave concerns that nothing will change. Good character references being used at the moment and that traumatise victims relate to rehabilitation and risk of reoffending. That is what

they are used for already, so we are really just putting into legislation what is already existing practice. Our concern is that nothing will change. They will just be handed up by defence counsel who will say, 'These relate to risk of reoffending and rehabilitation.' That is our concern.

Mr BERKMAN: It looks like we have Dr Burgin online now. I will use my question to throw to her to see if she wants to add anything from RSARA's perspective.

Dr Burgin: Thank you. I appreciate that, particularly because I will speak on the same topic today. I have not had the benefit of hearing the opening statement from QSAN, but I have read QSAN's submissions on the matter so I think I will be able to speak to some of the perspectives there. RSARA is an independent not-for-profit charitable organisation that holds the evidence base for survivor-centric justice reform. We advocate for best practice in justice and legal responses to sexual assault and rape.

The bill that we are discussing today has been said to qualify the treatment of character evidence. To do this, it legislates that good character is only relevant to the prospects of a convicted rapist's rehabilitation or risk of offending. As Angela just noted, both of those things reflect the way good character evidence is already used and would pose no substantial difference to the practice. RSARA strongly holds that such evidence has no relevance in sentencing of any sexual offence against adults or children. For the record, we have argued elsewhere that alleged good character also bears no relevance in any family violence matter.

Supposed good character has no relevance to the prospect of rehabilitation or risk of reoffending. The same consideration called upon as evidence of good character failed to prevent the offending in the first place. Instead, rape and sexual assault is excused. To use a recent Queensland case as an example, in 2020 an appeals court dismissed an appeal against a sentence for manifest inadequacy for one count of rape and two counts of indecent treatment of a child because of the offender's supposed good character. Despite raping an eight-year-old, the court stated that 'the respondent did not use violence or threats to compel the child to participate' and that he was a respected member of his community. The court held that the offending was opportunistic. Given that the offender's job, his wife, his own children and, of course, the respect of his community did not stop him from raping a child, I suppose we should just hope opportunity does not strike again.

The use of such good character evidence is also paradoxical. Offenders argue that it was out of character but then rely on their good character to mitigate sentence. In another Queensland case from 2024, an Uber driver who sexual assaulted a passenger during the course of his employment was able to rely on his good work ethic as relevant to his character.

The reality is that sexual violence perpetrators use their ability to shift blame and use their ability to hide in plain sight. They know that survivors are not believed and are not heard. The criminal trial has been identified as a site of what is called 'the second rape'. To go that far into a criminal justice process and to then hear about how the community still support your rapist is cruel. That cruelty is amplified by the complete irrelevance of that information in determining any prospect of rehabilitation or risk of reoffending, both of which are supported by a robust evidence base beyond the subjective opinion of a non-expert.

Rape and sexual assault are never acceptable. Good character evidence suggests that committing these offences is more acceptable where an offender can establish unrelated, supposedly redeeming qualities that failed to prevent the offending in the first place. We argue for the elimination of all evidence of good character. Instead, sentencing should be based on relevant, applicable evidence. Thank you.

CHAIR: Thanks, Dr Burgin. First of all, my apologies due to the technical difficulties. I should have recognised that you were from another organisation and invited you to make an opening statement. I thank the member to my left for doing so and invite him to ask a question now.

Mr BERKMAN: If I was to ask for further perspective from either organisation, it would be around the way that this evidence will be alternatively applied and the prospects of rehabilitation and reoffending. We will obviously want to put this to QLS to get their perspective on it, too, but are you able to speak directly to the alternative position they have put in any more detail than what you have said already?

Ms Lynch: I think their alternative position is that they do not want any change, that everything is working really well and that it impacts on the discretion of the court. We have wholly rejected that it impacts on the discretion of the court. The court has a range of information before it which, as we said in our opening statement, does not impact on their discretion at all. It really is quite unbelievable. The issue is that, in relation to rehabilitation and risk of reoffending of convicted rapists and sexual offenders, we are going to listen to the uninformed personal opinion of the friends and family of the

convicted rapist and sexual offender—it is actually quite unbelievable—and that it has an impact. We know from the QSAC report that it is used in 90 per cent of cases and it has a substantive impact on sentencing and mitigation in a quarter of those cases.

The risk of reoffending and rehabilitation of convicted sex offenders is for experts. The court can get an expert opinion. It is not for the uninformed, biased, subjective opinion of family and friends of the convicted rapist. It is actually quite unbelievable that we are even discussing this and that it is actually allowed. You can imagine a victim-survivor in court, having gone through the entire process where they have had to prove everything to the highest standard possible—under two per cent of matters of sexual violence are ever convicted; they have gone against all the odds—and then easily the defence can just hand up this information that has such an influence over the sentencing outcome. No wonder they are distressed and traumatised by that process when they see that occur. As my colleague has also advised, they are concerned even taking the matter through the court process because they know that the offender will be able to rally support and the community will support them—has supported them and continues to support them, even after they are convicted.

Mr BERKMAN: That is very helpful. Thank you.

CHAIR: Members, recognising that we have gone six minutes over, I propose to do that for each witness, considering the late start and the large break we have between this hearing and the briefing from the department. With that in mind, we have run out of time for your submission, but thank you so much for coming along today. We very much appreciate your input.

O'CONNOR, Ms Beck, Victims' Commissioner (via videoconference)

CHAIR: Good morning, Commissioner. I invite you make an opening statement before we go to questions.

Ms O'Connor: Thank you, Chair and members of the committee. I begin by acknowledging the traditional owners of the land from which I join you today, the Kaurareg people of Waibene, which is in the Torres Strait, and I pay my respect to their elders past and present. I also recognise all victim-survivors, those we have lost and their families and loved ones.

I wish to start my address today sharing the voices of two brave victim-survivors. The first belongs to a man who suffered permanent nerve damage after a violent assault. He watched in court as his attacker was described as a loving father and dependable worker. He later said, 'He kicked me so hard I could not walk for months, but in court it felt like I was the problem, like I was the one ruining this good bloke's future.' The second voice belongs to a woman who watched a man who terrorised her for years be defended in court as 'a great dad who never missed a school pick-up'. She told me, 'He might have picked them up, but they also saw him throw me against a wall. His parenting moments were used to excuse his violence, like being functional in public cancelled out what he did at home.'

I could have spent these entire four minutes sharing the voices of victims, each echoing the same sentiment—how deeply distressing it is to see courts accepting glowing yet unverified and subjective character references about the person who caused them harm.

Today I acknowledge the work of my colleagues on the Queensland Sentencing Advisory Council, whose expertise I greatly respect. However, while the council recommended good character evidence be considered only where it is relevant to rehabilitation or risk of reoffending, in my independent role as Victims' Commissioner I believe we must go further. That is why I recommend amending section 9 of the Penalties and Sentences Act 1992 so a sentencing court is prohibitive of any good character evidence as a mitigating factor in any circumstance. Quite simply, if a person has been found guilty of a violent crime, their neighbour's or boss's opinion of them should have nothing to do with their sentence. The harm has already been done. This is not about a fact of guilt—that part has been settled; this is about what happens next. It is about accountability; it is about consequences, and no-one's violence should be downplayed just because their mum says they are a good bloke.

We already know in domestic and family violence that offenders use good character as a facade to hide behind. In public they are the great bloke who is coaching the local sports team and joining in the banter at work, yet behind closed doors they control, isolate and harm the people closest to them. That is coercive control. When courts accept good character reference in these cases, it reinforces the offender's manipulation and minimises the truth. It sends survivors a clear, harmful message: 'your abuser is still more believable than you are'. We already have trained professionals to assess someone's potential to rehabilitate. We do not need glowing letters from mates or co-workers trying to sway a judge. That is not evidence; that is opinion, and it has no place in serious sentencing decisions. Victims have clearly told us that allowing reputation to lessen accountability is not justice.

To be most effective, this reform must be part of a broader package. We need a consistent definition of 'victim', proper support to prepare victim impact statements, and full implementation of the QSAC and Women's Safety and Justice Taskforce recommendations. Victim-survivors were consulted in good faith for these reviews and they deserve to see that consultation turn into action. This bill is a start, but with courage it can go further, and I urge the committee to help make that happen. Thank you.

CHAIR: Thank you, Commissioner. I will start with members who missed out last time. Member for Thuringowa?

Ms MARR: Thank you, Commissioner, for your comments. I am sorry I cannot be there, everybody. Focusing on the victims—that is your main role—can I ask for your view on what role victims should have in the sentencing process?

Ms O'Connor: Currently, a significant role that victim-survivors can play is to provide a victim impact statement so that they can express to the court the harm and impact of that crime and that violence on their lives and often what that will mean in a lifelong capacity—their ability to work, to participate, to form relationships, to recover and to heal from their experience of harm. What is really tricky about that being a primary way they can participate is that there are often many barriers for that to occur, and that is around the time they have—notice periods—to develop one and inconsistent access to people, agencies or processes that can support them to develop one. They are also heavily modified in terms of what they can present as part of a victim impact statement. Obviously it is reviewed

by a number of other processes to make sure that what is presented to the court is within a narrow frame of what they can provide. It is the most critical way they can impress their views within a sentencing process.

Mrs McMAHON: Thank you very much, Commissioner. We were talking briefly about the victim impact statement. I am interested in the difference between what a victim impact statement can contain and how it is limited in some respects as opposed to the good character evidence that we see being introduced and the fact that there are no limitations on what goes in good character evidence. Can you comment on those two different processes, where victims are limited in what they can express whereas a defendant who has been found guilty can rely on a range of unverified evidence?

Ms O'Connor: To the best of my knowledge, there are only specific things that a victim impact statement can contain in terms of the way that has impacted them—their feelings and emotions about that. It cannot necessarily talk about introducing any other factors that may have been introduced within a trial or could have been introduced within a trial. It has to be very much around their needs as an individual and it does not provide the opportunity to bring in any kind of other supporting artefacts, documents or statements from others. Again, it has quite significant oversight in terms of what they can and cannot say. For some this is quite a minimising, harmful and retraumatising process, to feel as though they are gagged in being able to authentically talk about what they need and what their experiences are, whereas, to my knowledge, there are no such limitations on information that can be provided to a court within a character reference.

CHAIR: On victim impact statements, I note that the government is reviewing that scheme. That falls outside the scope of this particular bill, but there are improvements on the way, I would suggest. I understand that victims have told QSAC that they were worried that if they did not provide a victim impact statement the court would not consider the harm caused to them in deciding a sentence. How will the changes to section 179K of the Penalties and Sentences Act as proposed by the bill respond to those concerns?

Ms O'Connor: It is incredibly important that the court does not infer by someone's choice—a victim impact statement is a right, but it is also a choice. It can be very cathartic and important to be able to express what they need to within a victim impact statement, but it can also be someone's choice to not do that. It is really important, given that it is such a principal opportunity and the only opportunity to participate in sentencing considerations, that it is not inferred by a court that there not be any harm or that the harm is minimised or that there is not extraordinary impact for a victim-survivor if they make the choice in their own best interests not to provide a victim impact statement.

Mr RUSSO: Chair, this might be a little bit outside the remit of the bill, but I am relying on the fact that there has been reference made to character reference but also to victim impact statements. One seems to be more regulated than the other. I do not disagree with that statement. Are victim impact statements restricted by any former legislation?

Ms O'Connor: I am sorry. I do not actually have that to hand.

CHAIR: Member, that is probably stretching outside the scope of the bill. We have had some commentary around it.

Mr RUSSO: It is been referred to.

CHAIR: If you have other comments to make on that, Commissioner, I am happy for you to make them, recognising that you do not have that information.

Ms O'Connor: I do not have the legislation in front of me, so I am happy to take that on notice.

CHAIR: It is still outside the scope of the bill. I do not know if that question is in order, member. I did allow some latitude in relation to commentary around victim impact statements, but that is currently under review by the Attorney-General as well. It is outside the scope of the bill that we are referring to at the present time. I would rule that question out of order.

Mr FIELD: Do you think it is important for the courts to recognise harm caused to the victim of any offence, not just a sexual offence as proposed in the bill?

Ms O'Connor: That question is really important in that I think we are only focusing on one type of harm. It is really inequitable in terms of the way we would consider harm caused in other circumstances. Let me give you an example. I think it is one that I referred to within my submission. While it is critically important to consider harm in terms of rape and sexual violence offences, for there to not have an ability to rely on good character references or look at harm, for instance, in that context

but when someone is tortured or somebody is assaulted in a serious way to then say, 'Actually we have a different set of rules for that,' I think is completely inappropriate, and it is not something that I would be supporting. I think we need to consider harm in an equitable way across all crimes against the person.

Mrs McMAHON: Just going back to the victim impact statement and the amendment in the bill in relation to the absence of victim impact statements, in your opinion is there sufficient support for victims going through the court process in the preparation of victim impact statements? Are issues and factors such as diversity and trauma informed principles being adequately met and dealt with under the current arrangements and current funding arrangements?

Ms O'Connor: There are absolutely services and processes to support people to develop and provide a victim impact statement, but they are not always consistent. There are huge delays to those services in terms of significant waitlists. People being able to access those in a timely way, particularly when there may be very short windows of opportunity to develop and provide those victim impact statements to the court, is a real experience.

There are multiple places that people could access that support. There are NGOs that are funded to provide that support. There is support through the DPP. I have received feedback from people who have contacted my office and whom I have spoken to, particularly those who may need additional support, whether there are cognitive concerns or where there are language barriers and cultural barriers. I think there is absolutely an opportunity to improve those processes and for each of the main criminal justice agencies to improve resources and information that is accessible and to provide equitable information and access to people about these processes.

CHAIR: In general, accepting that you essentially give evidence that these proposals do not go far enough, would you say that this is a good first step in relation to recognising the rights of victims in this process?

Ms O'Connor: I absolutely commend the government for taking these first steps towards implementing critical recommendations from the QSAC report. They are important steps towards prioritising the rights and needs of victims. This bill provides an opportunity for more fulsome and meaningful change, though—change that victim-survivors in Queensland have been seeking for decades. I believe, as you point out, that some of the amendments of the bill do not go far enough, particularly surrounding the proposed provisions for good character reference, as I have pointed out.

I think the government should urgently progress the implementation of other recommendations. I pointed out some in my submission. I think there is an opportunity for there to be appropriate and trauma informed language to be used in courtrooms and in the documentation and resources, as I have just discussed; to provide judicial professional development for victim impact statements; to provide support to engage in victim impact statements; and to ensure we build on legislation that improves victim-survivors' participation within the process. Yes, I think it is an absolutely commendable first start, but I think there is an opportunity for us to go some ways further.

CHAIR: In recognising there are further recommendations and the Attorney-General's comments that there are further reforms to come, this is a response to the legislative recommendations in the report.

Mr BERKMAN: Your submission suggests that we should seek further clarification from the department around the policy justification for distinguishing between different types of sexual offending. Can you elaborate on that point for us and guide the committee in how we might approach this with the department later today?

Ms O'Connor: In particular, I note that the proposed amendments require a court to treat a child's age as an aggravating factor when sentencing an offender for rape or sexual violence committed against a child aged 16 or 17. However, the vulnerability of older child victims and the enduring harm they will face across their lifespan because of sexual offending committed against them is not confined to offences of rape and sexual assault. It is not even confined to sexual offences involved in physical contact. In this instance, I think we must recognise harm experienced by child victims aged 16 and 17. That is why I have recommended that the committee consider other sexual offences primarily within that context and that they should also be subject to the proposed aggravating factor.

I have also provided in here that they also should not be limited to the abuse of persons with impairment of the mind, distributing intimate images, observations or recordings in breach of privacy, or threats to distribute intimate image or prohibited visual recording. Once again, this is just an indicator of how this is an important first start to implement but that there are opportunities for this to go further, in a more meaningful way. I was consulted and asked for feedback on this by the Department of Justice. I would be very willing to provide them further support in terms of extending the bill.

CHAIR: Thanks, Commissioner. The time has expired. I appreciate your appearance today and comments around the other recommendations in the QSAC report. Obviously, the government has indicated that those recommendations are being considered in a staged way. Thank you for your input. We appreciate it very much.

LEES, Mr Andrew, Assistant Director, People and Culture, Archdiocese of Brisbane

O'BRIEN, Mr James, Safeguarding Adviser, Archdiocese of Brisbane

REDMOND, Mr Will, Manager, Policy and Submissions, Archdiocese of Brisbane

CHAIR: Thank you for your appearance today. I invite you to make an opening statement to the committee.

Mr Redmond: It is Monday afternoon. Mark, a bus driver for children with disabilities, is pulled over for a random breath test. He registers .105, mid-range drink driving. Police impose an immediate 24-hour licence suspension because mid-range drink driving is not listed in schedule 2 to schedule 5 of the working with children act. Blue Card Services do not send an alert. On Tuesday he calls in sick, so his employer remains in the dark. By Wednesday he is back behind the wheel of a 12-seater bus full of wheelchair-bound primary students and no-one knows a thing. This is the gap we are asking you to help close.

My name is Will Redmond. I am the Policy and Submissions Manager for the Archdiocese of Brisbane. I am joined by Andrew Lees, Assistant Director of People and Culture, and Jim O'Brien, our Safeguarding Adviser. Together we represent one of Queensland's largest child related service providers—6,500 staff, more than 15,000 volunteers, 146 schools and 133 early learning centres. In total, we serve over 108,000 students across 290 sites, 70 state electorates and 14 local government areas.

We support the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill and the restoration of the chief executive suspension powers, yet the blue card program continues to have a systemic blind spot that leaves children exposed whenever a serious but non-scheduled charge is laid. Police data shows that hundreds of mid-range drink-driving charges are recorded every month. Some of these are issued to blue card holders. This scenario highlights a very real and troubling gap in the existing framework and goes beyond just drink driving. Charges such as common assault, assault causing bodily harm, stalking or drug offences do not trigger automatic notifications, even though they are directly related to child safety.

The UK Home Office performance data shows that continuous monitoring reduces notification lags from weeks to hours, enabling employees to act on the same day. Duty of care begins where children spend their days—with us. Parents assume that a blue card means safety. That is why we are proposing real-time compliance monitoring based on successful international models like the UK DBS Update Service and the US FBI Rap Back program. These models enable employees to receive immediate notifications of charges outside of the current schedule, enabling swift protective action.

We are not suggesting sweeping legislative reform; rather, we request that this committee recommends that the government initiate a targeted, practical review of continuous compliance monitoring. This review should examine feasibility, privacy safeguards, secured data sharing and a sustainable cost model. The ethical principle is clear: duty of care belongs where a child is, and employees cannot remain in the dark.

Continuous monitoring would close the information loop and allow a zero-day response to employee charges. Queensland can and should leave Australia in child-safeguarding initiatives. Real-time monitoring is not aspirational; it is an urgent necessity. The Archdiocese of Brisbane is ready to assist as required. We request that this committee recommend the review. Every day of delay leaves children exposed. Thank you and we welcome any questions.

CHAIR: Thank you for appearing today. Recognising the enormous number of volunteers that you manage throughout Queensland, your experience with the blue card system and the bill before us, you are seeking amendments to ensure that organisations are notified of disqualifying offences and relevant offences. You gave the example of a bus driver drink driving and I would like to draw that out. If a young woman who works in a childcare centre got a minor drink-driving charge of .05, for example—not every offence is applicable to every child related job. My question is: do you believe that every charge should be notified to an organisation, or do you believe that there should be a balance with privacy for a minor offence that perhaps does not affect their employment? Could you expand on what you believe is appropriate in those circumstances?

Mr Lees: I would agree that there needs to be a balance. What we are looking for with this submission is an opportunity to risk-manage certain situations that come into the workplace. People absolutely have a right to privacy on many levels with a lot of offences and charges, but I think a

balance needs to be struck as to certain serious offences, whether that be assault or drink driving, that then lend themselves to an interaction with employment that leads to a risk and allowing the employer to manage that risk in a way that, while a charge or offence is run through the courts or goes through the process, allows us to put some preventive measures in place to add an extra layer of protection.

CHAIR: Are you proposing that the employer be allowed to make those decisions and, if it is not a disqualifying offence for a blue card, you should still be notified so you can risk-manage it? Is that what you are proposing?

Mr Lees: Yes. I think we need some level of notification. At the moment we are not notified for certain things so we do not have the ability to risk-manage certain situations. If the blue card system adopted a real-time monitoring position where some of those particular offences were known to the employer then we would have the ability to self-manage those particular risks to add an extra layer of protection.

Mr Redmond: If I could jump in here and provide some international context. In the UK system you get a certificate to say that you are clear. There is a database, and the HR department would receive an alert to say, 'This person no longer has the certificate because they have a charge of some sort.' They do not find out what that charge is, but it allows them to have that conversation with the employer to say, 'Is this going to affect their employment? Is it something that is a risk to the children we are looking after, or is it something that has nothing to do with their employment and all is okay?' At the moment we are blind. It is actually about some sort of visibility.

Mrs McMAHON: There have been a number of reviews into blue cards over the years. I assume the archdiocese has made submissions in relation to a lot of the holistic reform of the blue card system which would include more real-time monitoring. I want to touch on whether the archdiocese has a position on the other aspects of the bill. I note that your submission predominantly revolves around the blue card. In relation to the penalties and sentences amendments, the good character references, does the archdiocese have a considered position in relation to those amendments in this bill?

Mr Redmond: To be honest, it is not something we have turned our minds to. I would say that, from a principled point of view, we will always be on the side of the marginalised and victimised. As to the specifics of the bill, that is not something the archdiocese has turned its mind to.

Mrs McMAHON: Are you aware of any instances where the archdiocese, as an organisation or individuals linked to it, has been involved in the writing of good character submissions?

CHAIR: I think that is outside the scope of the bill, member.

Mrs McMAHON: The writing of good character references in evidence?

CHAIR: I guess that is a yes or no answer, if you are willing to answer that.

Mr Redmond: Off the top of my head, I have no idea.

Mr O'Brien: From a safeguarding perspective, we do look into people's character. We often have people approach us wanting to volunteer, particularly in a parish, maybe in a children's ministry of some description. We have steps that must be undertaken before they are successful in becoming a volunteer. We often block some of these applications because (1) they do not have a blue card; or (2) there is something in their criminal history that rings alarm bells for us. There are certainly steps in place to avoid certain people. Maybe there is another ministry they could be involved in rather than children. Maybe there is another ministry they could be involved in that does not require a person to have a blue card.

CHAIR: Further to the management of volunteers and blue cards and the example you gave about the bus driver, do you have HR policies around that anyway so that they must disclose if they are convicted of a traffic offence et cetera? I imagine they would have to have a restricted driver authority and that could be revoked. There are other mechanisms for that person to be held to account and risk-managed.

Mr Lees: We would expect employees to self-notify in those situations. Where we are not notified by the blue card system, we would expect an employee to notify us if their role involves using a vehicle, for instance. I suppose the loophole is that in some situations employees would take it upon themselves not to notify us because that could potentially put their employment in jeopardy. In that regard, I would say that in a lot of cases people do the right thing; in some cases people protect their income.

CHAIR: With the current blue card system there is already real-time monitoring and notification under your portal for various disqualifying offences. In your experience is that operating okay, apart from the fact that you think there are other offences that should be included?

Mr Lees: Those notifications come through to me relatively quickly. I think there are some opportunities within that process as well. When a cancellation or suspension comes through to me, there is obviously a timeframe during which consideration has been given to that cancellation before I am aware of it. I think there is potentially a period of time where the employer could risk-manage prior to a cancellation. In some cases I suspect it would take a significant amount of time before that decision is made.

We also have a period of time when a current cardholder renews their card after three years. During that renewal, without having a valid blue card they are able to continue to work on the basis that they have a current card whilst a check is taking place. In my experience, some of those checks can take up to 12 months. A person can continue to work during that period without a determination on whether they actually have a card. Again, there is a gap there. In some cases, six months may go by and the card could be cancelled, so we could be risk-managing a particular situation if we knew more information during that period of time.

Mr RUSSO: Will, you referred to the UK model in your opening statement and your written submission. Are you able to expand on your comments so far in relation to that model? I understand it is a subscription model that allows organisations such as the archdiocese to access it. Is there anything else in the UK model that you think would be helpful to the committee?

Mr Redmond: There are a few things about the UK model that I really like. The way it works is that an employer can jump online and see whether or not their certificate is up to date. It is very easy to move it between organisations and groups. It expands into the volunteering side as well, so it is very easy for them to transfer it across to the local Rugby club they are volunteering at. They can access their certificate very quickly. They can literally get it up on their phone and show that they are ticked off and ready to go. They can add the organisations they work with. It is a new program in the UK. I think it has been around since—I have no idea. It is not on my fact sheet. I think it has only been about two years.

It is relatively about the same cost price as what our blue card system here in Australia costs us on a per person basis. From a cost perspective, it is £16 for an annual subscription, which is $31 as of yesterday, while a one-off certificate is £25 but it is over a long period of time. It is a better cost price to sign up to the subscription model. It works out to be roughly the same as it costs for a three-year blue card application, which I think has an added benefit of cost to the individual and the organisation.

Ms MARR: What we just went into then was pretty much outside the scope. I want to wrap up what you were saying. We currently have real-time monitoring for blue card, but you were saying that when you go to renew there is a period of time in which you are having to wait for them to be investigated again. Are you saying that the real issue for you is that there is a delay in us getting that information through? You are saying that when they are renewing the blue card it is taking 12 months for us to investigate and make sure they are still eligible. Is your concern that that is not being done quick enough? For me that is more operational than requiring a change in legislation.

Mr Redmond: I think there are two different issues on that. One issue is the time to get a new blue card and those applications. The other side is that the real-time monitoring that is currently done by Blue Card Services is only for the prescribed offences in schedules 2 to 5. We actually think those schedules limit things that still have a direct effect on child safety.

Ms MARR: Thank you. I just wanted to understand that—so it is really the scope of offences.

CHAIR: Thank you for your appearance today and your evidence before the committee. We are having technical difficulties with our next witness on the schedule so we will move to the Queensland Family and Child Commission.

TWYFORD, Mr Luke, Principal Commissioner, Queensland Family and Child Commission

WALKER, Ms Tammy, Manager, Government Relations and Performance, Queensland Family and Child Commission

CHAIR: Welcome. I invite you to make an opening statement to the committee.

Mr Twyford: The Queensland Family and Child Commission welcomes the opportunity to comment on this bill and provide our support. I will pause and acknowledge that we meet on the lands of the Yagara and Turrbal people and pay my respects to elders past, present and emerging.

This bill reflects several longstanding priorities of the commission and implements recommendations from both the Queensland Sentencing Advisory Council and the QFCC's 2017 review into the blue card scheme. It therefore reflects an intent to listen to the views of statutory authorities that are established to review schemes and provide advice to parliament on ways to improve the protections for Queenslanders.

I am pleased to see that the bill implements recommendations from that QFCC 2017 report—in particular, the restoration of suspension powers under the working with children act to ensure individuals facing serious charges can be promptly removed from child related roles. I will pause there and reflect on the amendments impacting sexual offences against 16- and 17-year-olds.

As members will know, I have been undertaking significant work in Queensland's residential care review system and I continue to meet young Queenslanders living in that scheme or raised within that scheme who are voicing stories of significant sexual grooming and sexual abuse given their vulnerabilities. I fully support any legal amendment that recognises the harm that occurs when vulnerable children are preyed upon. We certainly can do much more in Queensland and across Australia to strongly signal that that behaviour is not only criminal but also deeply troubling and needs the strongest of consequences and the strongest of protections.

In terms of the other elements of the bill, I am happy to take questions on those. I would reference that responding to recommendations from both the QFCC and other oversight bodies is important. In particular, it is important that government responses to a review are timely. Sitting here being prepared to speak to a report that the institution I now lead conducted in 2017 represents a very significant timeframe for a government response to act on recommendations. It is far more my preference that a government will respond to recommendations in the year they are made and indicate whether they will be acted upon or not. The blue card scheme has moved significantly over the last eight years since that report and review was conducted. The world has absolutely changed for children and employers. There are new industries that did not exist back then, so, whilst we can celebrate that recommendations are being responded to and enacted in law, the timeliness of the response is something I would encourage all parliamentarians to focus on.

CHAIR: Thank you. Recognising members who have missed out on questions previously, I will move to the member for Capalaba first.

Mr FIELD: Do you think these amendments give Queenslanders the confidence that the government is making those positive changes which will protect victims and children?

Mr Twyford: I would reflect what fellow commissioner Beck O'Connor, the Victims' Commissioner, referenced this morning—that is, this bill represents good steps forward. I think there are areas where it could go further. We continue to see other reviews, including that one I am leading into the Ashley Paul Griffith matter, looking at child sexual abuse and exploitation, grooming behaviour and the validity of the blue card scheme to prevent abuse rather than respond to abuse.

I would say in response to your question that I support this bill as a good step forward. It actions recommendations that have been made based on evaluations, evidence and expert opinions that have been collected over time. However, I continue to think we need a whole-of-system or whole-of-ecosystem approach to prevent some of the matters that are attempting to be dealt with in this bill. We need to ensure that Queensland effectively introduces and operates a reportable conduct scheme which is connected to the blue card scheme so that, as the last witnesses were speaking to, there is proactive information sharing, there is proactive risk assessment occurring not only in government but also in organisations and the whole community is engaged in greater awareness of the exploitation and abuse of Queensland children and what we can do to not only identify where risk is but prevent that risk from emerging.

Mr BERKMAN: I understand from your submission that you broadly support the proposed changes around the use of good character evidence. I am not sure if you were here earlier to hear the evidence of QSAN, RSARA and the Victims' Commissioner around the likelihood that effectively the same evidence will continue to be presented for the purpose of addressing reoffending risk and the prospects of rehabilitation. Do you have a view on that? Do you support or disagree with the position of those organisations that further change is required to ensure there is no place for good character evidence in sexual assault sentencing?

Mr Twyford: I would not go so far as to say that there is no place, because I believe that we need to have faith and trust in the judiciary to apply the powers that are given to them by the Constitution to make effective decisions. I think this is a highly complex area for legislatures to try to pinpoint where the risk is and, on balance, what the consequences of addressing that risk are. I do support this bill's limitation on the use of character references.

I appeared before a committee last week to discuss domestic and family violence responses and I appeared before another committee two weeks earlier to discuss youth justice responses. In each of those hearings I made the point that enacting a law will set rules in place but it is actually the practice that matters most. In this regard, I think we are talking about judicial practice as well as court practice. With regard to the extent to which someone in a judicial position is able to weigh the harm that has occurred—so looking backwards at what has occurred in terms of the offence and what harm that has caused—and they are able to project into the future the likely risk of offending, that is an incredible balancing act that I do not believe we will solve for every case through enacting a bill or passing a law. I encourage the legislature to make amendments such as those before us and to also respect that judicial decision-makers are faced with the facts in every case and need to make those decisions. That is a very big broad answer and I am not sure I have dealt specifically to give you much guidance in terms of where the line is, but I would say that certainly the elements of this bill and the case studies that have led to this bill coming forward give me cause to support this bill.

Mr BERKMAN: Without trying to verbal you, the substance of the earlier submitters' position is that questions of potential reoffending or rehabilitation are issues better dealt with by expert evidence rather than character evidence. Do you have a view on the balance between those two factors?

Mr Twyford: I think that is probably true, but I trust the judiciary to make that balance. If I apply that to a case of a 15-year-old who has committed a graffiti offence, I do see cause for good character references from their school teachers, parents and sports coaches, so I am trying to balance my own understanding of the court process in different settings and where I would actually say that understanding that person's life journey, their motivation for offending and their level of remorse would be an important consideration versus not. Where I get to is that the judiciary should be entrusted to make that balancing act within the parameters set by the legislature.

CHAIR: Acknowledging the extensive experience and work you have done with the blue card system, is it correct to say that the amendments in the bill to the working with children act were required to restore suspension powers which were removed by the former government? If you were here for the last witness and heard their comments in relation to how it does not go far enough in terms of the offences, what are your comments around that and improving the system?

Mr Twyford: To the first matter: yes, in our submission, at the top of page 7, we do confirm that the restoration of those suspension powers is fully supported by the Queensland Family and Child Commission and reflective of our report from 2017.

I did listen with much interest to the last witness. As members will be aware, I am leading the review into system responses to child sexual abuse following the Ashley Paul Griffith case. That includes looking at the blue card scheme as it operates. I have sent a note to my team and said that I want to include in that review consideration of much of what was said by that last witness.

I think there are a couple of factors that are important for the community to understand. One is that the blue card scheme is a system that only works after police have caught and charged and the courts have processed an individual. It is a reactive protection. It is about limiting someone's access to children after they have been caught. It is akin to a driver's licence being suspended because someone has earned so many demerit points that they are no longer allowed to drive. It is not a preventive tool.

What I am considering through both the Child Safe Organisations Act's implementation and the Ashley Paul Griffith review is how we better connect the blue card scheme to proactive preventive measures and intelligence sharing. I think the last witness was speaking to that—the UK model as well as their views on data sharing both across jurisdictions and internally within Queensland across departments. They are all elements that I want to see improved, and seeing the blue card scheme as only one of many elements in a protective ecosystem around our children is really important.

CHAIR: Thank you. We can look forward to that review.

Mr RUSSO: Could you elaborate on why you support the changes relating to the use of the good character evidence in sentencing? I know that you touched on it with some of the questions from the member for Maiwar.

Mr Twyford: I think on reading the QSAC report it makes the case for the need for this amendment. In terms of the use of good character references in the case studies that are referenced in that report, you can see a misapplication of them in terms of the sentencing as well as the understanding of harm and risk. Bringing those elements together, noting my earlier comments around the faith and trust we must put in the discretion of the judiciary, suggests that creating the guardrails for that decision means that I support limitations on the application and use of good character references and that we more clearly place them into the entirety of the decision-making process that a judicial officer will need to do. To ensure they are given the appropriate weighting is an important role for the legislature.

Ms MARR: I want to go back to where you said that you support restoring the suspension powers. You have elaborated on why that is important. Can you tell me the critical findings of the previous reviews that led to the implementation of these changes?

Mr Twyford: That is a big question. The 2017 QFCC blue card review produced two reports focused on the blue card scheme as it then existed. It was the result of some pretty significant failings in a particular case that I will not go into it but has been well covered in the media and elsewhere. That review found that Queensland had at that time one of the strongest, if not the strongest, blue card scheme. Nonetheless, it made a number of recommendations for government to improve the system.

In my words, not being here or being the author of that review, it was signalling the need to move the blue card scheme from a binary, formulaic protection of children where a charge resulted in the disqualification to more of a risk-based assessment scheme. These amendments continue us along that journey, as well as amendments moved in the last parliament in that last sitting week where the working with children check act was amended.

Ensuring there is a risk-based element to decision-making within the blue card scheme is important. I can see the seeds of that thought in the QFCC 2017 report and I can see that flow through the amendments that have occurred from that time until this bill. That idea that Blue Card can be empowered to suspend someone prior to there being a conviction or prior to the criminal threshold being reached speaks to a lot of the work that I am currently undertaking—that parents and co-workers can see behaviours of concern, that QPS and the AFP can look at those concerns and say there is not enough to pursue it through the criminal courts and the matter ends there, but we know that there is still a risk to children. We know that those behaviours are inappropriate but cannot be proven. Where I want to see the blue card and safeguarding systems move to is that risk-based protection for our children rather than a formulaic response after criminal action.

CHAIR: Thank you, Mr Twyford. We appreciate your appearance today and all of the great work you do.

JAMES, Mr Harrison, Co-Founder, Your Reference Ain't Relevant Campaign (via videoconference)

CHAIR: Good morning. I invite to you make an opening statement to the committee before we move to questions.

Mr James: Good morning, Chair and members of the committee. Thank you for the opportunity to speak on this important issue. First let me express my sincere apologies for not being able to appear in person today. I wish I was there. I am grateful, however, that you are allowing my voice to be heard in this way.

I collaborated with my friend and fellow survivor Jarad Grice to launch this initiative, Your Reference Ain't Relevant, because we understood the pain that we are here to address today. I am a survivor of child sexual abuse, having endured it from the ages of 13 to 16 every day before and after school at the hands of my stepmother. When I turned 15 she became pregnant with my daughter, a child who I had to pretend was my sister for many years. When I was 19 my stepmother escaped Australia to return to her homeland in the Philippines, taking my daughter with her. I have been unable to see my daughter for the past seven years.

I know what it feels like to be betrayed by someone the community trusted. I know how devastating it is to watch the legal system give weight to an abuser's reputation, to see them upheld as a person of good character, when you know the truth of what they have done. I have sat beside other survivors in court and felt the deep ache of hearing an offender praised after conviction. I have listened as survivors told me how those words reopen wounds. I understand that pain because I have carried it too, and I believe that no survivor should ever have to hear their abuser's reputation used against them. That is why I helped start the Your Reference Ain't Relevant campaign: to ensure no other victim has to sit through the nightmare of seeing their abuser praised in court.

Our campaign's goal is simple: to abolish the use of good character references for convicted sexual offenders during sentencing. I want to thank the committee for addressing this issue and acknowledging that this change is needed. I also acknowledge the government's proposed reforms aimed at limiting good character references in sentencing. Attorney-General Deb Frecklington herself captured the core of the problem—

No-one wants to hear that a rapist is an all-round great person … especially not their victim, bravely sitting in court.

Those words ring true for every survivor. However, I must respectfully argue that the proposed reforms do not go far enough. The current bill before the committee would still allow some offenders to exploit good character references, leaving a very dangerous loophole. In fact, the bill's partial approach, which only restricts references in certain circumstances, would still permit convicted offenders who abuse non-institutional relationships—like a family member, neighbour or step-parent—to invoke good character at sentencing, effectively giving them a discount for the very trait that enabled their crime. In my view and in the view of countless survivors, this is unacceptable, both legally and morally, and we urgently call for the complete abolition of good character references in sentencing for sexual offences without exceptions.

CHAIR: Thank you, Mr James. I think I speak on behalf of the committee in thanking you for appearing today and for your advocacy, being a victim-survivor yourself as you have identified, and your bravery in coming forward to see improvements to our system. In that regard, understanding that you feel this bill does not quite go far enough, do you still welcome it as an important first step in the advocacy work that you are undertaking?

Mr James: Unfortunately, no, because survivors are sick of first steps. We need a justice system that undoubtedly is in our corner, because what the current bill and this sort of half-measure is doing is not understanding how child sexual abuse actually operates. Grooming, which is a crime in and of itself, is actually part of the offence, and it is critical to recognise that in sexual crimes, especially against children, an offender's perceived good character is not incidental; it is integral to the crime itself. Predators deliberately leverage their reputation and good persona as a tool to commit the abuse. Both practitioners and survivors know that perpetrators of child sexual abuse frequently groom not only their victims but also everyone around them, cultivating trust in a community or family where they can offend undetected. In other words, the very reason these offenders were able to access and harm their victims is often that they were viewed as caring, respectable members of the community. That facade of good character is part and parcel of the offence, right? Thus, when a convicted offender cites their good character at sentencing it is a cruel irony and it rewards the very trait that facilitated the abuse, and in doing so it deeply compounds the survivor's trauma. I have often said in the media and in public that

in cases of sexual abuse good character is actually part of the crime. Allowing an offender to say, 'But I'm a good bloke' after being found guilty is simply validating the grooming process that they used to gain a victim's trust. It is, in effect, an extension of the abuse itself.

Mrs McMAHON: I would like to thank you very much for your submission and the advocacy work that you do in this space. Do you feel, with the bill that we are considering now, that the weighting and consideration in sentencing for the perpetrator still outweighs the consideration for the victim?

Mr James: Yes, it does. The bill's approach still hinges on the idea of proving whether an offender's good character assisted it in the offence. This is actually the standard in Queensland's current law. It was introduced after a 2017 royal commission. The clause was meant to bar good character as a mitigating factor only if the offender's reputation explicitly helped them commit the crime. In theory that sounds reasonable, and it acknowledges that a teacher or priest who uses their standing to abuse a child should not benefit from that standing during sentencing—indeed, Queensland implemented that rule for offenders in positions of trust following the royal commission's recommendation—but in practice this assistance test has been ineffective and far too narrow. It presumes that only in some special cases does reputation play a role, whereas in reality reputation and grooming always play a role in sexual offending. As a result, courts have rarely invoked this clause and it is extremely difficult to prove to a legal standard that, say, a respected uncle's community standing actively enabled his crime. The vast majority of offenders have continued to bring character pleas and judges still have little clarity on when to disregard them. Meanwhile, survivors in most cases are still subject to the same old retraumatising spectacle.

Another thing I want to add is the difference between good character references and good character evidence. Good character evidence obviously happens throughout the trial and it showcases prospects of rehabilitation, which is incredibly important, but these good character references are coming from groom networks already and they are echoing the same grooming and deceptive mechanisms that were used to commit the abuse in the first place. Remember, these reference letters or testimonies are usually from the offender's friends, colleagues or family—people who have been groomed by the offender's charm or standing just like the victim was. We have to take that understanding into account because if we do not we are really not understanding how child sexual abuse legitimately operates.

Mrs McMAHON: Harrison, you were talking about grooming. I know that your lived experience and your submission specifically refer to children and people who are under the age of 18, notwithstanding the amendments that are there that add 16- and 17-year-olds. There are a lot of sexual assault cases that involve adult victims. I am just wanting to get a bit more understanding in terms of grooming and the difference between victims of sexual assault who are under the age of 18 and how that might apply to victims who are adults and where that fits in in the scheme.

Mr James: With respect, I can only speak to my lived experience as a child sexual abuse survivor. Of course, I support wholeheartedly the complete abolition of good character references in court for crimes like domestic violence and adult cases of rape, but I cannot speak to that lived experience or that perspective because I have not lived it. I appreciate the question, but I cannot give a sufficient answer to that.

Ms MARR: Thank you, Harrison, for being here today. I know that you advocate for a lot of people, but I can still tell it is a difficult conversation to have with your experience. I do thank you for that. I am really struggling to find a question to ask you because you have been very clear about what your expectations are in relation to the changes to the bill. I want to repeat what you have said to make sure I have correct what you have said. You do agree with us changing the types of character evidence rather than good character letters. You are saying that you feel what we are doing has created a change for the victims but you do not feel we are going far enough: you want it completely removed, even considering that the council found that character evidence plays a legitimate role in sentencing. I do not think there is much more you can say. I just wanted to acknowledge what you have said and make sure I have an understanding of how you put that today.

Mr James: The Queensland Sentencing Advisory Council did something really dangerous in their review. They really muddled the terms 'character evidence' and 'character references'. They are two separate things. This campaign, Your Reference Ain't Relevant, is trying to abolish the use of good character references for convicted child sex offenders and we advocate for that to extend to crimes of rape in adult rape cases and crimes of domestic violence as well. As a victim-survivor of child sexual abuse, I speak specifically to this because of the dynamic of adult and child and the grooming tactics and how these letters from groom networks reflect how that crime operates. Good character evidence is a completely different thing that is used throughout the trial, and the Queensland Sentencing Advisory Council in their review muddled that the entire time. It was so disappointing to see.

This is a completely separate thing that we are looking at and we need the Queensland government now to be bold, because enough is enough. It is time to put an end to this practice and, in doing so, help transform our justice system into one that truly prioritises the truth of survivors over the reputation of offenders. That is what this is about. I trust that the committee will make the right decision. I thank you from the bottom of my heart for your time and leadership on this issue.

Mr BERKMAN: I echo everyone else's thanks for your advocacy and your time with us, Harrison. We heard quite specifically from Queensland Sexual Assault Network and the rape and sexual assault research and advocacy organisations earlier. Their view is quite specifically that, on questions of risk of reoffending and potential for rehabilitation, those are issues that should be dealt with through expert evidence rather than any lay evidence. Is that a view you share? Can you elaborate on your views there?

Mr James: I echo that view. I think that is correct. All of those things are presented during the trial already. We are talking about stripping the ability for someone's mate to come into a courtroom after they have been found guilty of sexually abusing a child and have these letters to say they are a good bloke. When I sit in the courtroom with victim-survivors and they have to hear that the offender who abused them for six years is a champion of young people because that is what his friend wrote in a letter—that is utterly disgraceful. Those things that you presented there are already demonstrated throughout the trial—prospects of rehabilitation. They are incredibly important; we cannot expect to just put these people in jail and throw away the key. It does not work like that. That is an incredibly important part; that is established during the trial. This is a completely separate thing. It really is a no-brainer.

Mr FIELD: Thanks for appearing today. It give us a bit of an understanding of where you sit. I appreciate all of the advocating you have been doing in other jurisdictions for years. Has any other jurisdiction made such broad changes to impact the use of all sexual offences that you are aware of?

Mr James: No. Currently what is operating in most jurisdictions around the country, apart from Western Australia, is the recommendation that came from the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse. It is operating in that disparity that I mentioned in my opening statement where it is currently prohibiting offenders in an institutional setting from utilising good character reference, but there is a whole other category of offender like step-parents, neighbours, family friends—people who did not get ingratiated with their victim in an institutional setting. They are allowed to use good character references but institutional perpetrators are not at the moment.

There is a review in New South Wales with the New South Wales Sentencing Council that is underway as we speak. Their paper and their recommendations are due to come out very soon. That is a review that is specifically looking at good character references in cases of child sexual abuse, adult rape cases, domestic violence and fraud. That review was initiated as a direct result of my and my campaign team's advocacy. We initiated that in New South Wales.

Mr RUSSO: Harrison, thank you very much for your submission and also your written submission. It is very distinct. Just touching on something that the member for Capalaba mentioned in passing, there is a suggestion in your submission that this legislation should be delayed until the review in New South Wales has been completed. Can you tell us why you think that is important?

Mr James: Essentially, our campaign was an agenda item on the Standing Council of Attorneys-General meeting in July 2024. It was a pretty big achievement for the campaign. Each attorney-general in every jurisdiction that we met with personally said that they were looking towards the New South Wales review before they start enacting their own laws. The reason that is alluded to in our submission is that we feel the Queensland Sentencing Advisory Council's recommendations do not go far enough.

CHAIR: Do you accept that this bill is much broader than what you are advocating for—

Mr James: Yes.

CHAIR:—and includes other sexual offences? Do you accept that a person's risk of reoffending or prospects of rehabilitation are relevant for a sentencing judge to consider?

Mr James: I do but not in the capacity of good character references being presented. I believe that those are already established throughout the trial. That is what we at the campaign believe. We are trying to say that good character references are further evidence of the grooming process. Why should we give discounts to individuals who have sexually abused children for the very thing that has—we are essentially giving them a discount for the very thing that has enabled the crime. I agree with that. I think it is an insensitive and flawed approach.

CHAIR: Thank you very much, Harrison, once again for attending and the important advocacy work that you undertake for victim-survivors. We really appreciate your time and your input. Thank you.

Mr James: Thank you very much. I appreciate it.

BELL, Ms Kristy, Chair, Criminal Law Committee, Queensland Law Society

COOK, Ms Bridget, Senior Policy Solicitor, Queensland Law Society

CHAIR: I invite you to make an opening statement before we move to questions.

Ms Cook: Thank you for inviting the Queensland Law Society to appear today. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which we meet. As the committee is aware, the Queensland Law Society is the peak professional body for the state's legal practitioners. We are an independent and apolitical representative body.

The society would like to start by recognising that sexual offending causes a unique harm. We also acknowledge the need for the sentencing process to respond appropriately and we are cognisant of the views of other submitters that the term 'good character' is, in and of itself, a phrase that carries adverse inferences that are offensive and harmful to victims and their experiences. We also consider it is important, however, that judicial officers be permitted to consider the full range of circumstances in criminal matters so that individualised justice can be served and the community appropriately protected.

We consider that the common law currently provides sufficient guidance to the appropriate weight, if any, a court may give to good character evidence when sentencing an offender for an offence of a sexual nature. We also observe that section 9 of the Penalties and Sentences Act 1992 contains provisions that already put limits on the court's use of good character evidence in cases where an offender seeks to proffer evidence of their good character as a factor to be taken into account when sentencing. In many cases, while good character evidence is accepted by the court, the court does not mitigate the sentence based on that evidence. This is because it cannot unduly overshadow the objective seriousness of the offending the subject of the sentence.

In the society's view and as noted in the QSAC report, to ensure law reform improves victim experiences of the criminal justice system, reform must be guided by recent reviews and their recommendations such as those in the Australian Law Reform Commission's recent report *Safe, informed, supported: reforming justice responses to sexual violence* and the current review ongoing in New South Wales regarding good character evidence in sentencing. We welcome any questions the committee may have.

Ms MARR: Thank you for being here today. You did touch on it—and I note you are probably giving us more time for questions, and I do appreciate that, so thank you—but can I get you to elaborate on why it is important that some judicial discretion is maintained, please?

Ms Bell: Yes, of course. The society supports the notion of individualised justice to ensure just outcomes. It is really difficult, if not impossible, for legislation to contemplate the never-ending set of circumstances that come before the court to be sentenced by judicial officers, and unduly constraining their discretion may increase the risk of unjust outcomes arising where there may be a really relevant factor that the court would be assisted in considering in terms of coming to the appropriate sentence but legislation may exclude the possibility of contemplating that information. That may not be an intended consequence of the legislative change, but we want to avoid that happening. The society is a huge proponent of having faith in our judicial officers to exercise the discretion to come to an appropriate penalty in each individual set of circumstances.

Mrs McMAHON: Thank you very much for your submission and attendance today. It is important for the public to have faith in our judicial system. How much faith in the judicial system do our victims of sexual assault have at the moment?

Ms Bell: I think the universal answer is probably not much, and that is borne out in a lot of the reports and the studies that have been conducted in recent times. I would say on behalf of the Law Society that that is not necessarily a reflection of the effectiveness of the justice system. There are many factors that play into that lack of faith that has become apparent in the responses of victim-survivors of this type of offending. One of the significant themes in the QSAC report was the need to enhance support and communication to victim-survivors and the need to explain to them what is involved in the process so that they are informed, they know what to expect and they are able to take advantage of the opportunities that are available to them to have their voices heard in relation to these matters.

Mrs McMAHON: From my experience in courts, facts are put before the court. Whether it is defence or prosecution, a judge or a jury, it is all about considering the facts of a matter. We heard from submitters and witnesses earlier about the constraints on what a victim can put in a victim impact statement as part of sentencing. What constraints or limitations are there on verified facts going into character references?

Ms Bell: May I clarify: do you mean in relation to the law as it stands currently?

Mrs McMAHON: Yes. We were given evidence that there are limitations as to what can go into a victim impact statement; however, we have heard from a number of submitters and witnesses this morning that what can be contained in a character reference is unverifiable and personal opinions.

Ms Bell: In practitioners' experience, there is very seldom any weight placed upon unverified opinions about things like psychological difficulties or psychiatric conditions—things that need to be spoken to by experts in terms of the relevance to the exercise of the sentencing process. If we are talking about things more generally, such as an author of a reference's opinion about a person's personality or the way that they know that person to be in their ordinary, everyday life, that is probably not something that would ordinarily be the subject of expert evidence. That is probably a different category of evidence and it would be difficult to verify. For that reason, in practitioners' experience there is seldom much weight placed on that type of evidence, if I can make that divergence. Does that answer your question?

Mrs McMAHON: We heard from our last submitter the difference between character reference and character evidence and the need to be very clear about what is used. We are looking at those character references in sentencing and whether there is a requirement for information contained within those character references to be factual or to be verified.

CHAIR: Member, being mindful of the time we have, I think that question was asked and answered as best they could, and it was a second question rather than a follow-up. I will move on. If we get back to you, we can further explore that.

I note that you have recommended in your submission that two changes should be made should the bill progress, including that new sections 9(3A) to (3C) be removed and replaced with different wording. Could you expand on that for us? Why are you recommending this approach and why is it a preferred approach to the current bill?

Ms Bell: Yes. One of the recommendations from the QSAC report was to reform section 9 entirely because it is difficult to work through. The QSAC report found it is utilised inconsistently. At the moment it spans 11 pages, so it is a cumbersome section of the legislation.

Rather than add to that, the Law Society's submission proposed an alternative approach: that character evidence or character references not be able to be utilised in mitigation unless they assist the court to come to a view about the matters they must have a regard to under section 9. It really broadens the ability to have regard to character evidence beyond those two matters of rehabilitation and risk of reoffending to include the other considerations under section 9 as well as not adding to the cumbersome nature of the current drafting of section 9.

Mr BERKMAN: I appreciate your time this morning. We have heard from previous witnesses this morning that, in effect, the same character references and the same material will more or less be made available in sentencing proceedings within that consideration of rehabilitation and reoffending risk. Do you disagree with that or is that a fair statement?

Ms Bell: May I just clarify: do you mean to say that there is concern that the current proposed changes do not go far enough to exclude—

Mr BERKMAN: In practice, the suggestion is that there is plenty of scope for the same material that might be excluded by the proposed changes to be simply included under the rehabilitation and reoffending considerations. Is that a fair concern?

Ms Bell: I do not think so, no. Again, I come back to having faith in our judicial officers—and perhaps it is born out of the QSAC report. Sentencing proceedings are rife with examples of what I would call the lazy provision of character references—references that do not perhaps address matters that really assist the court but just make general statements about someone being, as we have heard, a good bloke, a good mate or a good person. Those references do not really help anybody. Good character references speak to how long a person has known the defendant and in what capacity. They provide examples of the person's character and speak about their awareness of the offending that the person has essentially confessed to and are pleading guilty to—notions of accountability—and then they provide examples of the support that will be available to that person in terms of their social circle once the proceedings are over.

Those features go to more than just risk of reoffending and efforts of rehabilitation; they go to expressions of remorse, protection of the community and things like that. The Law Society would say that, no, you could not just recycle the same character references that are being used now. If you tried to, I doubt a court would give much credence to them, now that the use of them has been refined in this way.

Mr BERKMAN: Those are two distinct questions, though, are they not—whether the same material could be presented in that circumstance and whether the court would place a significant weight on it? They are two things; is that right?

Ms Bell: Theoretically, a person representing a defendant in a sentencing proceeding could hand up anything to the sentencing judge, but whether it is accepted or not is completely a matter for the court. It really is a matter for the judicial officer applying the law to say whether or not the content of that reference satisfies those factors. If you are just recycling references—and I used the description 'lazy references'—they should not be accepted, and I would not think they would be, having refined the purpose for which they would be admitted. Does that answer your question?

Mr BERKMAN: I think it does, yes.

CHAIR: Before I go to the member for Capalaba, in her introductory speech to this legislation the Attorney-General did indicate that there would be a full review of section 9. I assume you would welcome that?

Ms Bell: Yes, we would welcome that.

Mr FIELD: My question has pretty well been covered. Do you accept that it is upsetting and challenging for all victims to listen in court to friends and family speak about why the offender is a good person and of good character? What role does character evidence play in sentencing itself at the end of the day?

Ms Bell: The role of character evidence in sentencing primarily fills a gap between what is available or necessary in terms of reports by professionals, such as psychologists and psychiatrists, in relation to a person's cognitive functioning or any psychiatric or psychological condition they may suffer from that has impacted their behaviour or in any way played a role in the offending. It really fills a gap between that and submissions from the bar table from counsel representing a defendant. It provides the court with an idea as to who this person is outside of the schedule of facts or the criminal history that has been tendered by the Crown. It gives the court an idea of whether or not they have those protective features, such as prospects of employment, a supportive community and a supportive family—people around them who are aware of the offending behaviour, are aware of what has occurred and are prepared, nonetheless, to provide support to them after the sentencing process is done. That is looked at in conjunction with the sentencing options and the sentences available to a court, such as probation, parole or suspended sentences, to achieve those aims that are set out in section 9.

Mr RUSSO: I am interested in the amendments to the blue card. Does the society have anything to input on that?

Ms Bell: We have not put anything in our submission. If there was a specific question in relation to that, we would need to take it on notice.

Mr RUSSO: I will not put you in that position. Thank you.

Ms MARR: Could I ask why you recommend that community protection should be added to the list of mitigating facts that a court should consider?

Ms Bell: The society's position is that, if the bill is to proceed and those limitations are to be placed on the use of character evidence, the addition of the consideration of community protection would broaden judicial discretion in terms of the consideration of relevant information in character references for a really important aim of sentencing. Community protection may be affected by things like prosocial networks that are available to a defendant to help support them upon their release—that is a protective factor in terms of risk to the community. Things like their prospects of employment or their ability to return to work upon release—matters of that nature—would more clearly fit within the community protection aspect of those section 9 considerations.

Mrs McMAHON: The member for Maiwar went again to that character reference but specifically around the rehabilitation and reoffending. Again, we touched on it with the member for Capalaba's question about the role of expert evidence in looking at that reoffending and rehabilitation. One of the submissions from the Victims' Commissioner specifically made a recommendation about the establishment of an independent judicial commission—

... which would be responsible for providing ongoing professional development in relation to judicial officers' contemporary understanding of sexual violence.

Noting the faith that we need to have in our judicial officers and the importance of our judicial officers exercising their discretion about those references, what is the Queensland Law Society's view on the establishment of the judicial commission in order to assist our magistrates and judges in their understanding of sexual offences through the criminal justice system?

Ms Bell: In relation to the question of a judicial commission specifically, we may need to take that on notice. Bridget might be able to answer that one for you.

Ms Cook: The QLS is a longstanding advocate for the establishment of a judicial commission in Queensland. It is probably difficult to comment on the scope and the remit of that commission in terms of judicial training specifically in relation to sexual violence matters. It is definitely something that the QLS would love to be consulted on. We would happily contribute to that process moving forward.

Mrs McMAHON: Thank you.

Ms Bell: I would also note that the QSAC recommendations involved recommendations about enhancing resources available to the judiciary and training, and the QLS would support that, of course, to give effect to community expectations and enhance the exercise of judicial discretion in that way.

CHAIR: We have time for one more question. I wanted to round it out by asking you whether the approach taken in the bill with respect to restricted character evidence is preferred to the complete abolishment of good character evidence in its entirety. What comments would you make in relation to that?

Ms Bell: Yes, it is preferred over the abolishment of good character evidence, but the QLS support judicial discretion being available in all circumstances to achieve individualised justice for the immeasurable number of different scenarios that come before the courts every day. We would strongly prefer that there not be that limitation, but it is preferable to an abolishment of it altogether, yes.

CHAIR: Thank you. Thank you for your appearance today and your input into this important reform. There are no questions on notice. That concludes the public hearing. Thank you to everyone who has participated today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 11.15 am.