

## Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

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| <b>Submitted by:</b>       | Queensland Council of Social Service       |
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| <b>Submitter Comments:</b> |                                            |

4 June 2025

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

*Submitted via web-portal*

Dear Committee Members

## **Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 ('the Bill')**

Thank you for the opportunity to provide feedback in relation to the above.

### **About QCOSS**

Queensland Council of Social Service (QCOSS) is Queensland's peak body for the social service sector. Our vision is to achieve equality, opportunity, and wellbeing for all Queenslanders.

### **QCOSS' position**

QCOSS broadly welcomes the implementation of specific recommendations from the Queensland Sentencing Advisory Council ('QSAC') following their inquiry regarding sentencing sexual violence ('the QSAC Inquiry'). Our submission is primarily focussed on proposed changes in the Bill which seek to qualify the court's treatment of good character as a mitigating factor in sentencing persons convicted of offences of a sexual nature.

Due to the timeframes to provide a response to the Bill, this submission has been informed by limited consultation with community service organisations, along with consideration of published views on this issue provided by community service organisations to previous consultation processes. QCOSS acknowledges the ongoing work of the Queensland Sexual Assault Network ('QSAN') in highlighting issues on the use of good character references in sexual offence matters. We also acknowledge there is a diversity of views on these issues and there can be complexity in achieving the right balance in this setting.

### **Proposed changes regarding good character evidence**

The Bill proposes limits to a court's consideration of an offender's good character in the context of sentencing for offences of a sexual nature, as established specifically through a character reference, standing in the community, or contributions to the community. The Explanatory Notes to the Bill describe these as proposed restricted forms of character evidence.

In the specific context of sentencing for offences of a sexual nature, the Bill seeks to limit the court's consideration of these forms of character evidence unless they are relevant to the court's consideration of the offender's prospects of rehabilitation or risk of reoffending.

The court may also decide not to consider those restricted forms of character evidence as a mitigating factor in sentencing. In making such a decision, the court would be required to have regard to the nature and seriousness of the offence, including any physical, mental or emotional harm to the victim and the vulnerability of the victim.



These new limitations would also be subject to other existing limits. For example, in sentencing an offender for any offence of a sexual nature committed in relation to a child under 16 years or a child exploitation material offence, the court must not have regard to the offender's good character if it assisted the offender in committing the offence.<sup>1</sup>

These changes appear broadly in line with recommendations from the QSAC Inquiry.

The stated purpose of these changes in the Bill, as outlined by the Statement of Compatibility accompanying the Bill, "...is to ensure sentences appropriately reflect the seriousness of the offending behaviour and offender culpability."<sup>2</sup> When introducing the Bill in Parliament the Attorney-General also acknowledged the distress and trauma which victim-survivors of sexual offences experience in connection with good character evidence.<sup>3</sup>

In their submission to the QSAC Inquiry, QSAN outlined concerns on the use of good character references in the context of sexual violence matters:

"...the good character of the offender is often used in a grooming process and the "good character" can be weaponised to deter the victim survivor reporting and to demean, minimise and dismiss the victim survivor's experience.

For victim survivors to have to listen to testimonials and/or know that good character references are being handed to the judge for consideration in sentencing and in addition, listen to how the offending has impacted on the offender's employment, financial situation, and relationships, is highly distressing."<sup>4</sup>

QCOSS is aware of concerns within the community services sector that the proposed limitations upon the use of good character evidence in sexual offence sentencing, particularly good character references, will not deliver significant change. Under the proposed changes, the identified restricted forms of evidence can ultimately still be considered by the court in relation to the offender's prospects of rehabilitation or risk of reoffending. QCOSS is aware of feedback that other forms of evidence, such as factual evidence or expert evidence, are more appropriate than good character references in sexual offence matters. We are aware of feedback that in light of these and other concerns, the reforms do not go far enough.

However, we are also aware of concerns within the community service sector if reforms to the treatment of good character evidence were to go further than those proposed by the Bill. For example, concerns that further changes could go too far in limiting access to procedural fairness, and concerns regarding the impact further reforms could have upon incarceration rates. This includes incarceration of Aboriginal and Torres Strait Islander adults and young people who are already disproportionately impacted by the criminal justice and youth justice systems.

In light of diverging views and the complex nature of this setting, if the Bill does pass QCOSS recommends incorporating requirements for a statutory review to explore the actual impact and outcomes of the changes which are currently proposed once they are in effect. This review should facilitate a careful process to monitor and reflect on the changes with a view to ensuring the right balance is achieved, and ensuring ongoing reflection on the operation and impact of the justice system in this context.

In the interim, further guidance is needed, including within court benchbooks, to establish the technical scope and application of these changes in practice, ensuring the interpretation of these

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<sup>1</sup> *Penalties and Sentences Act 1992* (Qld) s 9(6A).

<sup>2</sup> State of Queensland. (2025). *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 Statement of Compatibility*, p3.

<sup>3</sup> <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825t0494/5825t494.pdf>  
Queensland. *Parliamentary Debates*. Legislative Assembly of Queensland. 20 May 2025. DK Frecklington, Attorney-General, p 1207.

<sup>4</sup> [https://documents.parliament.qld.gov.au/events/han/2025/2025\\_05\\_20\\_WEEKLY.pdf](https://documents.parliament.qld.gov.au/events/han/2025/2025_05_20_WEEKLY.pdf)

Queensland Sexual Assault Network. (2024). *Submission to queensland Sentencing Advisory Council Sexual Violence Sentencing Inquiry*, p 10.  
[https://www.sentencingcouncil.qld.gov.au/data/assets/pdf\\_file/0009/798957/submission-24-queensland-sexual-assault-network-qsan.pdf](https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0009/798957/submission-24-queensland-sexual-assault-network-qsan.pdf)

laws is clear. For example, guidance should crystalise the expectations and requirements as to the nature and content of character references considering the proposed narrowed application.

Thank you again for the opportunity to provide our submission.

Yours sincerely



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Chief Executive Officer