



21 November 2018

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE Q 4000

Email: lacsc@parliament.qld.gov.au

Dear Sir/Madam

Re: Human Rights Bill 2018

We refer to the email dated 2 November 2018 seeking Submissions on the above Bill by 26 November 2018. We commend the Queensland Government for their commitment to maintaining the basic human rights of all Queenslanders, especially children and young people.

Protect All Children Today Inc. (PACT) is a non-profit community organisation established in 1986 as a service provider of court support as well as advocating for vulnerable children, young people and their families. PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in criminal court matters, either as victims of, or witnesses to, a crime. PACT recruits Child Witness Support Volunteers to provide child victims and witnesses with support and information about the Criminal Justice System. Since its establishment in 1985, PACT has supported over **23,000** child victims and witness.

PACT is supportive of any legislative reforms that better protect vulnerable children and young people who have been victims or witnesses of crime. PACT continually refers to the Convention on the Rights of the Child (CRC) to ensure we are operating in accordance and in the best interests of children and young people we support.

We support the introduction of the *Human Rights Act* specific to Queensland and how they relate to the rights of children and young people. It is through our long-term experience supporting young victims of crime that we offer the following comments in relation to the proposed clauses:

Clauses 3, 4 and 5 – Objects of the Bill and how they will be achieved

PACT is supportive of the identified objects of the Bill and of how they will be promoted and achieved.

It is pleasing to note the Bill aims to ensure that respect for human rights is embedded in the culture of the Queensland Public Sector and to consider human rights in decision making and policy development.

Clauses 6 to 8 – Compatible with human rights

PACT is agreeance with the definitions provided.

Vice Regal Patron: His Excellency the Honourable Paul de Jersey AC, Governor of Queensland

Clauses 9 and 10 - Public Entity

PACT believes as an organisation we fall within the “Functional Public Entities” given we are a non-government entity, recurrently funded and engaged to deliver services to the public on behalf of the Queensland Government. PACT is happy to comply with the requirements of the Bill.

Clause 13 – General limitations

PACT believes there is a need to clarify that the human rights protected by the Bill are not absolute and must be balanced against the rights of others and significant public policy.

Clause 17 – Right to protection from torture and cruel, inhuman or degrading treatment

This is particularly relevant for offences of this nature against children and young people who are particularly vulnerable purely because of their age, lack of physicality to protect themselves, their limited maturity and knowledge/confidence to remove themselves from a dangerous situation or environment. This is particularly challenging in cases of interfamilial abuse. We do not believe that anyone under the age of 16 years has the capacity to provide informed consent.

Clause 26 - Protection of families and children

We agree that every child has the right, without discrimination, to the protection that is in their best interests as a child. Sadly, in cases of interfamilial abuse, where a parent is not acting protectively, children are put in a vulnerable position. Especially in cases where disclosures are not made, nor criminal charges laid. This situation poses a significant challenge to the child, family and community more broadly.

Clause 29 – Right to liberty and security and Clause 30 – Human treatment when deprived of liberty

PACT concur that every person has the right to liberty and security. However, often offences against children result in their deprivation of liberty. Therefore, the likely impacts on the victim should also be incorporated under this clause, not just the rights of the accused.

Clause 31 – Fair hearing

We strongly support the ‘due process of the law’ and the need for matters to be heard by a competent, independent and impartial court or tribunal and that all court judgements and decisions should be publically available. However, we strongly believe that courts should be closed for all matters involving children and young people, whether they be the accused or the victim in order to protect their anonymity.

Clause 32 – Rights in criminal proceedings

We agree that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. In addition, in relation to a child charged with a criminal offence they have the right for their age to be taken into consideration, because often crimes are committed due to lack of maturity and the inability to consider the long-term consequences of such behaviour. Adequate rehabilitation options should also be available to young offenders to deter them from recidivism.

We would like to take this opportunity to point out that we believe the Charter of Victim’s Rights should also be adequately enforced and embedded into Legislation and the Policies and Procedures of all key stakeholders (Courts, Queensland Police Service, Office of the Director of Public Prosecutions etc.) as this would address many of the human rights’ challenges faced by victims of crime and their families.

Clause 33 – Children in the criminal process

PACT believe that children involved in criminal processes should be entitled to special protections and considerations on the basis of their age and vulnerability. We believe the age of the child is particularly relevant; the younger the child, the more vulnerable they are due to their lack of physical and emotional maturity and inability to adequately protect themselves.

Clause 36 – Right to education

Every child has the right to have access to education as appropriate to their needs. However, sadly children are reliant on a responsible and supportive carer to ensure they actually attend schooling. Families in conflict or with a high level of dysfunction, often struggle with routine daily activities, which could negatively impact on a child’s right to education.

Clause 37 – Right to health services

We agree that every person has the right to access health services. However, once again children are reliant on a responsible and supportive carer to ensure they receive adequate medical attention. Families in conflict or with a high level of dysfunction, often struggle with routine daily activities, which could negatively impact on a child's ability to access medical treatment.

Clause 38 - Statement of Compatibility and Clauses 39-42 - Human Rights Certificate

PACT is supportive of mechanisms being established to examine a Bill introduced into the Legislative Assembly to ensure it is compatible with human rights and request the Minister responsible prepare a human rights certificate to accompany proposed legislative amendments.

Clauses 43 to 47 – Override declaration

PACT appreciates there may be instances where Parliament may expressly declare that an Act has effect despite being incompatible with one or more human rights and the need for a clear statement to be made to the Legislative Assembly explaining the exceptional circumstances that justify the inclusion of the override declaration.

Clause 48 – Interpretive provision

It is acknowledged there is a need for all statutory provisions to be interpreted in a way that is compatible with human rights, to the extent that it is possible to do so.

Clauses 49 to 55 - Involvement of the Supreme Court and Attorney-General

PACT appreciates that questions may arise in proceedings before a court or tribunal in relation to the application of this Bill and the need to allow for an application to be made for a referral to the Supreme Court providing it is deemed appropriate.

Clauses 58 and 59 – Obligations on public entities

We support the clauses which make it unlawful for public entities, such as PACT, to make a decision in a way that is not compatible with human rights as defined in clause 8. We believe people have a right to seek a remedy or relief in relation to an act or decision of a public entity that is deemed to be unlawful.

Clauses 61 and 62 – Queensland Human Rights Commission

We believe the renaming of the former Anti-Discrimination Commission Queensland (ADCQ) to the Queensland Human Rights Commission (QHRC) will provide better clarity and specific functions to support the regulatory model underpinning the Bill.

Clauses 64 to 90 – Human rights complaints

PACT agrees with the proposed mechanisms for managing, investigating and resolving complaints.

Clauses 91 to 94 – Reporting requirements

We support the proposed reporting requirements outlined.

Clauses 109 to 183 – Amendments of existing Acts

We appreciate the need to amend aspects of the identified existing Acts to ensure they reflect human rights considerations and are supportive of this legislative reform.

PACT is very grateful to be consulted about this important issue. Should your staff require clarification or further information on any of the issues raised, please do not hesitate to contact Mrs Jo Bryant, PACT's Chief Executive Officer on telephone [REDACTED] or email [REDACTED]

Thank you for the opportunity to provide comment on this important legislative review. We trust our input has been of value.

Yours sincerely



Alexandra Marks
Chairperson



Jo Bryant
Chief Executive Officer