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Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: lacsc@parliament.qld.gov.au

Dear Sir/Madam,

Thank you for the opportunity to contribute to the Legal Affairs and Community Safety Committee's examination of the Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Bill 2019 (the Bill).

As you will know, Maurice Blackburn Pty Ltd is a plaintiff law firm with 32 permanent offices and 31 visiting offices throughout all mainland States and Territories. The firm specialises in personal injuries, medical negligence, employment and industrial law, dust diseases, superannuation (particularly total and permanent disability claims), negligent financial and other advice, and consumer and commercial class actions. The firm also has a substantial social justice practice.

Maurice Blackburn's Abuse Law Practice has a dedicated team of lawyers and support staff representing 100's of survivors of abuse across all States and Territories. All staff in the practice are specially trained to observe trauma informed care and practice principles when dealing with survivors.

Maurice Blackburn has provided submissions to a number of inquiries that have aimed at informing the implementation of Bills that seek to implement the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission), across a number of jurisdictions. Our submissions are always based on the lived experiences of those we represent, and the experiences of our staff in representing them.

Maurice Blackburn has, since the findings of the Royal Commission were handed down, been actively monitoring the progress of States and Territories in their endeavours to incorporate relevant recommendations into legislation. Our advocacy work in this area has attracted significant attention from various parliamentary committees, as well as the media.

We believe that in recognising those States and Territories showing courageous leadership in striving for a victim-centred and child safe response (often against powerful lobbying by major institutions), we might encourage other jurisdictions to see what's possible.

The Bill, as presented, will not only help to ensure that the considered recommendations of the Royal Commission are implemented over time, but that a victim-centred approach to this change process is front and centre.

Maurice Blackburn recognises that this Bill, amongst other things, will¹:

- Create new offences for failing to report institutional child sexual abuse and failing to protect a child from institutional child sexual abuse (in response to recommendations 33, 34 and 36 of the Royal Commission),
- Ensure that the new failure to report offence applies to information gained during, or in connection with, a religious confession (in response to recommendation 35 of the Royal Commission), and
- Provide for retrospective application of the removal of limitation periods for certain child sexual offences (in response to recommendation 30 of the Royal Commission).

We restrict our comments to the specific provisions of the Bill which seek to implement these responses.

We note the words from the Minister's explanatory speech²:

Unlike most other jurisdictions, in Queensland there is no statutory evidential privilege applying to religious confessions. Whether a common law religious confession privilege exists is not entirely clear due to a paucity of case law. To remove doubt, both the failure-to-report and the failure-to-protect offences in the bill include express provisions to apply to information and knowledge gained during, or in connection with, a religious confession.

We note that the wordings related to the implementation of the 'failure to report' offence have been broadened beyond the institutional context. We are pleased to see that this provision will still bring Queensland into line with most States and Territories in extending obligations to report and protect to a greater range of adults. For example, Tasmania recently joined Victoria, NSW, ACT and SA in extending mandatory reporting to cover the confessional³. This means that this long awaited obligation now exists in more than half of Australia's legal jurisdictions.

¹ Derived from the Fact Sheet, on this public consultation:

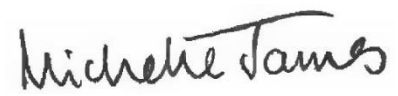
https://www.justice.qld.gov.au/__data/assets/word_doc/0006/623607/fact-sheet-public-consultation-proposed-child-sexual-offence-reforms.docx

² <https://www.parliament.qld.gov.au/documents/tableOffice/BillMaterial/191127/Criminal.pdf>; p.3876

³ See for example

http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/945f5dcfebb4e416ca25845500206106!OpenDocument; <https://www.abc.net.au/news/2018-10-02/tasmanian-government-wants-to-break-the-seal-of-confession/10327746>; <https://www.abc.net.au/news/2018-06-14/sa-to-scrap-church-confession-protection/9868332>

Yours sincerely,

A handwritten signature in black ink that reads "Michelle James". The signature is written in a cursive style with a prominent flourish at the end of the word "James".

Michelle James
Principal, Abuse Law
Maurice Blackburn