

**CRIMINAL LAW (COERCIVE CONTROL AND AFFIRMATIVE CONSENT) AND OTHER LEGISLATION
AMENDMENT BILL 2023**

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Criminal Law (Coercive Control and Affirmative Consent) and other Legislation Amendment Bill 2023

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The Queensland Catholic Education Commission (QCEC) welcomes the opportunity to make a submission on the Criminal Law (Coercive Control and Affirmative Consent) and other Legislation Amendment Bill 2023 (the Bill).

QCEC is the peak strategic body with state-wide responsibilities for Catholic schooling in Queensland. This submission is provided on behalf of the five Diocesan Catholic school authorities and 18 Religious Institutes and other incorporated bodies which, between them, operate a total of 312 Catholic schools that educate more than 160,000 students in Queensland.

QCEC supports the intentions of the Bill to implement the recommendations of the Women's Safety and Justice Taskforce, particularly in respect of addressing how domestic and family violence is dealt with by the criminal justice system and the important issue of coercive control. Yet QCEC would also like to bring to the attention of the Legal Affairs and Safety Committee a vital issue that is not being addressed by the Bill but was one of the key recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse in its *Criminal Justice Report*. Queensland's lack of action on this recommendation was noted in the *Hear her voice report (Report Two, Vol 1)*. In relation to position of authority offences, the Royal Commission made the following clear recommendations:

Recommendations

27. State and territory governments should review any position of authority offences applying in circumstances where the victim is 16 or 17 years of age and the offender is in a position of authority (however described) in relation to the victim. If the offences require more than the existence of the relationship of authority (for example, that it be 'abused' or 'exercised'), states and territories should introduce legislation to amend the offences so that the existence of the relationship is sufficient.
28. State and territory governments should review any provisions allowing consent to be negated in the event of sexual contact between a victim of 16 or 17 years of age and an offender who is in a position of authority (however described) in relation to the victim. If the provisions require more than the existence of the relationship of authority (for example, that it be 'abused' or 'exercised'), state and territory governments should introduce legislation to amend the provisions so that the existence of the relationship is sufficient.
29. If there is a concern that one or more categories of persons in a position of authority (however described) may be too broad and may catch sexual contact which should not be criminalised when it is engaged in by such persons with children above the age of consent, state and territory governments could consider introducing legislation to establish defences such as a similar-age consent defence.

In other Australian jurisdictions, authorities have sought to address the issues raised by the Royal Commission by creating specific 'position of authority' offences where a relationship of special care exists. In Queensland, there are no current equivalent criminal laws.

This is of particular concern for Catholic education, which takes its duty to protect children and young people very seriously. For example, in Queensland it remains legal for a teacher or sports coach (or people in similar school roles) to enter into a consensual relationship with a student above the age of 16. These situations are rare but not unknown and are well outside community expectations of our children's teachers or school staff.

The existence of a sexual relationship between an adult and child in circumstances where the child is 16 or 17 years of age and a relationship of special care exists could result in disciplinary or other action by employers, organisations or professional bodies against the offending adult.

While such cases may lead to such disciplinary action against the adult, the behaviour does not constitute a criminal offence. The inability to pursue criminal offences means no complaint is ever made to police, no charge ever laid, and no case prosecuted. When offending behaviour occurs, the adult can simply resign, leaving no trail in the legal system. They are free to move on to the next school or sports club or other organisation and engage in the same behaviour without any pattern of wrongdoing being established. This limits the ability of professional associations and regulatory bodies like Blue Card Services from taking any action in the context of employment screening processes.

The Royal Commission recognised the risks posed to children and young people by these situations and concluded that our response as a community needs to be stronger. Given such behaviour involves serious breaches of trust and misuse of authority, QCEC believes the Queensland Government should implement the recommendations of the Royal Commission with respect to position of authority offences.

Whether in the current Bill under consideration, or in complementary legislation, QCEC is of the strong view that the recommendations of the Royal Commission should be enacted in Queensland legislation. This will make a real difference in strengthening protections for children and young people and fits closely with the intentions of the current Bill and the recommendations of the Women's Safety and Justice Taskforce.

Thank you for your consideration of this important issue. Should any further information be required, Maree Lacey, Acting Chief Operating Officer QCEC, can be contacted on phone [REDACTED] or by email to [REDACTED]

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