



Submission to the

Legal Affairs and Safety Committee

Inspector of Detention Services Bill 2021

18 November 2021

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INTRODUCTION

PeakCare Queensland Incorporated (PeakCare) welcomes the opportunity to provide information in response to the *Queensland Parliament's Legal Affairs and Safety Committee's* invitation calling for submissions in response to the *Inspector of Detention Services Bill 2021*.

ABOUT PEAKCARE

PeakCare is a not-for-profit peak body for child and family services in Queensland, providing an independent and impartial voice representing and promoting matters of interest to the non-government sector.

Across Queensland, PeakCare has more than 50 member organisations which include small, medium and large, local and state-wide non-government organisations which provide prevention and early intervention, generic, targeted, and intensive family support to children, young people, adults and families. Member organisations also provide child protection services, foster and kinship care and residential care services for children and young people and their families who are at risk of entry to, or who are in the statutory child protection system.

A network of registered supporters also subscribe to PeakCare. Supporters include individuals with an interest in child protection and related services, and who are supportive of PeakCare's policy platform around the rights and entitlements of children, young people and their families to safety, wellbeing and equitable access to life opportunities.

ABOUT PEAKCARE'S SUBMISSION

Given the overlap of children and young people at risk of entry to, or in the youth justice system, with those engaged with the child protection system, PeakCare has a strong interest in matters that intersect with youth justice and youth detention systems. With a longstanding history in advocating for better understanding and management of the complex intersection between the child protection and youth justice systems, PeakCare's motivation in lodging this submission is to highlight specific considerations for the Committee's attention relating to the oversight of children and young people in places of detention.

Central to PeakCare's submission is our strongly held belief, consistent with Government policy, that police watch-houses are not an appropriate place for the detention of children and young people. We consider all reasonable efforts should be made, including through strong oversight, to limit, to the greatest extent possible, the time children and young people spend in police watch-houses. We also hold a strong view of the need to consider the different purposes of adult prisons and youth detention centres in the development and operationalisation of inspection standards and practices.

In considering the above, while PeakCare is broadly supportive of the proposed Bill and acknowledges the establishment of an Inspector of Detention Services function as a positive step in providing transparency and accountability to the Queensland community, we have outlined below several considerations for the Committee's attention.

PEAKCARE'S RESPONSE TO THE PROPOSED BILL

Inspector's scope

In relation to the places of detention within the scope of the Inspector of Detention Services which is proposed to include police watch-houses, PeakCare recommends the Inspector incorporate an overarching principle within their inspection standards and practices affirming that police watch-houses are not a suitable place for the detention of children and young people.

Inspector's functions

In relation to the development of best practice standards for the consistent and transparent inspection of places of detention, PeakCare recommends the development of specific standards for places of youth detention that are distinct from those applied to places of adult detention. This view is supported by the findings of the *Royal Commission into the Protection and Detention of Children in the Northern Territory* which emphasised that a 'fundamental principle' of the youth legal system should be that children should never be treated and managed the same way as adults in the legal system, and particularly when it comes to detention.¹

We further recommend the development of specific standards for places of youth detention are informed by, and reflect the principles and articles contained within the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (The Beijing Rules), the *United Nations Convention on the Rights of the Child*, and the *United Nations Guidelines for the Prevention of Juvenile Delinquency* (The Riyadh Guidelines).

Mandatory inspections and suitable persons

PeakCare is supportive of mandatory inspections being conducted for youth detention centres at least once per annum and acknowledges the efforts made by the Government in aligning with the safeguards for children in detention recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse (recommendation 15.10). This includes the use of appropriate persons with expertise in child-trauma, and the prevention and identification of child sexual abuse.

PeakCare recommends further consideration be given, as part of the operationalisation of the Inspector's functions, to the use of suitably skilled persons, such as social workers, who can support children and young people to advocate for their rights and entitlements when a mandatory inspection is being carried out. This recommendation directly supports the statement included in the Bill's explanatory notes that children "may lack the skills needed to advocate effectively for themselves, particularly within a detention environment."²

¹ Northern Territory Royal Commission, *Royal Commission into the Protection and Detention of Children in the Northern Territory*, (2017) Volume 1, p 43.

² Queensland Government, *Inspector of Detention Services Bill 2021 Explanatory Notes*, (2021) p 5.

Coordinating oversight functions

PeakCare recommends the Inspector consult with relevant bodies including the Queensland Child and Family Commission, Queensland Human Rights Commission, and Office of the Public Guardian (with particular consideration for the Community Visitors Program) in developing specific best practice standards for the inspection of places of detention for children and young people. The purpose of this consultation should include a focus on how best to empower the active participation and engagement of children and young people and members of their families in detention settings with the functions of the Inspector of Detention Services, while ensuring their rights, entitlements and specific needs are met.

Mindful of the complex intersection between the proposed Inspector of Detention Services and existing legislative oversight functions held by Queensland Government bodies, PeakCare recommends a lead body is nominated to ensure appropriate and effective coordination is in place across all oversight functions. Without effective coordination of these important functions, there is a potential risk of gaps in oversight, conflicting or incongruent advice between oversight bodies, oversight role confusion, duplication of effort, and a significant additional burden being placed directly on youth detention services, staff and young people.

Concluding remarks

PeakCare welcomes the passage of the Bill as a positive step in strengthening oversight of the management, direction, and control of places of detention in Queensland. We further acknowledge passage of this Bill, and the subsequent establishment of an Inspector of Detention Services function has the potential to positively contribute to improving the safety, care, and wellbeing for those who are being detained.

We encourage the Committee to deeply consider the needs of children and young people in detention as distinct from adults, and to ensure the approach that is taken in operationalising this function reflects and aligns with their very different needs. We also encourage the Committee to use this opportunity to further strengthen Queensland's commitment to reducing the number of children and young people held in police watch-houses through more transparent, accountable, and focused oversight.

Thank you for the opportunity to provide a submission on aspects of the Inspector of Detention Services Bill 2021.

Yours sincerely,



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