Queensland Academy of Sport Bill 2025

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Response to Queensland Academy of Sport Bill 2025

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Thank you for the opportunity to consider the *Queensland Academy of Sport Bill* 2025 (Qld). We make the following observations.

A. Executive Summary

We are a collective group of researchers studying prevention and response to athlete abuse in Australian sport. We also have lived experience of abuse in sport as young athletes and are regularly in communication with victim-survivors of abuse in sport.

At the outset we note the Bill demonstrates some positive features including an attempt to manage conflicts of interest (Part 4 s42), a note that it will ensure safe environs (Division 1,s13 (b)) and the integration of integrity standards (13 (b)). However, given the scientific evidence on the psychological, physical and sexual abuse of athletes in sport and our lived experiences, we are concerned about its alignment with the *Child Safe Organisation Act 2024* (Qld) ('the CSO Act'), particularly with respect to governance, children's rights and complaints processes. We are concerned that despite our knowledge on how to prevent and respond to abuse the Bill does not go far enough to ensure this will occur.

Based on our point-by-point analysis detailed below, we ask:

1. That the government appoints a committee comprising of child safe industry experts, researchers and survivors to further review this Act.

2. That the committee be tasked with aligning the Bill against the objectives of the *Child Safe Organisations Act 2024* (Qld).

The advantages of inviting a more diverse cohort to review this legislation will include improved reputation of the QAS, enhanced capacity to manage risk, better outcomes for children and parents, enhanced stakeholder trust, and happier, healthier athletes.

Thank you for considering this submission.

B. Establishing the Evidence Base

1. Abuse in sport is a recognised global concern (Hartill et al., 2023; Ohlert et al., 2021). Consistent with international large scale prevalence studies, athletes in Australian sport from the grass roots to high performance environment experience abuse frequently and at high rates across sports (Leahy et al., 2002; Pankowiak et al., 2022). Commissioners, researchers and survivors have further studied its nature and characteristics, as reflected in the work of Australia's Royal Commission Into Institutional Responses to Child Sexual Abuse (the Royal Commission), and with specific reference to Volumes 6 and 14[1]. Additionally, industry reviews into various sports (e.g., gymnastics, soccer, hockey, swimming, volleyball) describe its nature and characteristics as well as the failures of systems surrounding the abuse.

2. The QAS Bill aims to regulate high performance environs. A wide body of research shows that sport institutions including high performance centres are fraught with structural (e.g., power and reward systems) and social (e.g., norms, values and belief systems) factors that enable and motivate the abuse of athletes, including: the isolation of athletes, a lack of independent organisational oversight, hierarchical power relationships that lead to extreme reliance on the coach and other staff for relational wellbeing and success, a culture of silence for fear of repercussion, the normalised use of psychological and physical violence to reach performance outcomes, winner-take-all reward and incentive systems and win-at-all costs approaches to training of athletes, the normalisation of abuse and uncertain pathways after life as an athlete (Roberts et al., 2020; Woessner et al., 2023)

3. As it currently stands, we note the Bill aims to maximise athlete performance and provide scholarships, consistent with the Winning Edge program leading into Rio 2008 Olympic Games, and the Gold Medal Plan leading into the Sydney 2000 Olympic Games.

4. Researchers, athletes and survivors alike now understand the harms that were promulgated when medal targets were promoted without regard to athlete welfare. After hard-won efforts to effect remedies, some tentative steps have been taken towards providing remedies of a limited scope and nature (Western Australian Institute of Sport WAIS gymnastics redress; Australian Institute of Sport AIS Restorative Program). However, as this Bill indicates, there is still some way to go with respect to full integration of knowledge into improved governance arrangements for athletes' safety and wellbeing.

5. Responsible Australian decision makers have a moral and legal imperative to provide the best possible protective systems for athletes including children.

C. Specifics of the QAS Bill

[1] https://www.childabuseroyalcommission.gov.au/sport-recreation-arts-culture-community

6. We understand the Queensland government is enabling the QAS to become more independent of government by enabling it to be a separate entity. In so doing it will be granted greater autonomy. Additionally, the QAS focus is on HP programs.

7. The QAS corporate body is stated, at s9 Functions, to "provide programs for identifying, and providing targeted development activities for Queenslanders who demonstrate the talent to develop into future elite athletes…"

8. We argue Queenslanders envisaged here are children and young adults. Very few sports involve creating 'future elite athletes' through direct approaches to adults. Recent data tell us that despite our knowledge of the dangers of early specialisation and win-at-all costs approaches, the trends are towards – rather than away from – exposing ever-younger children to Olympic sports. The International Olympic Committee has sanctioned children as young as eleven for Olympic competition. Roberts et al. (2024) note that many Olympic sports, including skateboarding and surfing, have no minimum age, and this dramatically increases the risk of child abuse. The youngest athlete to compete in Paris was an 11-year-old from China (Roberts et al., 2024). A 14-year-old skateboarder became Australia's youngest-ever gold medallist. Age is a risk factor for all abuse types and the highest rates of CSA involve children aged 10 to 14 (Roberts et al., 2024; Mathews et al., 2023). In sport contexts, children and young people in sport are at risk of abuse given their development age and reliance on adults around them. Power imbalances between young athletes and sport staff (e.g., coaches, officials, managers) can be abused, particularly in high pressure, isolated environments such as state or national institutes and academies of sport.

9. The Bill is therefore, in its operational sense, targeting Queensland children. Because of this, governments must pay due regard to the UN Convention on the Rights of the Child 1989, as incorporated into Australian laws and state legislatures, and statutorily-embedded Child Safe Standards as engineered by the Royal Commission into Institutional Responses to Child Sexual Abuse (Volume 6). These Standards aim to give holistic expression to child safety in its organisational remit, including mechanisms for better governance, to improve the protection of children's rights, and provide more effective, protective complaints mechanisms.

D. The Child Safe Organizations Act (CSO Act) 2024

10. We note Queensland passed the *Child Safe Organisations Act* 2024 last year, and this will be rolled out in phases, operationally effective for Phase One organisations such as the QAS from October 1, 2025 (ie potentially *before* this Bill becomes an Act).

11. The CSO Act has Six Chapters which include an Introduction (Ch 1), Child Safe Standards (Ch2), the Reportable Conduct Scheme (Ch3), and Investigation and Enforcement (Ch 6).

12. At the Introduction, the Act's stated purpose is to protect children from harm and promote the best interests of children (s3 (1)). Further, this will be achieved by compliance with the ten Child Safe Standards (s3 (2) (b)) and a Universal Principle (Eleventh) per indigenous matters.

13. Organizations deemed to be 'child safe entities' must comply with the ten Child Safe Standards and the Eleventh. We argue QAS is a 'child safe entity' per Schedule 1 of the Act. The Schedule envisages services or activities provided primarily for children, including sporting associations and clubs (9a) and government entities at s13 (a). Since the Objects of the QAS Bill are to develop elite pathways, which envisages programs designed specifically for children, the QAS is arguably subject to the Standards. Additionally, the Bill indicates QAS staff are regulated under *Public Sector Act 2022* (Cth), s8, satisfying the s13 Schedule 1 requirement.

14. We note, however, that while the Bill's "statement of compatibility" on its compliance with Human Rights instruments pays regard to the *Human Rights Act 2019* (Qld) it does not discuss the *Child Safe Organisations Act 2024* (Qld). If this omission arises as a result of deficits within the CSO Act itself we argue that this gap be addressed.

15. It now remains for us to examine the Standards and their relevance to the QAS Bill.

E. The Child Safe Standards applied to the QAS Bill

16. Per Part 1 s9, the ten child safe standards under the Qld Act include:

- Standard One: (s9a) i) child safety and wellbeing is embedded in the entity's organisational leadership, governance and culture;
- Standard Two: (s9b) ii) children are informed about their rights, participate in decisions and are taken seriously and
- Standard Six: (s9f) iii) processes to respond to complaints and concerns are child-focussed.

17. We now explore what the Standards require. The list is only illustrative.

E1. Child Safety Standard One: Governance

17. All Standards are fleshed out at the following location: (https://childsafe.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf)

18. Per Governance, we note their following points (our italics):

> a) A child safe culture is championed and modelled *at all levels* of the organisation from the *top down* and the bottom up.
>
> b) Governance arrangements facilitate implementation of the child safety and wellbeing policy at all levels.

c) Risk management strategies focus on *preventing, identifying and mitigating risks* to children and young people.

19. We now examine the QAS Bill. This is set out in seven parts, with points of interest being Part 2 QAS establishment, function and powers (sections 5 to 11); and Part 3 Board establishment, functions and powers (sections s12-32). Both these Parts relate to Governance.

20. Per Part 2, s 15 (3), the skills, qualifications and experience of the Board members that QAS must satisfy are:

(a) business or financial management;
(b) corporate governance;
(c) high-performance sport;
(d) law;
(e) Olympic or Paralympic sport;
(f) another area the Minister considers relevant or necessary to support the board's functions.

21. We note there is no child-safe representative, child-safe advocate, or survivor advocate. Per (f) the wording is too broad and vague to represent a guarantee of this nature. When examined through a child safety lens, the Bill leaves child safety to the vagaries of individuals in power, whose interests and needs will vary.

22. Additionally, where diversity of board members is required under the Universal Principle (Standard Eleven in relation to indigenous needs) it is unclear how this is addressed.

23. When it comes to assessing risk, it is unclear how the Board will understand what constitutes a risk to 'athlete wellbeing' if the term is not defined. To date, there is no definition in the QAS Bill, or the adjacent policies (*QAS Safeguarding Athletes, Children and Young People Policy).* This means that in relation to the QAS Board's stated task of risk mitigation, it is unclear how the Board will know and understand what they are striving for. This means their efficacy will be undermined.

24. Per Standard One, risks to child safety may also accrue through inappropriate appointments, discussed at Part 3 Board, Division 2 Composition s19. We acknowledge the Bill prohibits those with criminal convictions from holding governance positions (s19). However, we are acutely aware, through the literature and victims' testimonies on this point, that convictions are notoriously difficult to achieve. Additionally, offenders may be charged but the process abandoned for various complex legal reasons. Given this, we argue this provision does not go far enough. For example, the Bill does not exclude those who have been under investigation or charged at the criminal level. Additionally, the Bill does not prohibit those whose conduct has led to substantiated misconduct findings at the administrative level or in overseas tribunals.

25. The Board is required to set the example, and for this reason the Bill needs to recognise the public perception of appointments of this calibre, and the impacts on survivors where appointments represent 'red flags' such as substantiated misconduct findings. We argue, therefore, for a statutorily mandated Declaration Form. This Form would confer an obligation on Board applicants to notify the Minister if they are currently under investigation, or if circumstances in relation to integrity or child abuse investigation matters alter over the course of their appointment. Where concerns emerge whilst that Board member is sitting, we argue the Bill needs to outline the several critical circumstances where the Minister can act on public concerns, beyond the strict confines of a criminal conviction.

26. Per Standard One, it is unclear how committees, noted at Part 3 Division 4, will have any substantive decision-making powers. Reporting pathways from committees to the Board are not regulated by the Act and can be subject to change. We argue for legislation that makes explicit and guarantees reporting pathways to the Board.

27. Per Standard One, it is unclear how the Bill positions itself in relation to whistleblower functions and protections, a key integrity provision. Given the critical nexus between fear of reporting and victimisation, we ask that this be made explicit.

E2. Child Safety Standard Two: Children's rights

28. Standard Two (s9b) requires children to be informed about their rights. It is unclear, from this Bill, how this requirement would be met. Per Division 4 on the creation of Committees, it is not clear how any committees would represent the rights of children, a considerable blind spot when we consider the majority of QAS participants on developmental pathways will be under 18.

29. Given the degree to which athletes rights have been subjugated in the past, we argue this child safety committee needs to be embedded in the legislation. This acknowledges the already well-researched understandings of structural power imbalances between athletes and organisations. Alternatively, or additionally, we argue for the insertion into the QAS Act of a Part 5 Athlete Rights Division with reporting rights to the Board and backed by a degree of budgetary autonomy. This would demonstrate alignment with CSO Act and other human rights acts. It would also further the aim in the *National Strategy to Prevent and Respond to Child Sexual Abuse* Theme Two in relation to supporting and empowering victims and survivors (Strategy p40).

E3. Child Safety Standard Six: Complaints Mechanisms

30. Child Safe Standard Six (s9f) notes processes to respond to complaints must be child focused. Those which are trauma-informed (TI) are best placed to encourage full disclosures of abuse. Children need to feel psychologically safe to disclose what they have experienced. Through this TI process investigators can secure best evidence and prevent further

traumatisation. Without TI processes guaranteed in legislation, the QAS will be inculcating a system of complaints outcomes that fall short. Since 'trauma-informed' is not defined in the Act or elsewhere, this needs to be included, and could be embedded, for example, at Div 2 Functions and Powers s9.

31. By examining the complaints process outlined in the QAS *Safeguarding Athletes Children and Young People Policy* (SACYPP), it is clear QAS offers several avenues for reporting complaints, including assigning Sport Integrity Australia (SIA) as the investigating body (SCAYPP s4 (c)). Scholarly literature notes these complaints processes are suffused with power imbalances and lack protective oversights (Roberts & Quigley, 2024). A cursory examination of the relevant Complaints, Disputes and Discipline Policy (CDDP) shows at least one salient example. In circumstances where a child complainant receives a finding from SIA that is unsubstantiated, a sports body such as the QAS is entitled to close the case. While an adult Respondent has a right of appeal, there is no corresponding right for a child athlete (eg see the Gymnastics Australia CDDP v4 at 8.5). This means that where children are subjected to inadequate, harmful, or negligent investigation processes they are left with no guaranteed way to appeal these unfair outcomes. The effects of this policy shortfall, over time, become systemic and hidden from the Board's view. Where the Board is forced to work with insufficient or incorrect data it is stymied in the task of mitigating risk.

32. The Board's task is to strive for continuous quality improvement of policies. We argue this is best achieved not only by advice and input from the QAS National Integrity Manager (NIM) or an equivalent position but also through an Athlete Rights Division as envisaged at Part 5 of the Act. The Athlete Rights Division could provide the Board with a direct report on issues within the complaints system as seen through the child survivor' lens, rather than the interpretative lens of a National Integrity Manager. This approach would provide a more surehanded way to provide continual improvement processes to policies. It would also provide a more robust and assured way of raising attention to critical incidents that would otherwise go the media and risk causing the QAS reputational damage.

<u>Closing comments</u>

33. The Bill demonstrates an attempt to manage conflicts of interest, ensure safe environs, and integrate integrity standards. However, as it currently stands, the Bill falls short in relation to complying with CSO Act in a variety of ways including governance, children's rights, and complaints mechanisms. We argue a committee should be formed to make this Bill more robust for current and future athletes using the QAS.

Thank you for considering these matters.

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