



Child Safe Organisations Bill 2024

Report No. 47, 57th Parliament
Community Support and Services Committee
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Community Support and Services Committee

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Acknowledgements

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All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the Community Support and Services Committee's examination of the Child Safe Organisations Bill 2024

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

There is no denying that our number one priority as a community is to ensure the safety of our children. The thought of having our children exposed to risk, whatever that may be, for most of us brings out the most primal of protective instincts.

This Bill acknowledges this primal instinct at its very heart and enshrines in legislation a core set of principles that create a foundation for all organisations who work with our most precious and vulnerable community asset, our children.

In recommending the adoption of this Bill, Queensland will align with nationally agreed principles for a child safe environment and join with other states, Tasmania, Victoria, Western Australia and New South Wales, to establish this important legislation.

During the Committee's deliberations of this Bill the majority of witnesses expressed their support for this Bill's intent and the child safe standards it introduces.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff, the Department of Child Safety, Seniors and Disability Services and the Department of Justice and Attorney-General.

I commend this report to the House.



Adrian Tantari MP

Chair

Recommendation

Recommendation 1

9

The committee recommends the Child Safe Organisations Bill 2024 be passed.

Report Summary

This report presents a summary of the Community Support and Services Committee's examination of the Child Safe Organisations Bill 2024.

The committee recommends the Bill be passed.

The main objectives of the Bill are to promote and protect the rights, interests and wellbeing of children in Queensland, and to this end:

- establish mandatory compliance with 10 Child Safe Standards (CSS), and a Universal Principle for cultural safety for Aboriginal and Torres Strait Islander children
- establish a Reportable Conduct Scheme (RCS) for the oversight of reporting and investigations into allegations of child abuse by relevant organisations
- provide for the Queensland Family and Child Commission (QFCC) to be the oversight body responsible for the administration of CSS and RCS.

The Bill proposes amendments to the *Evidence Act 1977*, the *Family and Child Commission Act 2014* and the *Working with Children (Risk Management and Screening) Act 2000*.

There was broad support for the Bill from stakeholders. The key issues raised and considered by the committee during the examination of the Bill included:

- the powers of the QFCC in regard to receiving and resolving complaints
- clarification of the application of the CSS to individuals and certain entities
- the provision of support for the implementation of the CSS and the RCS, particularly for smaller organisations and those representing Aboriginal and Torres Strait Islander peoples
- creation of information and guidance specific to ensuring RCS compliance
- concern around the sharing of information between entities.

The committee is satisfied that sufficient regard has been given to fundamental legislative principles, to the rights and liberties of individuals and the institution of parliament, and that any limitations on human rights are reasonable and justifiable.

Overall, the committee supported the purpose of the Bill.

1 Introduction

1.1 Referral

On 12 June 2024, Hon Charis Mullen MP, Minister for Child Safety, Minister for Seniors and Disability Services and Minister for Multicultural Affairs, introduced the Child Safe Organisations Bill 2024 (Bill) into the Queensland Parliament. The Bill was referred to the Community Support and Services Committee (committee) for detailed consideration.

1.2 Policy objectives of the Bill

The policy objective of the Bill is to improve the safety and wellbeing of children in Queensland organisations and ensure children who are at risk of experiencing abuse or who have experienced abuse in institutional settings are supported early, in a trauma-informed, appropriate way.¹

The Bill would establish an integrated child safe organisations (CSO) system for Queensland. The CSO system would comprise of:

- mandatory child safe standards (CSS) and a Universal Principle for cultural safety for Aboriginal and Torres Strait Islander children
- a nationally consistent reportable conduct scheme (RCS) to provide independent oversight of organisational responses to allegations of child abuse across sectors.²

The CSO system would be administered by the Queensland Family and Child Commission (QFCC/Commission).³

The explanatory notes describe the proposed model as:

... an integrated child safe organisations (CSO) system within a single independent oversight body that includes a collaborative regulatory model to implement mandatory CSS and ensure compliance by in-scope organisations, and oversight of institutional child abuse complaints and allegations through a nationally consistent RCS.⁴

According to the explanatory notes, the proposed legislation will support the intent of the recommendations of the *Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse* (Royal Commission Final Report).⁵

1.3 Background

1.3.1 Child abuse in institutional settings

According to the Queensland government, approximately 12,148 cases of institutional child abuse occur in Queensland every year.⁶ Child abuse in institutional settings has profound and lasting impacts on those who experienced abuse, as well as their networks, communities and broader society.⁷ Inappropriate or inadequate institutional responses to abuse can also contribute to trauma. The Royal Commission Final Report found that prompt and effective responses by organisations have helped

¹ Explanatory notes, p 2.

² Record of Proceedings, 12 June 2024, pp 2079-80.

³ Department of Child Safety, Senior and Disability Services (department) and Department of Justice and Attorney-General (DJAG), *Growing Child Safe Organisations in Queensland: Decision Impact Analysis Statement* (DIAS), p 135; explanatory notes, p 2.

⁴ Explanatory notes, p 2.

⁵ Explanatory notes, p 2.

⁶ Department and DJAG, *Growing Child Safe Organisations in Queensland: Summary Impact Analysis Statement* (Summary IAS), pp 2-3.

⁷ Department and DJAG, DIAS, p 136.

keep children safe and promoted healing and a sense of justice for those who experienced abuse.⁸ Appropriate responses are those that are responsive, compassionate, transparent, and hold organisations accountable.⁹

1.3.2 Royal Commission into Institutional Responses to Child Sexual Abuse

Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report



The sexual abuse of a child is intolerable in a civilised society. It is the responsibility of our entire community to acknowledge that children are vulnerable to abuse. We must each resolve that we will do what we can to protect them. The tragic impact of abuse for individuals and through them our entire society demands nothing less.¹⁰

The Royal Commission was established in 2012 in response to allegations of sexual abuse of children in institutional contexts that had been emerging in Australia for many years.¹¹ A number of previous national inquiries raised the issue of institutional child sexual abuse.¹² Additional inquiries at a state level across Australia, together with continuing pressure from survivor support groups, resulted in greater public awareness and increased pressure for a national response.¹³ The Royal Commission presented its Final Report on 15 December 2017.¹⁴ In its extensive consultation process taking place over 5 years, the Royal Commission heard from more than 8,000 people in private sessions.¹⁵

1.3.2.1 Royal Commission recommendations

Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report



When considering recommendations designed to improve the safety of children in institutions we utilised a number of approaches. In addition to defining 10 Child Safe Standards that every institution should adopt, we considered the role that institutional management, education, community awareness, civil litigation and criminal justice each can play. No single recommendation or group of recommendations can be expected to achieve the required objective. They must all be considered and, depending on the institution, the relevant recommendations must be taken up to bring an improvement in the safety of children.¹⁶

The Royal Commission Final Report made a number of recommendations, including that state and territory governments:

- require relevant organisations to comply with 10 CSS as a best-practice approach to keep children safe.¹⁷

⁸ Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), *Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse (Final Report), Volume 3: Impacts*, 2017, pp 11-12.

⁹ Royal Commission, Final Report, *Volume 3: Impacts*, p 192.

¹⁰ Royal Commission, Final Report, *Preface and Executive Summary*, p 2.

¹¹ Royal Commission, Final Report, *Preface and Executive Summary*, p 1.

¹² See, for example: *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997), *Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children* (2004), *Protecting vulnerable children: A national challenge* (2005).

¹³ Royal Commission, Final Report, *Preface and Executive Summary*, p 1.

¹⁴ Royal Commission, Final Report, see: <https://www.childabuseroyalcommission.gov.au/>.

¹⁵ Department and DJAG, DIAS, p 125.

¹⁶ Royal Commission, Final Report, *Preface and Executive Summary*, p 8.

¹⁷ Royal Commission, Final Report, *Recommendations*, p 10, Recommendation 6.8.

- establish nationally consistent RCSs to provide independent oversight of organisational responses to allegations of child abuse across sectors.¹⁸

1.3.3 Existing child safe requirements and regulations

The existing regulatory landscape for organisations working with children is complex.¹⁹ General child safety regulations and requirements that these organisations are subject to include:

- Blue card system:
 - covers a broad range of organisational contexts and employees/volunteers and business operators
 - Child and Youth Risk Management Strategies are a key obligation
 - aligns to CSS relating to suitability of employees
 - emphasises screening as one component of a wider safeguarding system
- regulation and accreditation:
 - some sectors are subject to regulation in various forms
 - examples include the early childhood education and care sector, licensing of residential care services, non-state schools' accreditation, and professional registration such as teacher registration laws
 - some of these systems align with CSS to an extent
- quality frameworks:
 - some sectors are subject to quality frameworks like the Human Services Quality Framework
 - for these organisations, compliance is a condition of funding. They may also be subject to other forms of oversight or regulation
 - there is some alignment with the CSS in certain frameworks
- legal obligations:
 - mandatory child protection reporting laws apply to particular professions
 - certain adults engaged with organisations have obligations to protect children from child sexual abuse (a 'failure to protect' offence). A 'failure to report' child sexual abuse offence applies to all adults in Queensland
 - organisations must prove they took reasonable steps to prevent harm in civil litigation proceedings for sexual and serious physical abuse occurring in their care.²⁰

1.3.4 Consultation undertaken by the Queensland government

The Queensland government undertook a variety of policy development, impact analysis, and consultation activities to develop a Queensland model for CSS and RCS.²¹ Consultation was undertaken through the *Growing Child Safe Organisations in Queensland Consultation Regulatory Impact Statement* (CRIS) in 2023. The results of consultation were released in the *Growing Child Safe Organisations in Queensland Decision Impact Analysis Statement* (DIAS) in March 2024.²²

¹⁸ Royal Commission, Final Report, *Recommendations*, pp 19-20, Recommendations 7.9 to 7.12.

¹⁹ Department and DJAG, DIAS, p 28.

²⁰ Department and DJAG, DIAS, p 28.

²¹ Explanatory notes, p 2.

²² Explanatory notes, p 30.

1.3.4.1 Previous work including targeted consultation

Prior to the development of the approved Queensland model for CSS and RCS, consultation was undertaken in 2021-22.²³ Activities included:

- targeted consultation focusing on peak bodies and other representative organisations in sectors identified for potential oversight and regulation by the Royal Commission starting in March 2021
- circulation of the government's first consultation paper, *Growing Child Safe Organisations in Queensland*, which was sent to more than 170 stakeholders across more than 10 sectors with 29 written submissions received, and a series of information sessions were held for key stakeholders in March 2021
- a consultation report outlining the results of this targeted consultation, *Growing Child Safe Organisations in Queensland: child safe standards and a reportable conduct scheme* was published in August 2023
- a dedicated cross-government working group was established in June 2021, and direct consultation with relevant Queensland government agencies was undertaken to understand the impacts of CSS and RCS
- consultation was undertaken with the New South Wales Office of the Children's Guardian and Victoria's Commission for Children and Young People, regarding learnings from their established CSS and RCS strategies.

1.3.4.2 Consultation Regulatory Impact Statement

The Queensland government's CRIS was released for public feedback on 10 August 2023. The CRIS sought feedback on:

- the options for implementing CSS and an RCS in Queensland
- the impact of proposed CSS and RCS regulation on organisations
- the government's analysis that implementing CSS and an RCS would reduce child maltreatment in Queensland institutions, resulting in an overall cost-benefit for Queensland.²⁴

The consultation period ran for a period of 6 weeks, closing on 22 September 2023. Consultation activities included:

- 2 online information sessions attended by more than 170 people
- consideration of 63 written submissions
- targeted consultation with young people, including various organisations
- a cross-sectoral consultation forum with over 20 key stakeholders in attendance in Cairns
- direct meetings with over 10 organisations and regulatory bodies across a variety of sectors.²⁵

The CSS and RCS model options considered in the CRIS are replicated in tables 1 and 2 below.

For the CSS, option 3(a) was selected.

²³ Department and DJAG, DIAS, p 125.

²⁴ Department and DJAG, DIAS, p 12.

²⁵ Department and DJAG, Summary IAS, pp 5-6.

Table 1: Child safe standards (CSS) model options²⁶

Option 1: maintain the status quo

- Continue existing arrangements aimed at protecting children.
- No new framework, regulation or central oversight is introduced.
- No capacity building activities are developed or delivered.

Option 2: non-legislative implementation

- A new whole-of-government policy framework is developed.
- No central oversight or regulation is introduced.
- Contractual and funding mechanisms are used to require funded organisations to implement the CSS.

Option 3: legislative system

- Establish independent oversight body to regulate and oversee mandatory implementation of CSS. A key part of its role would be to build capacity for organisations to implement the standards.

3(a): collaborative regulatory model

- Oversight body would collaborate with relevant regulators and funding bodies to support implementation and ensure compliance. The oversight body would work directly with sectors that are not regulated e.g. religious and sporting organisations to support implementation and ensure compliance.

3(b): co-regulatory model

- Oversight body would only have responsibility for organisations that do not have an appropriate co-regulation e.g. religious and sporting organisations. Existing regulators and funding bodies are given oversight responsibilities and powers in their sectors.

²⁶ Department and DJAG, DIAS, p 127.

For the RCS, option 2 was selected.

Table 2: Reportable conduct scheme (RCS) model options²⁷

Option 1: maintain the status quo – no RCS in Queensland

- Continue to rely on current systems such as the blue card system and funding agreements and quality frameworks to ensure reportable conduct is addressed.

Option 2: implement an RCS in Queensland

- Establish an independent oversight body to administer a reportable conduct scheme.
- A head of an organisation must report allegations of employee reportable conduct to the oversight body.
- The oversight body would have powers to scrutinise institutional systems for handling and responding to reports; monitor the process of investigations and handle complaints by institutions; and conduct investigations on its own motion.
- The oversight body would work collaboratively with existing sectors of other relevant regulators to minimise duplication.
- A key part of the scheme is to build capacity of organisations to respond to allegations of misconduct. The oversight body would flexibly deliver a scheme that is responsive to individual circumstances and risks.

1.3.4.3 Decision Impact Analysis Statement and Summary Impact Analysis Statement

On 22 March 2024, the Queensland government published a Summary Impact Analysis Statement (Summary IAS) and DIAS.²⁸ These documents summarised the findings of the Queensland government’s consultation process. The Summary IAS outlined the recommended model as follows.

²⁷ Department and DJAG, DIAS, p 129.

²⁸ Queensland Government, *Growing child safe organisations*, <https://www.qld.gov.au/community/getting-support-health-social-issue/support-victims-abuse/growing-child-safe-organisations>.

What is the recommended option and why?

In consultation, all stakeholders agreed action is needed to improve the safety of children in Queensland organisations, with strong support for the Queensland Government to legislate CSS and introduce an RCS. Young people also strongly supported laws that require organisations to be safe for children. The recommended model as outlined below gives effect to this feedback.

Child safe standards

Option 3(a), a collaborative regulatory model supported by legislation, is the final recommendation for implementing CSS in Queensland because it will establish a consistent and coordinated approach to building a CSO system providing the most effective means for achieving the objectives of government action. While this option costs slightly more to implement than Option 3(b), its benefits are greater as it limits duplication and regulatory burden on organisations. This option was strongly supported in consultation because it was more likely to streamline compliance processes by embedding CSS in existing regulatory frameworks.

Reportable conduct scheme

Option 2, a nationally consistent reportable conduct scheme, is the final recommendation. Over time, it is expected there will be earlier detection of risks and incidents of child abuse, which will have positive impacts on children, organisations, government and the wider community. Introducing a Queensland RCS will produce the greatest benefits for children and young people and their families by creating safer environments. Supported by stakeholders in consultation, direct government regulation will establish a nationally consistent RCS which delivers against the objectives of government action. The Royal Commission noted that an RCS is the only model in Australia for independent oversight of institutional responses to complaints of child abuse and neglect across multiple sectors.

Integrated model for child safe organisations

The final recommendation to government is to establish an integrated CSO system with a single oversight body which includes:

1. a collaborative regulatory model to implement mandatory CSS and ensure compliance by in-scope organisations (CSS Option 3(a)); and
2. oversight of institutional child abuse complaints and allegations through a nationally consistent RCS (RCS Option 2).

The integrated approach allows for better cohesion and alignment between the two schemes and is more cost-effective than implementing the schemes separately, as indicated by independent modelling. It also offers more cohesive communication between the two schemes and establishes a single, expert body to support organisations undertaking CSO compliance activities. During consultation, an integrated model was supported, with organisations experienced in implementing CSS and RCS in New South Wales and Victoria noting their experiences have generally been positive.²⁹

In April 2024, the Department of Child Safety, Seniors and Disability Services (department) and the Department of Justice and Attorney-General (DJAG) conducted targeted consultation on an exposure draft of the Bill with select government and non-government stakeholders. This feedback informed further development of the Bill.³⁰

1.4 Legislative compliance

The committee's deliberations included assessing whether or not the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* (LSA) and the *Human Rights Act 2019* (HRA).

²⁹ Department and DJAG, Summary IAS, p 6.

³⁰ Ms Donna Burnett, Director, Strategic Policy and Legislation, Department of Child Safety, Seniors and Disability Services, public briefing transcript, Brisbane, 9 July 2024, p 2.

1.4.1 Legislative Standards Act 1992

The LSA sets out fundamental legislative principles (FLPs) that are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’.³¹ The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

The committee’s assessment of the Bill’s compliance with the LSA identified issues which may be considered to have insufficient regard to rights and liberties of individuals, as summarised below:

- enforcement powers in relation to the CSS
- enforcement powers under the RCS
- spent convictions
- adverse information in reports
- delegation of power by the head of a reporting entity
- reversal of onus of proof relating to destruction of relevant document offence.

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill. The notes contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill’s aims and origins.

1.4.2 Human Rights Act 2019

The committee’s assessments of the Bill’s compatibility with the HRA are included below.

The implementation of the recommendations of the Royal Commission Final Report ensures respect, through enhanced child safety, of the human rights of children, specifically the right to life, protection from torture and cruel, inhuman or degrading treatment, ‘special protection’ of the human rights of children, cultural rights and the right to liberty and security of person.³²

A statement of compatibility was tabled with the introduction of the Bill as required by s 38 of the HRA. The statement of compatibility contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

³¹ *Legislative Standards Act 1992*, s 4.

³² Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary* (Oxford University Press, 3rd ed, 2013), 701, explain the special protection of children provided by Article 24 of the ICCPR (which HRA s 26 is based on) in the following terms:

Article 24 accords the special protection to the child required by his/her status as a minor, in addition to those reflected elsewhere in the Covenant. ... [T]he International Covenant on Civil and Political Rights ... and the Convention on the Rights of the Child demonstrate that civil and political rights are applicable to children, both as ‘people’ in the general sense and, where appropriate, specifically by virtue of their status as minors. This chapter [dealing with Article 24] will focus on the *specific* civil and political rights of children, where children’s rights differ from rights accorded in general to children and adults. [Emphasis in original.]

Committee comment

The committee finds the Bill is compatible with human rights.

Child sexual abuse involves potential violations of the human rights of children, including the right to life, protection from torture and cruel, inhuman or degrading treatment, cultural rights and the right to liberty and security of person.

To the extent that the Bill limits the enjoyment of other human rights, the committee is of the view that any limitations appear necessary to protect the human rights of others (namely children).

1.5 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Child Safe Organisations Bill 2024 be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor or technical amendments.

2.1 Oversight by the Queensland Family and Child Commission

The QFCC was established by the *Family and Child Commission Act 2014* (FCC Act) to provide strategic oversight of the child protection and family support systems by monitoring, reviewing and reporting systemic issues impacting on performance of those services. The QFCC currently oversees Queensland's child protection system and plays a role in educating the community on keeping children safe.³³

The Bill would expand the role of the QFCC as the independent body responsible for administering Queensland's CSO system. The QFCC's key functions would include:

- performing regulatory functions
- providing centralised oversight of the CSS, including working collaboratively with sector regulators to support implementation
- administering, overseeing, and monitoring the operation and reporting of allegations of reportable conduct under the RCS.³⁴

Under the model proposed by the Bill, sector regulators would collaborate with the QFCC to support implementation and identify non-compliance with obligations under the CSS and Universal Principle, and RCS.

The Bill would also provide for a range of enforcement powers to allow the QFCC to effectively monitor, investigate, and enforce compliance with the CSS and RCS. According to the explanatory notes, these enforcement powers are 'intended to be exercised in a graduated and proportionate way, with a strong focus on providing education and guidance to entities to build capacity in the first instance'.³⁵

2.1.1 Functions of the Queensland Family and Child Commission

The Bill proposes to establish functions and powers for the QFCC for the administration of the CSS and Universal Principle that align with the Royal Commission's recommended range of powers and functions for an oversight body to administer the CSS.³⁶ Division 1 of the Bill sets out the functions of the QFCC for the purpose of CSS. The QFCC's primary functions are:

- to promote the safety of children, the prevention of child abuse, and proper responses to allegations of child abuse
- to promote continuous improvement and best practice by child safe entities
- to promote and monitor implementation of, and compliance with, the CSS and Universal Principle by child safe entities
- to collaborate with sector regulators in relation to performing its functions.³⁷

³³ Explanatory notes, p 3.

³⁴ Explanatory notes, p 3.

³⁵ Explanatory notes, p 12.

³⁶ Explanatory notes, p 5; Royal Commission, Final Report, *Recommendations*, p 11, Recommendation 6.11.

³⁷ Explanatory notes, pp 5-6.

The primary functions would be achieved by supporting functions provided under the Bill, focusing on:

- education and capacity building
- facilitating information exchange
- collecting, analysing and publishing data
- reporting on the CSS and Universal Principle to promote continuous improvement.³⁸

The QFCC would take a collaborative regulatory approach consistent with the commentary of the Royal Commission Final Report, seeking to minimise regulatory duplication and maximise existing regulatory relationships across sectors proposed to be in-scope of the CSS and Universal Principle.³⁹

2.1.1.1 Education and capacity building

According to the explanatory notes, the Bill would provide that the QFCC will undertake a range of capacity building activities in collaboration with sectors to:

- develop tools to support organisations including sector specific guidelines and development tools (this may include, for example, training and other resources)
- provide advice in relation to the CSS and Universal Principle for organisations, clarifying their responsibilities and suggesting actions organisations may take to meet them
- guide and support entities in embedding cultural safety across each of the 10 CSS, led by Aboriginal and Torres Strait Islander peoples
- provide resources that are accessible and available in a wide range of languages and formats
- lead awareness-raising of the CSS and Universal Principle with parents, families and the broader community.⁴⁰

2.1.1.2 Monitoring and enforcement

In relation to the monitoring and enforcement functions of the QFCC, the explanatory notes provide that a proportionate approach to compliance would be taken, with coercive measures only used when less interventionist measures have not successfully achieved compliance. The powers of the QFCC are intended to be ‘flexible, proportionate and tailored to the characteristics and risk profile of a child safe entity’. The QFCC may also monitor a child safe entity to ensure the entity is implementing and complying with the CSS and Universal Principle.⁴¹

2.1.1.3 Publishing guidelines

Clause 108 would provide that the QFCC may publish guidelines about matters relating to the operation of the Bill or the Commission’s functions, for example, compliance with the CSS and Universal Principle and obligations under the RCS.⁴² According to the explanatory notes, guidelines are ‘intended to include sector-specific guidance, developed in consultation with sector regulators in order to enable guidance to reflect the unique and diverse service delivery environments captured under these obligations’.⁴³ The explanatory notes further state that ‘guidance for cultural safety will be led by Aboriginal and Torres Strait Islander peoples within and external to the Commission,

³⁸ Explanatory notes, p 5.

³⁹ Explanatory notes, p 5.

⁴⁰ Explanatory notes, pp 5-6.

⁴¹ Explanatory notes, p 6.

⁴² Bill, cl 108; explanatory notes, p 14.

⁴³ Explanatory notes, p 14.

consistent with stakeholder feedback and the Queensland government's commitment to a reframed relationship with Aboriginal and Torres Strait Islander peoples'.⁴⁴

2.1.1.4 Stakeholder feedback and department response

The stakeholders who spoke to the proposed new oversight framework welcomed the designation of the QFCC as the independent oversight body, and generally concurred that the QFCC has the appropriate capacity to take on the responsibility for administering the legislated CSO system.⁴⁵

The QFCC endorsed its proposed new role in its submission:

The Child Safe Organisations Bill 2024 represents important progress for children, young people and families of Queensland. As the statutory body responsible for promoting the safety, wellbeing and best interests of children, young people, and families, the QFCC is committed to implementing a successful, coordinated system of safeguarding and we welcome the additional responsibilities the model will bring to the Commission.⁴⁶

Whilst supportive of the proposed framework, the Queensland Network of Alcohol and other Drug Agencies (QNADA) submitted that the proposed oversight functions of the QFCC fall short of providing effective responsibility. QNADA suggested:

...the QFCC's functions should include an independent report mechanism to receive and resolve complaints similar to that proposed for the Anti-Discrimination Act reforms which allows organisations like QNADA to raise issues on behalf of a cohort.⁴⁷

The joint response of the department and DJAG (department response) noted the support for the Bill. To QNADA, the department response stated:

Chapter 4 of the Bill provides a broad information sharing framework that enables prescribed entities, including the QFCC, to receive and disclose information for the purposes of responding to concerns about failure to implement and comply with CSS and the Universal Principle (see clause 48), or for the purposes of the administration of the RCS (see clause 49).⁴⁸

2.2 Child safe standards

The Royal Commission Final Report concluded that their CSS 'should be the foundation of a nationally consistent approach to children's safety in institutions' and should be embedded in legislation.⁴⁹ Relevant recommendations include:

- recommendation 6.5, setting out 10 CSS
- recommendation 6.6, setting out the core components that institutions should be guided by when implementing the standards
- recommendation 6.8, that State and territory governments should require all institutions in their jurisdictions that engage in child-related work to meet the CSS identified by the Royal Commission Final Report at recommendation 6.5.

The Royal Commission's 10 CSS were subsequently adopted as the National Principles for Child Safe Organisations and were endorsed by the Prime Minister and state and territory First Ministers in

⁴⁴ Explanatory notes, p 14.

⁴⁵ Submissions 2, 8, 9, 10, 12, 14, 18

⁴⁶ Submission 13, p 3.

⁴⁷ Submission 9, p 3.

⁴⁸ Department and DJAG, correspondence, 15 July 2024, attachment, p 3.

⁴⁹ Royal Commission, Final Report, *Preface and Executive Summary*, p 26.

February 2019.⁵⁰ New South Wales currently applies a version of the Royal Commission’s 10 CSS, while Tasmania, Victoria, and Western Australia adopt the National Principles.

The Bill proposes that Queensland incorporates the National Principles into the Bill. According to the explanatory notes, the National Principles were selected over the Royal Commission’s 10 CSS, as they were ‘strongly supported in consultation’, and because they ‘will best contribute to national consistency and have a stronger focus on children’s rights and wellbeing’.⁵¹ The Bill would establish a legislative framework for the mandatory implementation of and compliance with the CSS by prescribed child safe entities that provide services specifically for children, or facilities specifically for use by children who are under the supervision of the entity.⁵²

Clause 9 of the Bill sets out the proposed CSS applying to an entity:

Clause 9 - child safe standards

Meaning of child safe standards

The following standards are the *child safe standards* applying to an entity—

- (a) child safety and wellbeing is embedded in the entity’s organisational leadership, governance and culture;
- (b) children are informed about their rights, participate in decisions affecting them and are taken seriously;
- (c) families and communities are informed and involved in promoting child safety and wellbeing;
- (d) equity is upheld and diverse needs respected in policy and practice;
- (e) people working with children are suitable and supported to reflect child safety and wellbeing values in practice;
- (f) processes to respond to complaints and concerns are child-focused;
- (g) staff and volunteers of the entity are equipped with the knowledge, skills and awareness to keep children safe through ongoing education and training;
- (h) physical and online environments promote safety and wellbeing and minimise the opportunity for children to be harmed;
- (i) implementation of the child safe standards is regularly reviewed and improved;
- (j) policies and procedures document how the entity is safe for children.

The explanatory notes state that the 10 CSS are designed to be principle-based and outcome focused, developing child safe organisational cultures rather than setting prescriptive rules that must be followed or specific initiatives that must be implemented. Given the broad scope of organisations that interact with children, the CSS are intended to be applied in a flexible way, guided by each organisation’s structure, size, level of risk, and characteristics.⁵³

2.2.1 Scope of child safe standards

The Royal Commission Final Report recommended CSS apply to a broad range of sectors working with children including schools, early childhood education and care, child protection, youth justice, arts, sport and recreation, transport, community and commercial services.

⁵⁰ National Office for Child Safety, *Lead the National Principles for Child Safe Organisations*, <https://www.childsafety.gov.au/what-we-do/lead-national-principles-child-safe-organisations>.

⁵¹ Explanatory notes, p 3.

⁵² Explanatory notes, p 3.

⁵³ Explanatory notes, p 1.

The explanatory notes state that the Bill aligns the scope of entities required to implement the CSS to the Royal Commission’s recommended categories, while also covering the existing scope of organisations required to produce a risk management strategy under the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act), to maintain existing protections. Clause 10(1) defines a child safe entity as follows:

Clause 9 - child safe standards

A child safe entity is an entity—

- (a) that provides—
 - (i) services specifically for children; or
 - (ii) facilities specifically for use by children who are under the supervision of the entity; and
- (b) that is either—
 - (i) mentioned in schedule 1; or
 - (ii) prescribed by regulation.

The explanatory notes state that the obligation to comply with the CSS and Universal Principle applies at a broad organisational level, rather than to specific service streams or parts of an entity. The intent is to facilitate a flexible approach to implementation across an organisation’s various services, activities and environments, tailored to the organisation’s circumstances, characteristics and risk factors.⁵⁴ An organisation not captured within scope can also voluntarily participate in the obligations of a child safe entity.⁵⁵

2.2.1.1 Stakeholder feedback and department response

Legal Aid Queensland sought clarification as to whether CSS obligations apply to lawyers who act as independent children’s lawyers or lawyers in direct representation matters acting to represent the interests of a child.⁵⁶

QNADA suggested that alcohol and other drugs treatment services are limited to entities that provide this service only to children.⁵⁷

The department response referred to cl 10 of the Bill which provides that a *child safe entity* is an organisation that provides services specifically for children (cl 10(1)) or an individual carrying on a business (as a sole trader or in a partnership) providing services specifically for children (cl 10(2)).⁵⁸ The department provided the following clarification:

Organisations that provide legal advocacy services or services relating to child protection, including community legal centres or firms that provide services specifically for children through direct representation, are in scope where they meet the criteria under clause 10(1), regardless of the relevant court within which they provide those services.⁵⁹

⁵⁴ Explanatory notes, p 5.

⁵⁵ Explanatory notes, p 5.

⁵⁶ Submission 5, p 4.

⁵⁷ Submission 9, p 3.

⁵⁸ Department and DJAG, correspondence, 15 July 2024, attachment, pp 5-6.

⁵⁹ Department and DJAG, correspondence, 15 July 2024, attachment, p 5.

2.3 Universal Principle

The Bill provides for a universal principle for embedding cultural safety for Aboriginal and Torres Strait Islander children into the CSS as an ‘overarching guiding principle’.⁶⁰

Clause 11 - Universal Principle

In implementing and complying with the child safe standards, a child safe entity must provide an environment that promotes and upholds the right to cultural safety of children who are Aboriginal persons or Torres Strait Islander persons (the universal principle).⁶¹

According to the explanatory notes, the Royal Commission Final Report found that a strong connection to culture is a protective factor against child sexual abuse for Aboriginal and Torres Strait Islander children because:

- it builds resilience in communities to help mitigate the negative consequences of past policies and contemporary racism
- strong attachments with multiple caregivers, high self-esteem and positive social connections act as protective factors against child sexual abuse
- racism and disconnection from culture heighten the vulnerabilities that Aboriginal and Torres Strait Islander children face in institutions.

The Bill at cl 11 would establish a Universal Principle for child safe entities to provide environments that promote and uphold the right to cultural safety of Aboriginal and Torres Strait Islander children.⁶² The Universal Principle would have the same standing as the 10 CSS and, where there is non-compliance, the same enforcement powers can be used by the QFCC.

2.3.1.1 Human rights considerations

Though the term ‘right to cultural safety’ does not appear in the HRA or in international human rights instruments, the term appears to be consistent with the combined operation of the positive obligations that arise in relation to the rights of children in s 26 of the HRA, the general cultural human right set out in s 27 of the HRA, and the specific cultural rights of Indigenous Queenslanders provided for in s 28 of the HRA. The Royal Commission Final Report also specifically used the term ‘cultural safety’ in Volume 4 of its Report, which addressed identifying and disclosing child sexual abuse, in the context of youth detention.⁶³

The 10 CSS in cl 9 of the Bill and the term ‘cultural safety’ in cl 11 must also be interpreted in light of international instruments (relevant under ss 12 and 48 of the HRA), in particular, the *Convention on the Rights of the Child*, Articles 19 and 30, the *International Covenant on Civil and Political Rights* (‘ICCPR’) Articles 24(1) and 27, and the 2007 UN *Declaration on the Rights of Indigenous Peoples*, Articles 8(1) and (2)(a) and 14.

2.3.1.2 Stakeholder feedback and department response

Submitters widely supported the inclusion of the Universal Principle, but also noted that in order to implement the Universal Principle across child safe entities, there would need to be adequate support, training and guidelines.⁶⁴ For example, the Cairns Regional Council stated that there would be challenges particularly for smaller and community-based entities implementing and maintaining

⁶⁰ Explanatory notes, pp 4, 35.

⁶¹ Bill, cl 11(2).

⁶² Explanatory notes, p 4.

⁶³ Royal Commission, Final Report, *Volume 4: Identifying and disclosing child sexual abuse*, p 17 and *Recommendations*, p 46, Recommendation 15.5.

⁶⁴ Submissions 2, 3, 7, 8, 9, 12, 14, 15, 18, 21.

compliance without the provision of funding and support mechanisms.⁶⁵ The Local Government Association of Queensland (LGAQ) also expressed concern for local councils providing childcare services being subject to 'significant barriers' in implementing the new standards.⁶⁶

QNADA submitted that cultural safety would be particularly difficult to implement in institutions such as police, youth justice and child safety entities which are 'inherently traumatic for children'.⁶⁷

Queensland Indigenous Family Violence Legal Service (QIFVLS) welcomed the inclusion of the Universal Principle but submitted that the right to cultural safety for Aboriginal and Torres Strait Islander children be included as the first of 11 CSS. Their submission stated the Bill's current inclusion of cultural safety – in a Universal Principle - has the potential to be 'overlooked and sidelined' by organisations in terms of compliance.⁶⁸

Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited (QATSICPP) and Queensland Council of Social Service (QCOSS) submitted that, in relation to cultural safety of Aboriginal and Torres Strait Islander peoples, it should be First Nations people to be making decisions and leading regulation.⁶⁹ QATSICPP submitted the Bill be amended to 'enshrine a lead role for Aboriginal and Torres Strait Islander people in the implementation and operation of the RCS and CSS at both an individual and systemic level'.⁷⁰

Commissioner Natalie Lewis noted that the FCC Act allows for the appointment of two commissioners, one of whom must be Indigenous. She commented that the Bill refers to 'a' commissioner and occasionally 'the' commissioner (s 50(3)), or the principal commissioner (s 100(6)) with no role definition offered. Commissioner Lewis submitted that 'the guidelines, application and compliance relating to the universal principle must be led by the Indigenous commissioner and this should be made explicit in this Bill'.⁷¹

In relation to the implementation of the Universal Principle, the QFCC submitted:

Under s.108(2) of the draft Bill, the QFCC may make guidelines about the child safe standards and the universal principle, meaning that both the commission and child safe entities must understand how to apply the universal principle. This makes the universal principle a crucial aspect of workforce knowledge, suitability and capability outlined in standards (e) and (g). Upon the passage of the legislation the QFCC will produce guidelines about the implementation of the universal principle. These will be developed through shared decision-making with First Nations communities in accordance with commitments made by state and federal governments (including in the Closing the Gap reforms). This work will be led by the QFCC Commissioner who is an Aboriginal or Torres Strait Islander person in accordance with section 11 of the *Queensland Family and Child Commission Act*.⁷²

The department response noted the QFCC's submission in relation to the development of guidelines, and stated:

it is intended that the development and design of guidance, systems and resources to support child safe entities to implement the Universal Principle will be led by Aboriginal and Torres Strait Islander peoples

⁶⁵ Submission 2, p 2

⁶⁶ Submission 9, p 2.

⁶⁷ Submission 9, p 3.

⁶⁸ Submission 12, p 6.

⁶⁹ Submissions 15, 21.

⁷⁰ Submission 15, p 5.

⁷¹ Submission 20, p 3.

⁷² Submission 13, p 9.

in partnership with the QFCC. Clause 108(2) of the Bill recognises the importance of this guidance for entities within the CSS framework.⁷³

To QIFVLS' preference for the right to cultural safety to be a Child Safety Standard, the department response stated:

While an 11th standard was canvassed in consultation, the majority of stakeholders supported a universal guiding principle on the basis that cultural safety must be considered in the application of every standard. ... The Bill also includes references to implementation of, and compliance with, the CSS and Universal Principle to reflect the intent that the Universal Principle has the same standing as the 10 CSS and may be enforced in the same manner.⁷⁴

Committee comment

The committee is encouraged by the Department of Child Safety, Seniors and Disability Services' commitment to the development and design of guidance, systems and resources to support child safe entities to implement the Universal Principle led by Aboriginal and Torres Strait Islander peoples in partnership with the Queensland Family and Child Commission.

2.4 Reportable conduct scheme

The explanatory notes define an RCS as a legislated scheme that applies to certain organisations with a high degree of responsibility for children, across multiple sectors, and requires reporting and investigation of concerns about the conduct of workers with children under the oversight of an independent body. The Royal Commission Final Report recommended the establishment of an RCS based on its findings that systemic issues exist within institutions that have resulted in a failure to protect children and to respond to child sexual abuse. Issues identified included lack of clear and accessible complaints handling policies and procedures, poor investigation standards, and under-reporting to authorities where abuse was known or suspected.⁷⁵ The RCS would 'provide a new level of cross-sectoral oversight of how organisations prevent risks to children, and handle allegations of child abuse by workers'.⁷⁶

2.4.1 Scope of reporting entities

The Bill sets out the reporting entities in scope of the RCS, which align with the Royal Commission's recommendations, and generally with the current scope of other jurisdictions with an RCS. Clause 29 of the Bill provides that the RCS would apply to an entity that cares for, supervises or exercises authority over children as part of its primary functions or otherwise, and is prescribed under Schedule 2 or by regulation.⁷⁷ This includes education services, early childhood education and care services, disability services, supported accommodation or residential services, religious bodies, health services, child protection services, justice and detention services and government entities.⁷⁸

Clause 39 of the Bill provides the ability for the Commission to exempt a reporting entity from complying with reporting obligations under certain conditions. The intent of the provision is that exempt reporting entities are still required to conduct an investigation into a reporting allegation of conviction but are not subject to the oversight of the QFCC, due to the expertise and demonstrated ability to conduct investigations.

⁷³ Department and DJAG, correspondence, 15 July 2024, attachment, p 7.

⁷⁴ Department and DJAG, correspondence, 15 July 2024, attachment, p 9.

⁷⁵ Explanatory notes, pp 1-2.

⁷⁶ Explanatory notes, pp 1-2.

⁷⁷ Bill, cl 29.

⁷⁸ Explanatory notes, p 7.

2.4.1.1 *Human rights considerations*

The Royal Commission Final Report made specific recommendations on the operation of RCSs to, among other things, prevent child abuse by perpetrators moving between institutions and jurisdictions in order to continue the abuse of children. These specific recommendations are also relevant to any proportionality analysis of the Bill under s 13 of the HRA.

Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Recommendation 7.10

Reportable conduct schemes should provide for:

- an independent oversight body
- obligatory reporting by heads of institutions
- a definition of reportable conduct that covers any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child
- a definition of reportable conduct that includes the historical conduct of a current employee
- a definition of employee that covers paid employees, volunteers and contractors
- protection for persons who make reports in good faith
- oversight body powers and functions.⁷⁹

The Bill implements each of these recommendations, raising 7 child safety related issues with human rights implications:

- restrictions on the disclosure of confidential information
- requirements to share information
- oversight by the Commission – enforcement measures
- investigations by reporting entities and the Commission
- reportable allegations and reportable convictions made during religious confession
- enforcement powers of authorised officers, and related obligations regarding incriminating information and destruction, mutilation or alteration of documents
- reporting by the Commission.

The statement of compatibility acknowledges that the Bill creates no exception in relation to information derived from a religious confessional when it imposes reportable conduct obligations as set out in cl 34. This clause potentially limits the right to freedom of religion. The statement of compatibility also acknowledges that the Bill goes further than the specific recommendation made by the Royal Commission Final Report.⁸⁰ The Bill's purpose in imposing a limitation on the freedom of religion, namely to protect the rights of children and their families and the community's interests in the prevention of the sexual abuse of children, is nonetheless supported by the Royal Commission, particularly the Royal Commission's findings regarding the sexual abuse of children in the context of religious organisations and groups.

The committee noted that there was no stakeholder feedback to this proposed reform.

⁷⁹ Royal Commission, Final Report, *Recommendations*, p 19.

⁸⁰ Statement of compatibility, p 18.

Committee comment

For the reasons set out in the statement of compatibility, the committee is satisfied that the Reportable Conduct Scheme, as proposed in the Bill, is compatible with human rights.

The committee is of the view that the limitation on the freedom of religion in relation to information derived from a religious confessional is consistent with a free and democratic society based on human dignity, equality and freedom.

2.4.1.2 Stakeholder feedback and department response

QIFVLS noted the provision is in line with a recommendation of the Royal Commission Final Report but submitted that ‘exempting larger organisations/reporting entities from complying with their obligations creates the perception that certain reporting entities will escape external or independent accountability’.⁸¹

To the QIFVLS submission, the department response stated:

It is intended that the exemption of organisations will not occur until the scheme is sufficiently mature. ... The QFCC must publish any exemptions on its website to support transparency (clause 39(3)). To support accountability, exempted organisations must still provide written notice to the QFCC regarding their findings, reasons and action taken (clause 39(5)).⁸²

2.4.2 Scope of reportable conduct

Reportable conduct is defined to mean conduct that may occur through a single act or omission, or a series of acts or omissions, to capture patterns of behaviour that result in cumulative harm.⁸³ According to the explanatory notes, this definition is consistent with the intent of the RCS to detect patterns of concerning behaviour, particularly regarding conduct that does not meet the threshold of a criminal offence or that occurs across different organisations or sectors where there is currently no single oversight body. Reportable conduct does not include conduct that is reasonable for the discipline, management or care of a child taking into account characteristics of the child and any applicable or relevant code of conduct or professional standard.⁸⁴ Clause 26 of the Bill defines reportable conduct to include:

- a child sexual offence
- sexual misconduct committed in relation to, or in the presence of a child
- ill-treatment of a child
- significant neglect of a child
- physical violence committed in relation to, or in the presence of, a child
- behaviour that causes significant emotional or psychological harm to a child.⁸⁵

According to the explanatory notes, this scope is consistent with the Royal Commission’s recommendations and the meaning of reportable conduct in other jurisdictions.⁸⁶

⁸¹ Submission 12, p 8.

⁸² Department and DJAG, correspondence, 15 July 2024, attachment, p 17.

⁸³ Explanatory notes, p 8.

⁸⁴ Explanatory notes, p 8.

⁸⁵ Explanatory notes, p 8.

⁸⁶ Explanatory notes, p 8.

2.4.3 Obligations on heads of entities

The Bill defines the head of an entity to mean the chief executive of the entity in the first instance, or otherwise a principal officer or other person or holder of a position approved by the Commission, depending on available roles within the entity.⁸⁷ For a public sector entity under the *Public Sector Act 2022*, this means the chief executive of the entity, or the police commissioner for the Queensland Police Service. The functions of the head of an entity under the RCS may be delegated to an appropriately qualified person.⁸⁸ The head of an entity would have obligations to:

- ensure systems are in place for preventing reportable conduct, enabling reporting to the entity or Commission in relation to their workers, and investigating and responding to reportable allegations against and convictions of their workers (cl 30)
- notify the Commission of reportable allegations or convictions that they become aware of against their workers through an initial report and interim report as applicable (cls 34 and 35)
- arrange for an investigation of the reportable allegation or reportable conviction, and provide a final report to the Commission which includes findings as to whether the worker engaged in reportable conduct (cls 36 and 37)
- provide information as requested by the Commission (or an authorised officer) upon request, including regarding its systems or its final report (cls 31, 38, and 91)
- ensure an appropriate level of confidentiality of information relating to reportable allegations and reportable convictions and only disclose information about the allegations or convictions in circumstances permitted by legislation (cls 56 and 57).⁸⁹

2.4.3.1 *Stakeholder feedback and department response*

QFCC expressed support for the obligations set out within the Bill for heads of entities to be able to prevent reportable conduct, to enable reporting of reportable conduct (to the QFCC), and to investigate and respond to reportable conduct allegations and convictions of their workforce.⁹⁰

Anglicare Southern Queensland expressed support for the personal liability of the head of an entity, and the inclusion of clauses that refer to *reasonable* excuse and a head of entity's being '*reasonably able to investigate*', which is expected to allow a less rigid application of the legislation pending the circumstances.⁹¹

In contrast, the Queensland Catholic Education Commission (QCEC) noted that cl 7 was unclear in its application to Catholic schools in Queensland. The QCEC submission recommended that for non-state schools, the 'head of the entity' be deemed to be the school governing body as accredited under the *Education (Accreditation of Non-State Schools) Act 2017* (Accreditation Act).⁹²

The submission of the Non-State Schools Accreditation Board (NSSAB) stated that consideration should be given to requiring the QFCC to provide the Board with copies of any recommendations issued by it to a non-State school in relation to RCS systems, to assist the Board in performing its functions under the Accreditation Act and Accreditation Regulations as well as under the Bill.⁹³

⁸⁷ Bill, cl 7; explanatory notes, p 9.

⁸⁸ Explanatory notes, p 8.

⁸⁹ Explanatory notes, pp 8-9.

⁹⁰ Submission 13, p 10.

⁹¹ Submission 10, p 4.

⁹² Submission 4, p 2.

⁹³ Submission 19, p 2.

The department response advised:

Clause 7(d) provides flexibility for the QFCC to determine the appropriate head of an entity through implementation, where there is not a chief executive officer or principal officer, noting the diversity of entities in scope of the Bill. The QFCC may also assist reporting entities to determine who is the head of an entity for the purposes of the RCS.⁹⁴

2.4.4 Historical conduct

The Bill would provide that obligations under the RCS would not generally apply to reportable conduct that occurred before the start date for the entity, unless after the entity's commencement:

- a person makes a new notification to the head of reporting entity regarding a reportable allegation or reportable conviction, about a current worker of the entity, which involves conduct that occurred before the commencement of the RCS for that entity, or
- the head of the reporting entity voluntarily decides to comply with obligations under the RCS in relation to the historical reportable allegation or reportable conviction.⁹⁵

The explanatory notes state that this provision is intended to strike a balance between avoiding placing an onerous obligation on organisations to consider all historical conduct they may be aware of, while ensuring that historical conduct may still be considered under the RCS in appropriate circumstances.⁹⁶

2.4.5 Principles of the reportable conduct scheme

The Bill includes a legislated set of guiding principles for the RCS, with the overarching principle as follows:

The main principle for administering this chapter is that the protection of children from harm, and the wellbeing and best interests of children, are paramount.⁹⁷

Other guiding principles are related to the right to cultural safety of children, views of the child, reporting of alleged criminal conduct to the police service with the police investigation having priority, role and responsibilities of sector regulators, consideration of natural justice and the importance of information sharing and education and guidance by the Commission.⁹⁸ The explanatory notes provide that setting out guiding principles in legislation clarifies the aim of the scheme and may guide decision making by the Commission, sector regulators and reporting entities operating under the scheme.⁹⁹

2.4.6 Functions and powers of the Commission

Clause 40 sets out the functions of the Commission in relation to the RCS, which includes functions to:

- administer, monitor and enforce compliance with the RCS
- facilitate the appropriate exchange of information under the Bill
- educate and provide advice to the public, sector regulators and reporting entities in relation to the RCS and ways to prevent reportable conduct

⁹⁴ Department and DJAG, correspondence, 15 July 2024, attachment, p 2.

⁹⁵ Bill, cl 112; explanatory notes, p 9.

⁹⁶ Explanatory notes, p 9.

⁹⁷ Bill, cl 25(2).

⁹⁸ Explanatory notes, p 9.

⁹⁹ Explanatory notes, p 9.

- facilitate cooperation between the public, reporting entities, sector regulators and other entities in relation to the conduct of investigations of reportable allegations and reportable convictions
- report to the Minister about matters relating to the RCS.¹⁰⁰

The Bill sets out the specific powers and enforcement measures available to the Commission including:

- if it considers it is in the public interest, the ability to monitor the progress of an investigation undertaken by a reporting entity
- to request that a sector regulator, other than the police service, undertake an RCS investigation, only if they have the necessary functions and powers, and agree to undertake the investigation
- to undertake own motion investigations in limited and exceptional circumstances
- to interview a child for the purposes of its own investigation.¹⁰¹

2.4.7 Concurrent police investigations

The Bill provides that where an entity responsible for investigating a reportable allegation under the RCS is aware that the alleged conduct may involve criminal conduct, they must notify the police commissioner as soon as practicable.¹⁰² The police commissioner may ask the entity to suspend, or not commence, its investigation if there is an ongoing police investigation. If the entity is able to continue to undertake an RCS investigation concurrently to a police investigation, they must ensure that it does not prejudice the police investigation.¹⁰³

2.4.7.1 Stakeholder feedback and department response

Anglicare Southern Queensland spoke to the importance of timely responses to reportable conduct matters in their submission, to ensure organisations are not disadvantaged by delays in notification and/or lengthy police investigations.¹⁰⁴

The department response advised:

The Bill does not alter current police processes beyond enabling the police commissioner to request that an RCS investigation is suspended or not commenced if it may prejudice a police investigation. If an entity is asked to suspend or not commence an RCS investigation, all reasonable steps must be taken to mitigate any risk to the safety, wellbeing and best interests of children that may arise as a result of complying with the request (clause 46(5)).¹⁰⁵

2.4.8 Disclosure of information for RCS

The Bill would provide for information sharing between prescribed RCS entities including:

- the QFCC and equivalent oversight bodies in other jurisdictions with an RCS
- sector regulators
- reporting entities
- government departments

¹⁰⁰ Explanatory notes, p 10.

¹⁰¹ Explanatory notes, p 10.

¹⁰² Bill, cl 46; explanatory notes, p 10.

¹⁰³ Explanatory notes, p 10.

¹⁰⁴ Submission 10, p 3.

¹⁰⁵ Department and DJAG, correspondence, 15 July 2024, attachment, p 20.

- the police (in Queensland and other jurisdictions)
- select independent oversight bodies, such as the Queensland Ombudsman.¹⁰⁶

These entities may share relevant information in prescribed circumstances, including:

- to lessen or prevent a serious risk or threat to the life, health or safety of a child or class of children
- in relation to an investigation into a reportable allegation or conviction
- for taking action in response to a finding of reportable conduct.¹⁰⁷

Entities may also share any other information about a reportable allegation or reportable conviction that would assist a prescribed RCS entity to comply with the RCS. However, this excludes evidentiary material or a relevant record or transcript, which are both defined under cl 52(9), and subject to restrictions on disclosure under that clause.¹⁰⁸

The Commission, head of a sector regulator or reporting entity may share relevant investigative information under the RCS with a child the subject of the investigation, their parent, person with parental responsibility, or guardian.¹⁰⁹ The Bill would also require that the Commission share findings of reportable conduct with the chief executive of the department in which a WWC Act is administered.¹¹⁰ The head of a prescribed RCS entity or the Commission may also request certain information, including evidentiary material, from the Director of Public Prosecutions or the police commissioner.¹¹¹

2.4.8.1 Stakeholder feedback and department response

The Bill proposes to place an obligation on reporting entities to report to QFCC any reportable allegations. The QCEC noted that non-state schools are already subject to reporting obligations under legislation that deals with the same matters encompassed by the Bill: child sexual offences, sexual misconduct involving a child, ill-treatment of a child, and neglect, violence, emotional and psychological harm to a child. The QCEC submitted that the reporting requirements in the Bill would create another duplicate reporting process that would ‘divert resources and time to double handling and uncertainty of approach’.¹¹²

The department responded that the Bill includes features to reduce duplication with existing reporting obligations including:

- a guiding principle that the QFCC and sector regulators should work collaboratively to reduce duplication to the extent possible (cl 25(3)(f)), for example, leveraging a single investigation for dual regulatory purposes
- a broad information sharing framework which enables relevant information under the RCS to be shared between reporting entities and sector regulators (cl 49)
- the ability for the QFCC and prescribed RCS entities to enter into an information sharing arrangement (cl 54(b))

¹⁰⁶ Bill, cl 49(1); Record of Proceedings, 12 June 2024, p 2081; explanatory notes, p 11.

¹⁰⁷ Bill, cl 49(2).

¹⁰⁸ Bill, cl 49(6); explanatory notes, p 11.

¹⁰⁹ Bill, cl 50.

¹¹⁰ Bill, cl 51.

¹¹¹ Bill, cl 52.

¹¹² Submission 4, p 3.

- providing it is a reasonable excuse to not notify the QFCC if the head of an entity reasonably believes the QFCC has been notified (cl 34(4))
- the ability for the QFCC to ask a sector regulator to investigate a matter subject to their agreement, functions and powers (cl 42)
- in limited circumstances, the ability to exempt reporting entities from reporting if they have demonstrated their competence and resources to investigate and respond to allegations (cl 36).¹¹³

2.4.8.2 *Matters of fundamental legislative principle*

Rights and liberties of individuals, delegation of administrative power – head of a reporting entity

The Bill seeks to empower the head of a reporting entity to delegate their functions under proposed chapter 3 of the Bill to an appropriately qualified person.¹¹⁴ Under the Bill, the head of a reporting entity has a range of responsibilities, including reporting to the Commission about reportable allegations or reportable convictions relating to a worker of the entity, and to ensure their investigation.¹¹⁵ Whether a Bill has sufficient regard to the rights and liberties of individuals depends on whether, for example, the Bill allows the delegation of administrative power only in appropriate cases and to appropriate persons.¹¹⁶

While acknowledging that the proposed delegation is a potential departure from fundamental legislative principle, the explanatory notes state that it will enable the delegation of functions to support the day-to-day administration of the RCS.¹¹⁷ The Bill restricts the power by providing that the functions may only be delegated to an appropriately qualified person. According to the explanatory notes, this will enable the head of a reporting entity ‘to engage an appropriately qualified investigator to investigate a reportable allegation, for example, where the entity does not have those skills or resources readily available’.¹¹⁸

The Bill’s power of delegation is cast in broad terms, applying to all functions of the head of a reporting entity and to an appropriately qualified person. The delegation is not limited to an appropriately qualified officer of the reporting entity itself, including, if the reporting entity is a government entity, an appropriately qualified officer of the government entity, such as, of a public sector entity,¹¹⁹ the police service or local government.¹²⁰ Generally, powers should be delegated only to appropriately qualified officers or employees of the administering department.¹²¹ Delegation to a person or body outside government is uncommon, because it potentially circumvents the traditional means of accountability applicable to the public sector.¹²²

The Bill does not provide details about, or requirements for, who may constitute an appropriately qualified person. The explanatory notes anticipate that such a person may be outside the reporting body. The issue is emphasised by the Bill’s different treatment of a commissioner’s proposed power of delegation, which must be to an appropriately qualified staff member of the Commission. Although

¹¹³ Department and DJAG, correspondence, 15 July 2024, attachment, pp 15-16.

¹¹⁴ Bill, cl 107; explanatory notes, p 24.

¹¹⁵ Bill, cls 34-37.

¹¹⁶ LSA, s 4(3)(c).

¹¹⁷ Explanatory notes, p 24.

¹¹⁸ Explanatory notes, p 24.

¹¹⁹ Under the *Public Sector Act 2022*, s 8.

¹²⁰ Bill, sch 2.

¹²¹ Department of the Premier and Cabinet (DPC), *The Queensland Legislation Handbook: Governing Queensland* (Handbook), p 34.

¹²² DPC, Handbook, p 34.

perhaps the distinction is a result of the unique role of the Commission, as an oversight body. Further, it is expected the Commission is resourced appropriately with staff members possessing the necessary skills and expertise to discharge the commission's functions.

Rights and liberties of individuals – spent convictions

Under the Bill, a 'reportable conviction' of a worker of a reporting entity is a conviction for an offence committed by the worker against a law of a State or the Commonwealth that may involve reportable conduct.¹²³ The provision would specify that a reportable conviction includes a spent conviction, or a conviction that has become spent under a law of another State or the Commonwealth.¹²⁴

Criminal records may be covered by the Spent Convictions Scheme, meaning in some situations a person does not have to disclose old minor convictions after a certain amount of time has passed.¹²⁵ The Spent Convictions Scheme also protects a person's criminal record from being used and disclosed in an unauthorised way.¹²⁶ The *Criminal Law (Rehabilitation of Offenders) Act 1986* provides that an individual does not have to disclose a conviction for which the rehabilitation period has expired and is not revived, except in limited circumstances, such as where the person against whom the conviction is recorded wishes to disclose the conviction.¹²⁷

The Bill 'enables spent convictions to be reported and investigated' under the RCS.¹²⁸ This means that spent convictions may form part of a process that concludes with the head of a reporting entity taking action, including risk management action, such as disciplinary action against a worker, or the Commission making an adverse finding against a worker, including a finding that the worker engaged in reportable conduct. The explanatory notes acknowledge that the proposed clause may not have sufficient regard to the rights and liberties of individuals.¹²⁹ According to the explanatory notes, the aim of the RCS, to protect children from harm, takes precedence over the Spent Convictions Scheme.¹³⁰ The explanatory notes also state that the Bill's approach is consistent with the Working with Children Check, which may consider certain spent convictions, and the approach in other RCSs, such as Victoria and Western Australia, where spent convictions may be considered under the RCS.¹³¹

Committee comment

In relation to provisions for the delegation of power by the head of a reporting entity, the committee is of the view that the proposed delegation of administrative power is appropriate in the circumstances, and that the provisions have sufficient regard to the rights and liberties of individuals.

The broad nature of the delegation is, in our view, justified to facilitate the administration of the RCS, including in relation to the investigation of reportable conduct, such as a child sexual offence, sexual misconduct involving a child, and ill-treatment or significant neglect of a child. The Bill's broad delegation powers may be particularly effective in instances where a reporting entity is a small operation lacking the expertise or resourcing to undertake its own investigation.

¹²³ Bill, cl 28.

¹²⁴ A 'reportable conviction' also includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded. Bill, cl 28(2)(a).

¹²⁵ 'Criminal records', Queensland government, 8 January 2019, <https://www.qld.gov.au/law/crime-and-police/criminal-records-and-history-checks/criminal-records>.

¹²⁶ 'Criminal records', Queensland government, 8 January 2019, <https://www.qld.gov.au/law/crime-and-police/criminal-records-and-history-checks/criminal-records>.

¹²⁷ *Criminal Law (Rehabilitation of Offenders) Act 1986*, s 6.

¹²⁸ Explanatory notes, p 19.

¹²⁹ Explanatory notes, p 19.

¹³⁰ Explanatory notes, p 20.

¹³¹ Explanatory notes, p 20.

In relation to spent convictions, the committee considers the protection of children, as proposed by the RCS, justifies overriding the protections in the Spent Convictions Scheme, and, as such, the provisions pay sufficient regard to the rights and liberties of individuals.

2.5 Information sharing framework

Chapter 5 of the Bill provides confidentiality requirements for the recording, use and disclosure of information or documents by persons involved in administration of the Bill, including the information sharing framework established by chapter 4. These protections intend to establish clear obligations on entities and persons to maintain confidentiality in recording and disclosure, particularly where that information relates to a person's affairs, including personal information. The Bill at cl 103 also provides that it is an offence for a person to conceal, destroy, mutilate or alter a relevant document, with the intent to protect against misuse of documents.

Reflecting the commentary provided by the Royal Commission Final Report, the Bill would facilitate information sharing between prescribed entities, and enable these entities to share information with the QFCC. The explanatory notes state that the proactive sharing of information will assist the QFCC in maintaining awareness of CSS and Universal Principle compliance issues and in identifying sectors requiring support to build capacity.¹³² According to the explanatory notes, the sharing of information forms a key oversight mechanism for the QFCC under the collaborative regulatory model.¹³³

2.5.1 General provisions for the disclosure of information

The Bill includes general provisions for the disclosure of information in relation to the administration of the CSS or RCS.

Chapter 4 of the Bill provides a broad information sharing framework that enables prescribed entities, including the QFCC, to receive and disclose information for the purposes of responding to concerns about failure to implement and comply with CSS and the Universal Principle (see cl 48), or for the purposes of the administration of the RCS (see cl 49).

Clause 53 provides that the Commission may share information with equivalent oversight bodies that are responsible for administration of the CSS or RCS in other jurisdictions.¹³⁴ The explanatory notes state that this will:

- support investigative and compliance activities, particularly for child safe entities or reporting entities that operate nationally
- contribute to learnings of the Commission in administration of its functions
- contribute to a national approach, which was strongly supported in consultation in Queensland.¹³⁵

Clause 54 would provide that the Commission may enter into a written agreement to facilitate the sharing of information with a prescribed CSS entity or prescribed RCS entity for the purpose of exercising its functions under the CSS and RCS.¹³⁶

¹³² Explanatory notes, p 7.

¹³³ Explanatory notes, p 7.

¹³⁴ Explanatory notes, p 11.

¹³⁵ Explanatory notes, p 11.

¹³⁶ Explanatory notes, p 11.

The Bill would provide limitations on the recording or disclosure of confidential information obtained through the administration of the Act.¹³⁷ The circumstances under which confidential information may be recorded or disclosed include:

- to the extent necessary to perform that person's functions under the Act
- to the extent necessary to lessen or prevent a serious threat to a person's life, health or safety.¹³⁸

Clause 57 contains similar provisions for the confidentiality of information given by persons involved in administration of Act to other persons.¹³⁹

Clause 58 would prohibit the publication of information that would reveal the identity of:

- a child in relation to whom a child safe entity has, or is alleged to have, failed to comply with the CSS and Universal Principle
- a person who has made a report under the RCS or a child the subject of conduct by a worker that forms the basis of a reportable allegation, reportable conviction or finding of reportable conduct.¹⁴⁰

Clause 59 would provide for protections for persons acting honestly and in good faith and without negligence who give information under chapters 4 or 5 or give information in relation to a reportable allegation or reportable conviction. The Bill would also include an offence against taking reprisal against a person because, or based on the belief that, the person has provided or may provide information or assistance to the Commission, a sector regulator, child safe entity or reporting entity.¹⁴¹

2.5.1.1 Human rights considerations

The Bill prohibits the disclosure confidential information in various provisions (see, for example, cls 48, 56 and 57) and provides for offences of unauthorised disclosure or publication (see, for example, cls 56, 57 and 58). These clauses potentially to limit the right to freedom of expression in s 21 of the HRA. The purpose of such limitations on the right in s 21 of the HRA, as set out in the statement of compatibility, is the protection of the rights of others, namely the specific human rights of children and the general right to privacy in s 25 of the HRA.

Committee comment

The committee finds that any such limitation is consistent with a free and democratic society based on human dignity, equality and freedom.

The Bill requires the sharing of information in various provisions (see, for example, cls 48 and 53) and protects persons who share such information from liability and reprisals (see, for example, cls 59 and 60). The sharing of information prima facie limits the right to privacy set out in s 25 of the HRA. Section 25(a) of the HRA includes an internal limitation, that is, it only prohibits unlawful or arbitrary interferences with privacy. It is arguable that no clause of the Bill authorises an arbitrary interference with privacy, and the Bill will provide for the lawfulness of limits on privacy. To that extent, it is arguable that the prima facie limits on privacy do not require justification under s 13 of the HRA. However, even if the Bill limits the right to privacy, the committee agrees with the statement of compatibility that any such limitation is justified under s 13 of the HRA.

¹³⁷ Bill, ch 5.

¹³⁸ Bill, cl 56(5).

¹³⁹ Bill, cl 57; explanatory notes, p 12.

¹⁴⁰ Bill, cl 58; explanatory notes, p 12.

¹⁴¹ Bill, cls 60-61; explanatory notes, p 12.

The Bill's purpose in imposing limitations on the right to privacy is to protect the rights of others, namely the rights of children and their families, and the community's interests in the prevention of the sexual abuse of children affirmed by the Royal Commission Final Report.

Committee comment

The committee is of the view that any such limitation on the right to privacy is consistent with a free and democratic society based on human dignity, equality and freedom.

2.5.1.2 Stakeholder feedback and department response

The Office of the Information Commissioner Queensland (OIC) noted that the obligations in chapter 5 do not appear to ensure persons receiving the confidential information, particularly if that includes personal information, are protecting documents containing that information in accordance with Information Privacy Principle (IPP) 4 under the *Information Privacy Act 2009*. The OIC submission stated:

Given some prescribed CSS entities (and potentially religious bodies as reporting entities under schedule 2) may not be subject to the IPPs or the Privacy Act 1988 (Cth), OIC considers the Bill would benefit from expanding the protections in chapter 5 to include an express obligation on such entities to take reasonable steps to protect a document in accordance with IPP 4. In addition, the Department of Child Safety, Seniors and Disability Services may wish to consider more broadly which other IPPs may be suitable to apply to a prescribed CSS entity or prescribed RCS entity under clauses 48 and 49.¹⁴²

The department response stated:

The QFCC, as the oversight body responsible for facilitating the information sharing framework and responding to concerns, is subject to the Information Privacy Principles (IPPs) under the *Information Privacy Act 2009* (Qld) for collecting, storing and using personal information received as the oversight body for the CSS and RCS. These obligations to uphold the IPPs are intended to be reflected within information sharing arrangements the QFCC establishes under clause 54, which may include requirements for IPP4 and other IPPs, particularly if the entity is not already subject to the *Information Privacy Act 2009* (Qld) or *Privacy Act 1988* (Cth).¹⁴³

2.6 Investigation and enforcement

Chapter 6 of the Bill would provide for the appointment of authorised officers of the QFCC, with compliance and enforcement powers to support the functions of the Commission to provide oversight of the CSS, Universal Principle and RCS.¹⁴⁴ The Bill provides that the functions of authorised officers would be to:

- investigate, monitor and enforce compliance
- investigate or monitor occasions that arise from the exercise of powers
- facilitate the exercise of powers under the Bill.¹⁴⁵

Authorised officers would be provided with general powers to enter and inspect an entity's premises to help determine compliance with the CSS or Universal Principle, or RCS. Following entry of premises, the Bill provides authorised officers with a suite of compliance powers for the purpose of investigating non-compliance including searching, inspecting, examining or filming any part of the premises, taking extracts of documents, and requesting reasonable help.¹⁴⁶ An authorised officer may also request that an individual provide their personal details, information or attend a place to answer questions or

¹⁴² Submission 1, pp 2-3.

¹⁴³ Department and DJAG, correspondence, 15 July 2024, attachment, p 3.

¹⁴⁴ Explanatory notes, pp 12-13.

¹⁴⁵ Bill, cl 63; explanatory notes, pp 11-12.

¹⁴⁶ Bill, cls 85 and 86; explanatory notes, pp 12-13.

produce documents in certain circumstances such as based upon a reasonable belief or suspicion that an offence has been committed.¹⁴⁷

2.6.1.1 Matters of fundamental legislative principle

Rights and liberties of individuals - enforcement powers in relation to the child safe standards

The Bill proposes to provide the Commission with regulatory powers to enforce compliance with the CSS.¹⁴⁸ The explanatory notes state that the Commission's first response to potential non-compliance should be 'providing information, education or guidance to a child safe entity to achieve compliance... before graduating to other compliance powers'.¹⁴⁹ These provision may impact the rights and liberties of individuals, including those who are child safe entities or workers at such entities.

In addressing the Bill's inconsistency with the rights and liberties of individuals, the explanatory notes identify proposed mitigation provisions, including that the court must consider a range of factors in fixing a penalty of not more than 100 penalty units for non-compliance, including whether a child safe entity has previously failed to comply with compliance notices or enforceable undertakings.¹⁵⁰ The Bill contains a range of other mitigating provisions. For example, the Commission's decision to give a compliance notice is a reviewable decision¹⁵¹ and must be accompanied by an information notice about the Commission's decision.¹⁵² The compliance notice must also comply with the Bill's specified requirements and must provide a timeframe of at least 14 days for the entity to take the specified action. Additionally, the entity need not comply if they have a reasonable excuse.¹⁵³

Rights and liberties of individuals - enforcement powers under the reportable conduct scheme

The Bill's enforcement provisions, which provide for the Commission to monitor an investigation, request an investigation or carry out an investigation into a reportable allegation or reportable conviction, will impact the rights and liberties of individuals, including individuals subject to, or involved in, such an investigation.

In considering the Bill's consistency with fundamental legislative principles, the explanatory notes contend that the proposed powers of authorised officers to support an own motion investigation are justified and appropriate as they support the Commission's ability to oversee compliance with obligations under the Bill, to support the protection of children from harm.¹⁵⁴ The explanatory notes state that, like the CSS provisions, the proposed RSC provisions provide a graduated set of compliance tools for the Commission.¹⁵⁵

The Bill includes additional safeguards, such as before the Commission starts an investigation on its own initiative, it must give written notice to the head of the reporting entity stating the specified matters¹⁵⁶ and before the investigation ends, it must give the worker the subject of the allegation or conviction a written notice stating the specified matters.¹⁵⁷ The Commission must also have regard to the worker's submissions in making its findings for the investigation.¹⁵⁸ The explanatory notes also

¹⁴⁷ Bill, cls 89 and 91; explanatory notes, pp 12-13.

¹⁴⁸ Bill, cl 9.

¹⁴⁹ Explanatory notes, p 18.

¹⁵⁰ Bill, cl 23(3)(e).

¹⁵¹ Bill, cl 99.

¹⁵² Bill, cl 18(3).

¹⁵³ Bill, cl 18(5).

¹⁵⁴ Explanatory notes, p 19.

¹⁵⁵ Explanatory notes, p 19. See Bill, cl 41(2)(c).

¹⁵⁶ Bill, cl 43(2).

¹⁵⁷ Bill, cl 43(3).

¹⁵⁸ Bill, cl 43(4).

state that the Commission's power to interview a child, in an own motion investigation, is limited by safeguards, including a general requirement to obtain the consent of a parent or guardian.¹⁵⁹ Additionally, the Commission must ensure the interviewer has appropriate qualifications, training and experience, take all reasonable steps to mitigate negative effects, and offer a support person.¹⁶⁰

Committee comment

In light of the Bill's intention to protect children by providing the Commission with a range of regulatory powers to enforce compliance with the CSS and Universal Principle and to assist the Commission in administering the RCS, and the various safeguards and mitigating factors included in the Bill, the committee considers the provisions relating to enforcement powers have sufficient regard to the rights and liberties of individuals.

2.6.1.2 Human rights considerations

The scope of reportable conduct and the obligations to investigate and report under the Bill potentially limit the rights to privacy and reputation (see, for example, cls 26 and 112, cls 36 and 37, and cls 86, 87, 91 and 92). The purposes of these limitations are the same as the purposes of any limitations on human that are necessary to implement effective enforcement powers on the Commission considered above. As with those enforcement powers, the investigative powers of reporting entities and the Commission under the Bill appear necessary to protect the rights of others, namely the rights of children and their families, and the community's interests in the prevention of the sexual abuse of children affirmed by the Royal Commission Final Report.

The enforcement measures provided by the Bill potentially limit the enjoyment of a range of human rights. The impositions of penalties under the Bill (see, for example, cl 18) prima facie limits the right to property set out in s 24 of the HRA. However, s 24(2) of the HRA also includes an internal limitation, i.e., it only prohibits *arbitrary* deprivations of property. No clause of the Bill authorises an arbitrary deprivation of a person's property. To that extent, the prima facie limits on property rights do not require justification under s 13 of the HRA. However, even if the Bill limits the right to property, any such limitation is justified under s 13 of the HRA.

Similarly, and as noted by the statement of compatibility, such measures also potentially limit the right to privacy and reputation.

The Bill's purpose in imposing any limitation on property rights through the imposition of penalties, and any limitations on the rights to privacy and reputation, is, again, to protect the rights of others, namely the rights of children and their families, and the community's interests in the prevention of the sexual abuse of children affirmed by the Royal Commission Final Report.

Committee comment

The committee is satisfied that any limitation on rights to privacy and reputation arising from investigative powers appears consistent with a free and democratic society based on human dignity, equality and freedom. Similarly, the committee is satisfied that any such limitation on rights to property is consistent with a free and democratic society based on human dignity, equality and freedom.

2.6.1.3 Stakeholder feedback and department response

In relation to enforcement provisions proposed by the Bill, the QFCC advised:

We also agree with the specific investigatory powers and enforcement measures available to the QFCC which include consideration of the public interest (clause 41), the ability to instruct sector regulators to undertake investigations (clause 42), and to conduct own motion investigations (clause 43). The QFCC

¹⁵⁹ Bill, cl 44.

¹⁶⁰ Explanatory notes, p 19.

acknowledges the additional functions for the QFCC as enabled in the Bill, to interview a child for the QFCC's own investigations with the appropriate safeguards provided for (clause 44).¹⁶¹

The NSSAB called for QFCC enforcement undertakings related to non-state schools should be shared with the Board to allow it to fulfil its obligations under the Accreditation Act and Accreditation Regulations.¹⁶² In response to NSSAB's call for copies of reports, notices and undertakings to be directly provided to the Board, the department response stated:

With regards to assessment reports and compliance notices being provided to the NSSAB directly, the Bill provides that these are to be provided to the child safe entity only as part of the QFCC's role in working with the entity to achieve compliance. ... However, it is expected that the QFCC would work with NSSAB to support non-state schools to meet their CSS obligations as part of the collaborative regulatory approach.¹⁶³

The department response also noted that the Bill at cl 22 contains provisions whereby details of enforceable undertakings by child safe entities will be publicly available on a register maintained by the QFCC. NSSAB may access this register along with the general public.¹⁶⁴

2.6.2 Review of decisions

The Bill would provide that the Commission can be subject to internal review upon application.¹⁶⁵ External reviews may be sought by the Queensland Civil and Administrative Tribunal (QCAT) once an internal review of the decision has been finalised.¹⁶⁶ These provisions, according to the explanatory notes, are intended to provide natural justice to entities and persons who are impacted by the Commission's decisions where certain powers are exercised.¹⁶⁷

2.6.2.1 *Stakeholder feedback and department response*

Queensland Foster and Kinship Care (QFKC) submitted that carers, who are also volunteers, currently do not have any external avenue for review to them outside of Child Safety in respect to outcomes of harm reports. The QFKC expressed support for the ability for carers to bring a finding of reportable conduct (substantiated harm) to QCAT for independent consideration.¹⁶⁸

To QFKC's submission, the department response stated:

The Bill does not include formal review processes of a decision by a reporting entity that a worker has engaged in reportable conduct, and existing review mechanisms will be relied upon.

However, clause 98 provides avenues for internal and external review of the QFCC's finding of reportable conduct, based on an investigation taken on its own initiative.¹⁶⁹

2.6.3 Offences

The Bill would introduce the following offences:

- giving official false or misleading information¹⁷⁰

¹⁶¹ Submission 13, p 10.

¹⁶² Submission 19, p 2.

¹⁶³ Department and DJAG, correspondence, 15 July 2024, attachment, p 6.

¹⁶⁴ Bill cl 22; Department and DJAG, correspondence, 15 July 2024, attachment, p 6.

¹⁶⁵ Bill, cls 98-100; explanatory notes, p 13.

¹⁶⁶ Bill, cl 101; explanatory notes, p 13.

¹⁶⁷ Explanatory notes, p 13.

¹⁶⁸ Submission 11, p 5.

¹⁶⁹ Department and DJAG, correspondence, 15 July 2024, attachment, pp 20-21.

¹⁷⁰ Bill, cl 102.

- person must not conceal, destroy, mutilate or alter particular documents.¹⁷¹

2.6.3.1 Matters of fundamental legislative principle

Rights and liberties of individuals, natural justice – reversal of onus of proof

In relation to the proposed offence relating to the destruction of relevant documents, the Bill provides that it is a defence to a prosecution of the offence for the defendant to prove that the defendant did not act with intent.¹⁷²

One of the matters to take into account when determining whether legislation has sufficient regard to rights and liberties of individuals is whether the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.¹⁷³ Under the Bill's provisions, the prosecution will bear the legal onus of proof to prove the elements of the proposed offence beyond reasonable doubt. The defendant may elect to raise the proposed defence and seek to prove that they did not act with the specified intent. Generally, in criminal proceedings:

...the accused person must satisfy the evidential onus of proof for any defence or excuse he or she raises and, if the accused person does satisfy the evidential onus, the prosecution then bears the onus of negating the excuse or defence beyond reasonable doubt[.]¹⁷⁴

However, a statute can expressly reverse this general principle and it appears that the Bill does so by requiring the defendant to prove the defence. The explanatory notes acknowledge that the proposed defence to the offence provision 'places the evidential and legal onus on the defendant, rather than the prosecution in proceedings for the offence'.¹⁷⁵ It is justified on the basis that:

...establishing the intent of a defendant to destroy, conceal, mutilate or alter a document is within the particular knowledge of the defendant and would be difficult for the State to prove in a proceeding. The Scrutiny of Legislation Committee noted that this reversal of the onus of proof is justified in such circumstances, where the subject of proof is within the particular knowledge of the defendant. Similar provisions are currently provided for under the *Motor Accident Insurance Act 1994*, section 87ZP and *Workers Compensation and Rehabilitation Act 2003*, section 532Z.¹⁷⁶

Parliamentary committees have closely scrutinised proposed provisions that affect the onus of proof in criminal proceedings, including in relation to defences for which an accused person bears the onus of proof, rather than as excuses.¹⁷⁷ For example, committees have queried the proposed insertion into the Criminal Code of defences expressly reversing the onus and suggested it might have been more appropriate for the legislation to create an 'excuse' for which the legal onus remained with the prosecution.¹⁷⁸ The issue becomes one of the distinction between a defendant meeting a legal onus of proof as against an evidential one:

A person who bears the legal or persuasive onus of proof must persuade the relevant arbiter of fact (ordinarily the jury in a criminal trial or a magistrate in a summary proceeding) that the offence has been committed, or that an excuse is negated. In contrast, a person who bears the evidential onus is merely required to show a *prima facie* case, namely that there is sufficient evidence of a matter (usually, an

¹⁷¹ Bill, cl 103.

¹⁷² Bill, cl 103(3).

¹⁷³ See LSA, s 4(3)(d).

¹⁷⁴ Office of Queensland Parliamentary Counsel (OQPC), *Principles of good legislation: OQPC guide to FLPs – Reversal of onus of proof*, p 3.

¹⁷⁵ Explanatory notes, p 25.

¹⁷⁶ Explanatory notes, p 25.

¹⁷⁷ OQPC, *Principles of good legislation: OQPC guide to FLPs – Reversal of onus of proof*, pp 3-4.

¹⁷⁸ OQPC, *Principles of good legislation: OQPC guide to FLPs – Reversal of onus of proof*, p 11.

excuse or defence) to enable the matter to be put before the arbiter of fact. The person does not have to prove the matter itself.¹⁷⁹

Given the Bill seeks to place both the legal and evidential onus on a defendant seeking to raise the proposed defence, it appears that the prosecution will not bear the onus of negating the defence beyond reasonable doubt. It will be for the defendant to meet the legal and evidential burdens of proof.

Committee comment

In relation to the reversal of the onus of proof proposed in clause 103(3) of the Bill, we note the explanatory notes reference similar provisions in existing legislation and correctly assert that establishing the intent of a defendant to destroy, conceal, mutilate or alter a document is within the particular knowledge of the defendant and would be difficult for the State to prove in a proceeding.

The committee therefore considers the provision is justified in seeking to reverse the onus of proof in the circumstances and has sufficient regard to the rights and liberties of individuals.

2.7 Reporting

Clause 104 of the Bill would provide that the Commission may prepare a report on any matter relating to the performance of its functions and give the report to the Minister. Subject to approval by the Minister, the report may be tabled in the Legislative Assembly. The Minister must consider whether the report includes confidential information, information that may prejudice an investigation or the prosecution of an offence, or other factors relevant to whether tabling would be in the public interest.¹⁸⁰ Where any proposed adverse comments are included in a report, appropriate opportunities for review and response must be made.¹⁸¹

2.7.1.1 Matters of fundamental legislative principle

Rights and liberties of individuals, natural justice – adverse information in reports

Legislation should be consistent with the principles of natural justice. These principles include a right to be heard, being afforded procedural fairness and having an unbiased decision maker.¹⁸²

The Bill provides that the Commission may prepare a report about a matter relevant to the performance of the Commission's functions under the Bill, and give it to the Minister, recommending whether the report should be tabled in the Legislative Assembly.¹⁸³ The explanatory notes concede that the Bill may not be consistent with principles of natural justice, where adverse information about an entity may be included within reports by the Commission that may be published.¹⁸⁴

According to the explanatory notes, the inclusion of adverse information that identifies an entity is justified as the proposed provisions intend to 'protect natural justice by giving the entity an opportunity to respond and represent their views before including this information in a report'.¹⁸⁵ The explanatory notes further state the proposed provisions support 'the Commission's functions in providing oversight of CSS and RCS implementation, as well as ensuring transparency and accountability of the Commission in preparing reports'.¹⁸⁶ Despite the Bill's consultation provisions, it

¹⁷⁹ OQPC, 'Principles of good legislation: OQPC guide to FLPs – Reversal of onus of proof', p 5.

¹⁸⁰ Bill, cl 104; explanatory notes, p 13.

¹⁸¹ Bill, cl 105; explanatory notes, p 13.

¹⁸² LSA, s 4(3)(b). OQPC, 'Fundamental legislative principles: the OQPC Notebook' (Notebook), pp 24-32.

¹⁸³ Bill, cl 104(1).

¹⁸⁴ Explanatory notes, p 23.

¹⁸⁵ Explanatory notes, p 23.

¹⁸⁶ Explanatory notes, pp 23-24.

is possible that the tabled and published report may contain adverse information about an entity identifiable from the report.

In considering the principles of natural justice developed by the common law, it appears that the Bill's consultation process, requiring that an entity is allowed a reasonable opportunity to make a submission about any adverse information about it in the report, is consistent with the principle requiring that something should not be done to a person that will deprive them of some right, interest, or legitimate expectation of a benefit without the person being given an adequate opportunity to present the person's case to the decision-maker.¹⁸⁷

There is no suggestion that the provision is inconsistent with the principle that the decision-maker must be unbiased,¹⁸⁸ as the Minister holds a position of high office and is expected to discharge the requirements of that role. However, arguably the Bill raises concerns as to its consistency with the principle requiring procedural fairness, involving a flexible obligation to adopt fair procedures that are appropriate and adapted to the circumstances of the particular case.¹⁸⁹ For example, the Bill includes review provisions, where a reviewable decision may be subject to an internal and external review process.¹⁹⁰ However, reviewable decisions are the specified decisions and findings of the Commission. The provisions are not relevant to the Minister's decision whether to table the report.

Although the proposed provisions do not include a review process able to be directly accessed by an aggrieved person, it appears they would potentially be able to access the statutory orders of review provisions in the *Judicial Review Act 1991* (JR Act).¹⁹¹ A person who is aggrieved by a decision to which the JR Act applies may apply to the court for a statutory order of review in relation to the decision. The application may be made on any one or more of the specified grounds, including that a breach of the rules of natural justice happened in relation to the making of the decision.¹⁹² The purpose of judicial review is to deal with those actions of public officials who act beyond the powers that are intended for them.¹⁹³ It acts to protect the legislative intention approved by Parliament and proposed by the executive.¹⁹⁴ However, such a review would not consider the merits of the decision, only whether it was properly made.

Committee comment

The committee considers that the proposed reporting provisions are consistent with the principles of natural justice, including the right to be afforded procedural fairness.

2.7.1.2 Human rights considerations

The Bill potentially limits rights to privacy and reputation through the operation of cls 104 and 105 of the Bill, which provide for the Commission to prepare reports that may be tabled in Parliament.

Committee comment

The committee agrees with the reasons set out in the statement of compatibility that any such limitation on privacy and reputation appears consistent with a free and democratic society based on human dignity, equality and freedom.

¹⁸⁷ OQPC, Notebook, pp 24-32.

¹⁸⁸ OQPC, Notebook, pp 24-32.

¹⁸⁹ OQPC, Notebook, pp 24-32.

¹⁹⁰ Bill, cl 7, comprising ss 98-101.

¹⁹¹ *Judicial Review Act 1991* (JR Act), s 20.

¹⁹² JR Act, s 20(2).

¹⁹³ OQPC, Notebook, p 19, citing *Alert Digest* 1996/2, p 18, [6.20]–[6.23].

¹⁹⁴ OQPC, Notebook, p 19, citing *Alert Digest* 1996/2, p 18, [6.20]–[6.23].

2.8 Phased implementation of child safe standards and reportable conduct scheme

Clause 2 of the Bill proposes a staggered and phased implementation of the CSS to certain sectors in 3 stages from October 2025 to April 2026, followed by the RCS in 3 stages from July 2026 to July 2027. The department advised that the staggered and phased approach is intended to:

...enable the QFCC and in-scope organisations to prepare for commencement by firstly building child safe standards and the universal principle into policy and practice, prior to establishing reporting systems for the reportable conduct scheme. Sectors such as child protection, disability and youth justice services and government entities will be required to commence their obligations first in consideration of the higher degree of existing regulation in anticipated readiness.¹⁹⁵

The department further advised that the first phases for CSS and RCS are intended to apply to more highly regulated sectors that are engaged with the most vulnerable children: 'This is intended to provide more time for less regulated sectors (for example, sport and recreation services or religious bodies) to prepare for commencement'.¹⁹⁶

2.8.1.1 Stakeholder feedback and department response

The QCEC, QFCC and Independent Schools Queensland supported a staged implementation of the new scheme to provide time for the QFCC to develop and provide to regulated entities comprehensive explanatory and education resources to facilitate their compliance with the new requirements.¹⁹⁷ QCEC stated:

A staged approach focused initially on capacity building will ensure that entities are appropriately prepared and have the opportunity to develop or enhance present systems to give them the best chance of achieving compliance in the most optimal and effective manner.¹⁹⁸

QCOSS stressed the importance of establishing and sequencing implementation activities and timeframes and ensure that commencement only occurs once any identified pre-conditions and lead times have been fully met. According to QCOSS, this is especially crucial for smaller organisations that are less familiar with compliance regimes.¹⁹⁹

Community service organisations implementing the CSS, the Universal Principle, and the RCS, along with relevant regulatory bodies, must be set up to succeed and must be appropriately supported, consulted, and informed through these significant next steps.²⁰⁰

QMHC and PeakCare Queensland spoke to the need for implementation processes to be underpinned by trauma-informed principles and a trauma-informed guiding framework.²⁰¹

In reference to implementation, the department response noted:

The QFCC will manage the approach to capacity building in implementation. As the Bill proposes a collaborative regulatory model, the intention is that the QFCC will work with sector regulators to share expertise (i.e., the QFCC's child safe organisations expertise and the regulator's sector expertise).²⁰²

¹⁹⁵ Public briefing transcript, 9 July 2024, Brisbane, p 4.

¹⁹⁶ Department, correspondence, 28 June 2024, p 14.

¹⁹⁷ Submissions 4, 10, 13 and 14.

¹⁹⁸ Submission 4, p 2.

¹⁹⁹ Submission 21, p 4.

²⁰⁰ Submission 21, p 1.

²⁰¹ Submissions 7 and 18.

²⁰² Department and DJAG, correspondence, 15 July 2024, attachment, p 21.

The department response also provided the assurance that, while implementation will be determined by the QFCC, 'it is expected contemporary, trauma-informed approaches will be considered in the development of capacity building material'.²⁰³

2.9 Review of the Act

Clause 109 of the Bill provides for a review of the Act 'as soon as practicable after 1 July 2030'.²⁰⁴ According to the explanatory notes, the Royal Commission Final Report recommended periodical review of the operation of RCSs including to determine whether the schemes should cover additional institutions that exercise a high degree of responsibility for children and involve a heightened risk of child sexual abuse and to adapt to changing dynamics and new challenges relevant to employee-related child abuse.²⁰⁵

2.9.1.1 *Stakeholder feedback and department response*

Cairns Regional Council called for regular reviews and updates of the CSS and RCS, which 'will be crucial in maintaining high levels of child safety'.²⁰⁶ Similarly, PeakCare Queensland noted that mechanisms for ongoing review and improvement of the CSS and RCS will ensure the standards 'remain relevant and effective over time'.²⁰⁷

To the importance of ongoing review and improvement, the department response stated:

The Bill includes a legislative review of the effectiveness of the Act following three years full implementation (see clause 109). This review may also consider any operational review the QFCC proposes to undertake.²⁰⁸

Committee comment

The committee notes that, accounting for the phased implementation of the reforms, the first review of the Act will be held in 2030. The committee holds concerns that, should implementation be delayed due to unforeseen circumstances, or the scheme lose relevancy or direction, the review will not occur for a long period of time. Given the potential 'teething' problems that emerge with major reform, coupled with the crucial need to protect Queensland's children, the committee supports continuous and responsive monitoring of the implementation process.

2.10 Transitional and consequential amendments

Chapter 10 of the Bill includes miscellaneous provisions relating to the delegation of functions, developing guidelines and the review of the Act, as well as amendment to Queensland statutes including:

- FCC Act
- WWC Act.

²⁰³ Department and DJAG, correspondence, 15 July 2024, attachment, p 24.

²⁰⁴ Bill, cl 109.

²⁰⁵ Explanatory notes, p 14; Royal Commission, Final Report, *Preface and Executive Summary*, p 20, Recommendation 7.11.

²⁰⁶ Submission 2, p 2.

²⁰⁷ Submission 18, p 5.

²⁰⁸ Department and DJAG, correspondence, 15 July 2024, attachment, p 24.

2.10.1 Amendments to the *Family and Child Commission Act 2014*

The Bill would make consequential amendments to the FCC Act to include reference to the functions of the QFCC under the Bill.²⁰⁹ This would include that the QFCC must, in its annual reports under the FCC Act, provide information about the performance of the Commission's functions under this Bill.²¹⁰

2.10.2 Amendments to the *Working with Children (Risk Management and Screening) Act 2000*

The Bill makes transitional and consequential amendments to the WWC Act to repeal the requirement for organisations to develop a risk management strategy (RMS) under that Act. According to the explanatory notes, the RMS obligations are similar to the CSS and Universal Principle, and would be repealed 'to prevent unnecessary duplication of RMS requirements with the CSS and Universal Principle for child safe entities once the CSS and Universal Principle obligations commence'.²¹¹ The explanatory notes state that no protective mechanisms for children within these institutions are to be lost with the repeal of RMS requirements where the CSS and Universal Principle obligations replace these requirements.²¹²

The committee notes that, concurrent to this inquiry, the Education, Employment, Training and Skills Committee (EETSC) is examining the Working with Children (Risk management and Screening) and Other Legislation Amendment Bill 2024. This Bill proposes to simplify, streamline and improve the operation of the blue card system and make amendments to WWC Act by removing the requirement that kinship carers hold a blue card. The EETSC is required to table its report on 2 August 2024.²¹³

2.11 Compliance costs to organisations

The Queensland government has estimated that it is expected the CSS and RCS will reach approximately 40,000 organisations across Queensland.²¹⁴ Estimated annual average costs for organisations in scope to comply with the integrated model of CSS and RCS, were provided as part of the government's consultation process.²¹⁵ These estimates are replicated below.

	<i>Large school</i>	<i>Religious organisation</i>	<i>Foster care provider</i>	<i>Small organisation</i>
Set-up cost	\$24,333	\$16,000	\$11,000	\$1,353
Ongoing cost	\$26,667	\$101,620	\$69,028	\$1,391

Source: Department of Child Safety, Senior and Disability Services and Department of Justice and Attorney-General, *Growing Child Safe Organisations in Queensland: Decision Impact Analysis Statement*, p 11.

2.11.1.1 *Stakeholder feedback and department response*

Stakeholders acknowledged that CSS and RCS will significantly increase the regulatory burden on organisations.²¹⁶ QATSIPP submitted that 'costs for smaller organisations are underestimated when taking into consideration the time and expertise required to implement these changes – particularly if the organisation is based in a rural and remote location'.²¹⁷ PeakCare Queensland concurred, citing

²⁰⁹ Explanatory notes, pp 14-15.

²¹⁰ Explanatory notes, p 14.

²¹¹ Explanatory notes, p 15.

²¹² Explanatory notes, p 15.

²¹³ This Bill is currently under examination with the Education, Employment, Training and Skills Committee and is required to table its report in the Queensland Legislative Assembly on 2 August 2024.

²¹⁴ Department and DJAG, DIAS, p 11.

²¹⁵ An integrated model of CSS and RCS co-located within the same oversight body.

²¹⁶ Submissions 6, 8, 15, 18, 21.

²¹⁷ Submission 15, p 10.

costs relating to 'policy changes, staff training, secure reporting systems, and the human resources needed to conduct investigations and support staff'.²¹⁸

Stakeholders called on the government to meet additional compliance costs.²¹⁹

The department response advised that the Queensland government had committed \$43.525 million over 4 years in the 2024-25 state budget, and ongoing funding for the CSO system.²²⁰

The department also advised that the investment by the Queensland government is intended to indirectly support organisations to implement the CSS, Universal Principle and RCS by providing adequate resourcing for the QFCC's capacity building function. Funding to Queensland government departments is focused on their roles as collaborative regulators to support implementation by non-government organisations. Support for non-government organisations will continue to be considered through implementation. It is intended the roll-out of the schemes and development of education and capacity building materials and strategies will include a specific focus on small and regional, rural and remote organisations.²²¹

²¹⁸ Submission 18, p 4.

²¹⁹ Submissions 15, 18, 21.

²²⁰ Department and DJAG, correspondence, 15 July 2024, attachment, pp 21-22.

²²¹ Department and DJAG, correspondence, 15 July 2024, attachment, p 22.

Appendix A – Submitters

Sub #	Submitter
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1	Office of the Information Commissioner Queensland
2	Cairns Regional Council
3	Alannah & Madeline Foundation
4	Queensland Catholic Education Commission
5	Legal Aid Queensland
6	Girl Guides Queensland
7	Queensland Mental Health Commission
8	Local Government Association of Queensland (LGAQ)
9	Queensland Network of Alcohol and other Drug Agencies (QNADA)
10	Anglicare Southern Queensland
11	Queensland Foster and Kinship Care
12	Queensland Indigenous Family Violence Legal Service
13	Queensland Family & Child Commission
14	Independent Schools Queensland
15	Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited
16	Create Foundation
17	Australian Christian Lobby
18	PeakCare Queensland Incorporated
19	Non-State Schools Accreditation Board
20	Commissioner of Queensland Family & Child Commission
21	Queensland Council of Social Service (QCOSS)

Appendix B – Officials at public departmental briefing

Public briefing – 9 July 2024

Department of Child Safety, Seniors and Disability Services

- Donna Burnett, Director, Child Safety Policy Responses, Strategic Policy and Legislation
- Rachael Platzer, Principal Policy Officer, Strategic Policy and Legislation

Department of Justice and Attorney-General

- Sakitha Bandaranaike, Director, Strategic Policy and Legislation
- Charlotte Nguyen, Acting Principal Policy Officer, Strategic Policy and Legislation

Appendix C – Witnesses at public hearing

Public hearing – 19 July 2024

Queensland Family and Child Commission

- Natalie Lewis, Commissioner
- Luke Twyford, Principal Commissioner
- Christopher Smith, Executive Director, Corporate Services and Governance
- Anne Edwards, Executive Director, Operations

Queensland Foster and Kinship Care

- Bryan Smith, Chief Executive Officer
- Carissa Inglis, Service Manager

Queensland Indigenous Family Violence Legal Service

- Thelma Schwartz, Principal Legal Officer
- Kulumba Kiyingi, Senior Policy Officer

Non-State Schools Accreditation Board

- Patrea Walton, Chairperson
- Christine Ashton, Executive Director, Registration Services Branch, Department of Education