



21 April 2021

Strategic Policy and Legislation
Department of Children, Youth Justice and Multicultural Affairs
Locked Bag 3405
BRISBANE QLD 4001

By email: RC_SPAL@cyjma.qld.gov.au

Dear Strategic Policy and Legislation Unit,

Consultation Paper- Growing Child Safe Organisations in Queensland

Thank you for the opportunity to provide input into this consultation process.

About QCOSS

The Queensland Council of Social Service (**QCOSS**) is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity and wellbeing for every person, in every community.

QCOSS supports Queensland community organisations to understand their regulatory obligations regarding the Human Services Quality Framework (**HSQF**) and other laws and systems that aim to improve quality in human services. For many years, this has included one-on-one organisational support and the development of tools and resources. QCOSS also convenes the Quality Collaboration Network (**QCN**), a network of quality professionals who regularly meet to discuss quality service provision within human services. The QCN provides peer support for the sector, and is a useful avenue for consultation and information sharing about framework and compliance updates.

QCOSS sought input from QCN representatives to respond to this consultation. We have also drawn on aspects of some of our previous work related to regulatory systems, in particular the HSQF and its ongoing role in monitoring quality, compliance and continuous improvement across the Queensland social service sector.

Our submission is not exhaustive and we provide general feedback on the issues raised in the consultation paper.

The principle of consistency is important to services

QCOSS agrees that consistency in terminology and approach is important. Many of our member organisations are national charities working across jurisdictions and multiple regulatory systems. Consistency supports regulatory streamlining, reduces the burden on organisations and minimises confusion. However, we note that a balance must be struck with the competing principle of flexibility to accommodate the variable size and complexity of organisations delivering child-related services across Queensland.

The guiding principles for a Queensland child safe standards system should reference human rights

The principles developed (on page 8) to guide thinking about a child safe standards system in Queensland do not mention human rights. We suggest that adding human rights to the guiding principles would be a relevant and complementary inclusion to the principles that are already listed.

For example, a child safe standards system for Queensland should *respect, protect and fulfil human rights*.

This inclusion would reflect one of the key objects of the *Human Rights Act 2019 (Qld) (HRA)*, namely, to help build a culture in Queensland that respects and promotes human rights. Of the 23 enumerated human rights now protected in Queensland under the HRA, many are engaged by core and functional public entities that do 'child-related work'. These protected human rights include:

- Recognition and equality before the law
- Protection from torture and cruel, inhuman or degrading treatment
- Privacy and reputation
- Protection of families and children
- Cultural rights – generally
- Cultural rights – Aboriginal and Torres Strait Islander peoples
- Right to liberty and security of person
- Human treatment when deprived of liberty
- Children in the criminal process
- Right to education
- Right to health services.

As Queensland moves into its second year of having a legislated human rights framework, it is essential that any new regulatory system design places human rights at the centre of its approach.

The principle of self-determination is especially important to Aboriginal and Torres Strait Islander Community Controlled Organisations

The preamble to the HRA also specifically notes the particular significance to Aboriginal peoples and Torres Strait Islander peoples of Queensland of the right to self-determination.

The Royal Commission acknowledged that, 'While all children are vulnerable, Aboriginal and Torres Strait Islander children are significantly overrepresented in out-of-home care and youth detention, exposing them to environments with greater risk. Racism and lack of cultural safety can also increase Aboriginal and Torres Strait Islander children's vulnerability and prevent them from speaking out.'¹ Research for the Royal Commission found that being strong in culture is protective for Aboriginal and Torres Strait Islander children's wellbeing, because it can support strong identity, high self esteem and strong attachments.²

¹ A brief guide to the Final Report: Aboriginal and Torres Strait Islander Communities <https://www.childabuseroyalcommission.gov.au/sites/default/files/a_brief_guide_to_the_final_report_-_aboriginal_and_torres_strait_islander_communities.pdf> accessed 20 April 2021.

² Ibid.

QCOSS supports the consultation paper's statement on page 7 that the standards are equally important and interrelated. However, we also think that particular care should be taken to ensure that any new Child Safe Standards explicitly respect, protect and fulfil the principle of self-determination for Indigenous Community Controlled organisations engaged in child-related work.

QCOSS considers the Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd (QATSICPP) Practice Standards to be a great example of standards used to engage the child and family, and keep children safe through an effective cultural frame (Identify the storyline, change the storyline, establish a new storyline).

Scope of organisations

Regarding the scope of organisations that might be subject to a child safe standards system, QCOSS' view is that the sectors identified by the Royal Commission (listed on page 9) accurately reflect organisational scope. We agree that a broad rather than narrow approach is preferable.

Existing legal and regulatory framework

The consultation paper's mapping of the existing child safe regulatory landscape in Queensland (Figure 3, page 9) overlooks a number of additional quality frameworks and legal obligations, namely:

- National Disability Insurance Scheme (NDIS) Practice Standards, which specify the quality standards to which registered NDIS providers must comply
- QATSICPP Practice Standards
- Aboriginal and Torres Strait Islander Child Placement Principle
- Human rights obligations pursuant to the HRA.

In addition to these frameworks there are also government policies that prescribe certain approaches to working with at-risk children, for example Child Safety Policies on Managing High Risk Behaviour (No. 646-2) and Positive Behaviour Support (No. 604-5).

The issue of regulatory burden

One of the most common complaints that we hear from our members is that of regulatory burden. QCOSS has long advocated for the streamlining of quality processes.. Compliance with multiple quality systems creates confusion and is resource intensive for all organisations, but the burden falls disproportionately upon small organisations that do not have the capacity to employ dedicated compliance/quality staff.

Capacity building resources

If the Queensland Government proceeds with the creation of a new set of standards and a new oversight body then, as the consultation paper has identified, we would emphasise the importance of sector capacity building that is accessible, especially for smaller organisations. Our members have told us that any capacity building efforts would need to include accessible education and training opportunities rolled out across the sector. Members voiced the importance of training and governance responsibility for child safety at all levels of organisations – Board and senior leadership, not just frontline staff.

Oversight and regulation models

- **Voluntary compliance**

Regarding a voluntary compliance model, the consultation paper refers to the potential to give peak bodies an oversight function over organisations within their sector. One effect of empowering peak bodies with an oversight function is that it will likely create tension and positional conflicts for Queensland peaks whose core business is to advocate on behalf of their members' interests, not to have a 'power over' approach with possible consequences for regulatory non-compliance.

In addition, if peaks lose funding, their ability to support a voluntary compliance model could be undermined.

- **Mandatory compliance or co-regulation**

In response to Question 5, if a mandatory or co-regulation approach was adopted there are a number of entities that might be well-suited to step into the role of regulator, among them the Queensland Family and Child Commission (QFCC) or potentially the Office of the Public Guardian. The QFCC was established in 2014 as a result of the Carmody Inquiry. Section 9(1)(a) *Family and Child Commission Act 2014 (Qld)* lists the Commission's functions which include the oversight of the child protection system. The QFCC would be likely able to 'hit the ground running' to monitor and enforce organisations' compliance with the child safe standards as it already performs a range of similar statutory functions.. QCOSS notes that our members do not have a fully formed view about this position. One of our members remarked that if government wishes to establish a new reportable conduct scheme then it ought to create a new independent body rather than expand the remit of an existing entity.

Monitoring and compliance powers

The suggestion that service providers might have their funding withdrawn as a tool for compliance (page 15) is not a position that QCOSS supports. In our view, this can create a climate of fear and negatively impact on service delivery to service users experiencing vulnerability – in this case, children.

Other issues to consider

- **Regulatory oversight for privately funded services**

One of our members mentioned the impact of private, philanthropic funding, which results in some organisations having a mixed funding model with some funds being 'tied' to government service agreements and other funds that are 'untied' and privately sourced. Our member's concern is that any regulatory oversight needs to capture programs that are privately funded as well as those run with public funds.

- **Transition timeframe**

A further issue raised by our members was the need for a long transition period for any kind of framework or standards for compliance to be introduced. One of the reasons for a long transition is high staff turnover in this sector. A long transition period will allow for new staff entering into the sector.

Thank you for the opportunity to respond to the consultation paper.

Yours faithfully

A handwritten signature in black ink that reads "Aimee McVeigh". The signature is written in a cursive, flowing style.

Aimee McVeigh
CEO