

Queensland Family and Child Commission Submission

To: Australian Human Rights Commission

Date: 24 May 2018

Topic: Progress on implementation of the rights of children

Submission summary:

The Queensland Family and Child Commission (QFCC) is pleased to provide a submission to the Australian Human Rights Commission to inform reporting on Australia's implementation of the rights of children and young people.

The QFCC promotes the rights of children and young people in all its work. However, the QFCC has targeted its response to some of its key activities, which fall within some of the clusters of articles.

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General principles

- **non-discrimination (art.2)**
- **best interests of the child (art. 3)**
- **right to life, survival and development (art. 6)**
- **respect for the views of the child (art. 12)**

The role of the QFCC

The QFCC was established on 1 July 2014 under the *Family and Child Commission Act 2014* (the Act). The QFCC was established following the Queensland Government's response to the report of the *Queensland Child Protection Commission of Inquiry (QCPCI)—Taking Responsibility: A Roadmap for Queensland Child Protection* (the QCPCI report).

Through its work, the QFCC supports the implementation of human rights obligations for children and young people. Consideration of the best interests of children and young people in particular, as well as consideration of children's rights more broadly underpins the work of the QFCC.

Specifically, a key purpose of the QFCC is to promote the safety wellbeing and best interests of children and young people. The QFCC was established for:

- promoting 'the safety, wellbeing and best interests of children and young people'
- promoting and advocating 'the responsibility of families and communities to protect and care for children and young people', and
- improving the child protection system.¹

To enable the QFCC to achieve its purpose, key responsibilities the QFCC performs include:

- systemic oversight of Queensland's child protection system
- promoting and advocating 'the responsibility of families and communities to protect and care for children and young people'
- promoting and advocating 'the safety and wellbeing of children and young people', particularly those 'in need of protection or in the youth justice system'
- educating the community about family support services and the child protection system, and
- sector development.²

There are a number of ways the QFCC must perform its responsibilities.³ Importantly, one of these ways is to 'ensure the interests of Aboriginal peoples and Torres Strait Islanders are adequately and appropriately represented.'⁴ In recognition of this, at least one of the QFCC Commissioners must be an Aboriginal person or a Torres Strait Islander person and each Advisory Committee must have at least one person who is an Aboriginal person or a Torres Strait Islander person.⁵

The QFCC delivers on its statutory functions by educating, enabling and providing oversight. It educates parents, families, communities and professionals about how they can keep children and young people safe and about the services available to strengthen and support Queensland families.

¹ *Family and Child Commission Act 2014* (Qld) s.4

² *Family and Child Commission Act 2014* (Qld) s.9

³ *Family and Child Commission Act 2014* (Qld) s.23

⁴ *Family and Child Commission Act 2014* (Qld) s.23(b)

⁵ Explanatory Notes, *Family and Child Commission Bill 2014* (Qld), p.4; *Family and Child Commission Act 2014* (Qld), s.11(5) and s.31(2)

The QFCC enables by working alongside partners to strengthen the capacity and capability across the child protection workforce. The *Strengthening our Sector* strategy, released in 2016, seeks to identify, preserve and build on strengths in the service system in the best interests of children.⁶

The QFCC provides oversight by monitoring, reviewing, evaluating and reporting on the performance of the child protection system and associated reform initiatives.

Below outlines some of the QFCC's specific activities which contribute to Australia's implementation of the rights of children and young people, in particular the United Nations Convention on the Rights of the Child.

Promoting the best interests of children and young people

The QFCC is committed to promoting the safety and wellbeing of children and young people. Accordingly, the rights of children and young people, and in particular the best interests of children and young people, is recognised through the QFCC's work.

This is particularly evident in the QFCC's policy and advocacy work. The QFCC has a responsibility to provide leadership and expert advice about policies, laws, practices and services.⁷ The QFCC uses this responsibility to educate and promote children's rights. For example, the QFCC has provided a number of submissions to government inquiries and reviews which recognise children's rights

Views of children and young people

The QFCC also regularly engages with children and young people to hear their views. The QFCC has a legislative responsibility to 'engage with, and take account of, the views of children, young people and their families'.⁸ Therefore, listening to the views of children and young people is essential for the QFCC to inform its work.

For example, the QFCC has developed a Youth Participation Strategy to create opportunities for young people's voices to be heard and to influence the work of the QFCC.⁹ The QFCC has also developed a Youth Participation Plan to detail the QFCC's commitments to promoting youth participation as well as measures for reporting and measuring the QFCC's performance.¹⁰ The Youth Participation Plan for 2017-18 includes commitments such as capturing 'the voices of children and young people across Queensland through multiple activities' and 'practice flexible engagement for children and young people's voices to be heard and responded to'.¹¹ Measures include the 'number of activities which capture the voices of children and young people' and the 'number of young people supported to participate in events or activities'. The QFCC monitors progress on how the agency is faring in relation to its commitments under the Youth Participation Plan.

⁶ Queensland Family and Child Commission, *Strengthening our Sector: a strategy for working together for a responsive sustainable service system across the child and family support sector 2016-19*, https://www.qfcc.qld.gov.au/sites/default/files/For%20professionals/strengthening%20our%20sector/qfcc_strengthening_oursector_strategy_0.pdf, accessed 18 May 2018.

⁷ *Family and Child Commission Act 2014* (Qld), s. 9(g)

⁸ *Family and Child Commission Act 2014* (Qld) s. 23

⁹ Queensland Family and Child Commission, *Youth Participation Strategy*, <https://www.qfcc.qld.gov.au/sites/default/files/youthadvisorycouncil/qfcc-youth-participation-strategy.PDF>, accessed 2 May 2018, p.6

¹⁰ *Ibid.*, p.8

¹¹ Queensland Family and Child Commission, *QFCC Youth Participation Plan*, <https://www.qfcc.qld.gov.au/sites/default/files/youthadvisorycouncil/qfcc-2017-18-youth-participation-plan.pdf>, accessed 3 May 2018.

Young people were consulted in the development of QFCC's Youth Participation Strategy.¹² Critical to this consultation process was the participation by QFCC's Youth Champions. The Youth Champions work with the QFCC to ensure the QFCC's 'relationship with young people is one that is respectful whilst promoting opportunities for connection and celebrating their successes.'¹³

The QFCC spoke with a Youth Champion in relation to their views on rights. This young person advised:

- children's rights are not written or said in a child-friendly way
- it is important to consider how child rights information is shared to children and young people, for example there is a rights based game which teaches the difference between rights and wants
- rights are important but they do not mean anything if people do not know what they are, and
- rights need to be put into action with appropriate support for children and young people.

The QFCC is also listening to the voices of children and young people through the Growing up in Queensland survey. Children and young people aged 4 to 18 are being asked to provide their views about their opportunities and challenges and what they need to live safely and achieve their goals.¹⁴ The online survey closes on 29 June 2018 and the QFCC will use the feedback from children and young people in reports provided to community organisations and government who are providing services to or working with children and young people. The QFCC will also use the feedback to develop a wellbeing strategy for Queensland children and young people.

Disability, basic health and welfare

- **health and health services, in particular primary health care (art. 24)**

Child death prevention

The QFCC has a key role in Queensland on reporting and analysing the deaths of children and undertaking activities to reduce the likelihood of child deaths occurring. Under the Act, the QFCC is responsible for a number of functions in relation to child deaths in Queensland, namely:¹⁵

- maintaining a register of all deaths of children and young people in Queensland and analysing the information for trends and patterns. The register holds information about the deaths of all children and young people in Queensland from 1 January 2004
- researching the risk factors associated with child deaths and makes recommendations for the prevention of child deaths
- providing information from the child death register to genuine researchers who are undertaking research to help reduce the likelihood of child deaths, and
- preparing an annual report in relation to child deaths, tabled in the Queensland Parliament
- engaging and educating the community in child death prevention strategies.

¹² Ibid., p.4

¹³ Queensland Family and Child Commission, *Youth Participation Strategy*, <https://www.qfcc.qld.gov.au/sites/default/files/youthadvisorycouncil/qfcc-youth-participation-strategy.PDF>, accessed 2 May 2018, p.4

¹⁴ Queensland Family and Child Commission, 2018, *Frequently asked questions*, <https://www.qfcc.qld.gov.au/frequently-asked-questions>, accessed 2 May 2018

¹⁵ *Family and Child Commission Act 2014* (Qld), ss.25, 26, 28

Progress in reducing infant and child mortality

The QFCC's analysis of child death data for Queensland indicates the following:

- In general, child mortality rates have decreased over the period 2004 to 2017.
- The overall trend is driven by decreases in child mortality from explained diseases and morbid conditions, the two largest contributors of which are deaths of infants from perinatal conditions¹⁶ and congenital anomalies.
- Child mortality from unexplained diseases and morbid conditions (i.e. from natural causes but the illness has not been identified) has shown some recent decreases, but there is no strong overall trend. Almost all of this group are infant deaths classified as Sudden Infant Death Syndrome (SIDS) or undetermined causes.
- Transport-related child mortality declined, dropping by 62% over the 13-year period.
- Child deaths from drowning, other non-intentional injury, suicide and fatal assault, showed some changes over time; however, the changes were not indicative of trends (changes were not statistically significant).

The QFCC identifies as particularly vulnerable Aboriginal and Torres Strait Islander children and children known to the child protection system:¹⁷

- Aboriginal and Torres Strait Islander child mortality rates have decreased over the last 13 years. However, Aboriginal and Torres Strait Islander child mortality continues to be twice the rate for non-Indigenous children as decreases in Indigenous mortality have been matched by decreases in non-Indigenous mortality.
- Aboriginal and Torres Strait Islander child mortality rates were more than twice those for non-Indigenous children for deaths from suicide, fatal assault and neglect, transport and sudden unexpected deaths in infancy.¹⁸
- The mortality rates for children known to the child protection system have consistently been higher than all children, especially for deaths from external (non-natural) causes.
- Mortality rates for children known to the child protection system have been three or more times higher than the Queensland child mortality rates for deaths from suicide, drowning, fatal assault and neglect and sudden unexpected deaths in infancy.

Family environment and alternative care

- **family environment and parental guidance in a manner consistent with the evolving capacities of the child (art. 5)**
- **parents' common responsibilities, assistance to parents and the provision of childcare services (art. 18)**

Educating and informing children and young people, families and the community

The work of the QFCC is underpinned by the notion that families and communities have the primary responsibility for caring for their children.

The QFCC's Talking Families community education campaign was developed from recommendation 1.1 from the QCPCI report which was 'the Queensland Government promote and advocate to families and communities their responsibility for protecting and caring for their own children.'¹⁹

¹⁶ Diseases and conditions which originate during pregnancy or the neonatal period (first 28 days of life).

¹⁷ Children known to the child protection system include those in the custody or guardianship of the department, or where harm or abuse had been alleged or substantiated, or protection concerns had been notified to the department in the past 12 months.

¹⁸ Sudden unexpected death in infancy is a category of deaths where an infant (aged under one year) dies suddenly with no immediately obvious cause.

¹⁹ Ibid., p.xxvii

The Talking Families community education campaign aims to encourage families and communities about ‘the shared responsibility for protecting and caring for Queensland’s children’ by using a community social marketing approach.²⁰ The aim of the campaign includes:

- providing information about parents and families having the primary responsibility to care for and protect children and about the role of the child protection system
- providing information about support services, and
- encouraging parents and caregivers to access help.²¹

The QFCC, in collaboration with government and non-government agencies, has developed resources for parents to help them understand the child protection system.²² In addition, the QFCC has developed a suite of resources for children and young people to help them find about Queensland’s child protection system. The resources present information in child-friendly ways explaining children’s rights, how the child protection system works, court processes, and the complaint process.²³ These resources were developed as a result of recommendation 13.26 from the QCPCI.²⁴

Violence against children

- **abuse and neglect, including physical and psychological recovery and social reintegration (art. 19)**

The QFCC is working to help keep children and young people stay safe online. The QFCC’s Out of the Dark community education campaign aims ‘to educate, enable and empower children, families and the community to seek support and have an active role in helping young people be safer online’.²⁵

The campaign to date has included a suite of resources to help young people be safe online, developed in partnership with Churches of Christ in Queensland; and the Out of the Dark Expo to showcase ways for young people to stay safe online.²⁶

Special protection measures

- **administration of juvenile justice (art. 40), the applicable minimum age of criminal responsibility**

The QFCC has been advocating to have the minimum age of criminal responsibility reviewed by the Queensland Government. This was based on feedback the QFCC obtained through the views and experiences from children and young people, families and organisations in relation to youth justice. The QFCC’s advocacy paper, *The Age of Criminal Responsibility in Queensland*, recognises that

²⁰ Queensland Family and Child Commission, *Talking Families*, 2016, <http://www.qfcc.qld.gov.au/talking-families-for-professionals>, accessed 3 May 2018

²¹ Ibid.

²² State of Queensland (Queensland Family and Child Commission), *Information kit on child protection for parents*, 2016, <http://www.qfcc.qld.gov.au/information-kit-child-protection-parents>, accessed 3 May 2018

²³ Queensland Family and Child Commission, *Finding out about child protection in Queensland*, <https://www.qfcc.qld.gov.au/finding-out-about-child-protection-queensland> accessed 3 May 2018

²⁴ State of Queensland (Queensland Child Protection Commission of Inquiry), 2013, http://www.childprotectioninquiry.qld.gov.au/_data/assets/pdf_file/0017/202625/qccpci-final-report-web-version.pdf, accessed 3 May 2018, p.xiiv

²⁵ Queensland Family and Child Commission, *Out of the Dark: Online Safety*, <http://www.qfcc.qld.gov.au/out-dark-online-safety>, accessed 3 May 2018

²⁶ Queensland Family and Child Commission, *It’s all relative – online safety tips and strategies*, <http://www.qfcc.qld.gov.au/its-all-relative-online-safety-tips>, accessed 3 May 2018; Queensland Family and Child Commission, *Out of the Dark Expo*, <http://www.qfcc.qld.gov.au/OOTDExpo>, accessed 3 May 2018

Queensland's minimum age of criminal responsibility is 10 years, while the United Nations has recommended for the age to be 12 years or higher.²⁷

The QFCC recommends options for reform for the Queensland Government to consider, namely:

- raising the minimum age of criminal responsibility to 12 years
- not sentencing 10 to 12 year olds to youth detention, and
- making youth justice conferences mandatory for 10 to 12 olds.²⁸

²⁷ Queensland Family and Child Commission, 2017, *The Age of Criminal Responsibility in Queensland* <http://www.qfcc.qld.gov.au/sites/default/files/For%20professionals/policy/minimum-age-criminal-responsibility.pdf>, accessed 4 May 2018, p.2

²⁸ Queensland Family and Child Commission, 2017, *The age of criminal responsibility*, <http://www.qfcc.qld.gov.au/age-criminal-responsibility>, accessed 3 May 2018