Queensland
Family & Child
Commission

Queensland
Government

Telephone: [redacted]
Reference: [redacted]

Committee Secretariat
Justice, Integrity and Community Safety Committee

Via email: [redacted]

Dear Committee Secretariat

Thank you for the opportunity to provide this submission on the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 (the Bill).

The Queensland Family and Child Commission (the Commission) is committed to promoting the safety, wellbeing and rights of every child in Queensland. Through our statutory oversight role, we aim to strengthen the child protection system, ensure services are coordinated, culturally safe, trauma-informed, and responsive to the needs of children and families. We are committed to ensuring lived experience directly shapes reform and drives meaningful change.

The Bill reflects several longstanding priorities of the Commission, including recommendations from our 2017 Blue Card Review, and represents a significant step forward in enhancing Queensland's working with children check framework and justice system responses to sexual offending. We support the proposed reforms as an important means of improving safeguards for children, acknowledging victim harm in sentencing, and aligning Queensland's laws with contemporary understandings of sexual violence.

If you have any queries in relation to this matter, please don't hesitate to contact me directly on [redacted]6 or via email at [redacted]

Yours sincerely

[redacted]

Luke Twyford
Principal Commissioner
Queensland Family and Child Commission

3 June 2025

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Policy Submission

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

June 2025

Principal Commissioner Luke Twyford

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Background

The Queensland Family and Child Commission (the Commission) welcomes the opportunity to contribute to the Justice, Integrity and Community Safety Committee's consideration of the Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025 (the Bill). As Queensland's statutory authority for oversight and reform of the child protection system, the Commission plays a central role in promoting the rights, safety and wellbeing of all children. We are committed to driving reform that strengthens the coordination, effectiveness, and accountability of services delivered to children, young people, and families across all government and non-government sectors.

The Bill reflects several longstanding priorities of the Commission, particularly with respect to justice system responses to child sexual abuse and the continued enhancement of the state's working with children check framework (the Blue Card system). The proposed amendments implement recommendations from the Commission's 2017 report, *Keeping Queensland's children more than safe: review of the blue card system* (the Blue Card Review).[1] That review was commissioned by the Queensland Government following recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse. At the time, it represented the most comprehensive examination of Queensland's Blue Card system and formed part of a broader strategy to ensure children are safe in all environments including education, sport, faith-based activities, and care settings.

The Commission's 2017 Blue Card Review assessed the system's governance, legislative foundations, operational performance, accessibility, and effectiveness as a child safety mechanism. It involved wide-ranging consultation with over 200 stakeholders, including children and young people, parents and carers, community organisations, service providers, Aboriginal and Torres Strait Islander communities, and government agencies. The final report provided 81 recommendations aimed at strengthening the blue card system's risk assessment processes, improving information sharing, enhancing responsiveness to harm, and ensuring culturally safe access to the system for Aboriginal and Torres Strait Islander peoples.

One of the central findings of the review was that while Queensland's blue card system is among the strongest in the country, enhancements were needed to make it more proactive, more consistent in applying a child-focused risk threshold, and more capable of responding to complex risk scenarios, including those arising from sexual offences and grooming behaviours. The Commission welcomes the proposed amendments to the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act), which enact the legislative changes recommended in our 2017 report, and build on the reform implemented through the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024* (WWC Amendment Act).

The Commission has consistently advocated for a justice system that is trauma-aware and supports victims through safe and respectful processes while holding perpetrators accountable. In this regard, we support the proposed amendments which reflect contemporary understandings of sexual violence. The recognition of victim harm as a formal sentencing consideration, the restrictions placed on the use of good character evidence, and the

[1] Queensland Family and Child Commission (2017). *Keeping Queensland's children more than safe: Review of the blue card system.* https://www.qfcc.qld.gov.au/sites/default/files/2022-08/Review%20of%20the%20blue%20card%20system.pdf

introduction of an aggravating factor for offences against children aged 16 or 17, acknowledge the seriousness of the offence and the vulnerability of the victim.

Stakeholder engagement and implementation support

The Commission advocates for ongoing structured consultation with stakeholders, including child protection practitioners, judicial officers, survivor advocates, Aboriginal and Torres Strait Islander communities, and young people themselves, to support the effective implementation of the Bill's reforms. Legislation alone cannot bring about meaningful change. Its success depends on training, education, and shared understanding across sectors. In particular, operationalising the sentencing reforms will require continued engagement with the judiciary, legal profession and service providers to ensure that the policy intent of the legislation is reflected in practice.

Similarly, the effectiveness of the blue card amendments will depend on the system's capacity to identify, assess, and act upon relevant risk information. A culture of continuous improvement, grounded in evidence and child-centred practice, must underpin the next phase of reform.

The Commission supports the *Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025* as a necessary and positive step aligning Queensland's justice system and child safety systems with contemporary standards, community expectations, and the lived experiences of, children and young people and victim-survivors.

The Bill strengthens responses to sexual violence, enhances the blue card system as a frontline safeguarding tool, and builds on the foundational reforms initiated by the WWC Amendment Act and the Commission's Blue Card Review. These reforms reflect a broader commitment to systemic accountability, child-focused justice, and risk-based safeguarding.

Penalties and Sentences (Sexual Offences) and Other Legislation Amendment Bill 2025

The Commission supports the sentencing reforms introduced by the Bill, which give effect to four key recommendations from the Queensland Sentencing Advisory Council's report *Sentencing of Sexual Assault and Rape: The Ripple Effect* (QSAC report). These changes represent a critical step toward a justice system that reflects the realities of child sexual violence, including the dynamics of grooming and the long-term impacts on victim-survivors.

The reforms reinforce the importance of judicial decisions that are informed by trauma, victim experiences and evolving community expectations around accountability. They also align with the Commission's systemic advocacy and complement broader government commitments to child safety and justice reform, including the *Safe and Supported Action Plan,*[2] and the *Strengthening Families Protecting Children Framework for Practice.*[3] The Commission supports the timely passage and implementation of these reforms as part of a sustained effort to deliver justice that genuinely protects and centres the needs of children and young people.

Recommendation 2 (QSAC report): Sentencing purposes

The amendment to the *Penalties and Sentences Act 1992* to include explicit recognition of the harm done to a victim as a purpose of sentencing is a critical development. For child victims of sexual abuse, the harm experienced often extends far beyond the immediate offence. Psychological trauma, loss of trust, disruption to development, and long-term social and emotional consequences are common. By embedding victim harm as a core consideration, the courts are better positioned to deliver sentences that reflect the full extent of the damage caused, and to ensure that victim experiences are central to the justice response. This amendment reinforces trauma-informed sentencing and acknowledges the enduring impacts of these crimes on children and young people.

Recommendation 5 (QSAC report): Good character evidence

The Commission supports the reform limiting the use of good character evidence as a mitigating factor in sexual offence cases. This long-overdue change responds directly to a key recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse, which stated: "All state and territory governments should introduce legislation to provide that good character be excluded as a mitigating factor in sentencing for child sexual abuse offences where that good character facilitated the offending."[4] This amendment ensures that such mitigating factors are considered only when genuinely relevant to the offender's risk of reoffending or prospects of rehabilitation. Importantly, it prohibits courts from treating "good character" as a mitigating factor where it facilitated the offending—such as enabling access to children or building trust with a victim. These provisions are

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[2] Australian Government, Department of Social Services (2021). *Safe and Supported. The national framework for protecting Australia's children 2021-2031.* https://www.dss.gov.au/system/files/resources/dess5016-national-framework-protecting-childrenaccessible.pdf

[3] Queensland Government (2025). *Child Safety Practice Manual – Strengthening families Protecting Children Framework for practice.* https://cspm.csyw.qld.gov.au/our-approach/principles

[4] Australian Government (2017). *Royal Commission into Institutional Responses to Child Sexual Abuse*. https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf

essential to restoring public confidence in judicial outcomes and ensuring that children's safety is prioritised over offender reputation.

Recommendation 1 (QSAC report): Statutory aggravating factor

The Commission welcomes the introduction of a statutory aggravating factor for offences of rape or sexual assault against children aged 16 or 17 years.[5] While these young people are generally considered legally capable of giving sexual consent, the reality is that many remain vulnerable to manipulation, coercion, grooming, and abuse, particularly by adults in positions of authority, power, or trust. The new aggravating factor properly reflects this heightened vulnerability and legal status as children and affirms that Queensland's justice system will not tolerate the exploitation of age, power differentials, or trust-based relationships. The provision appropriately limits judicial discretion only in cases where exceptional circumstances exist and ensures that sentencing reflects the seriousness of these offences, regardless of whether the offender misjudged the victim's age.

Recommendation 23 (QSAC report): Absence of details of harm

The Bill's clarification that the absence of a victim impact statement or details of harm should not lead to an inference that the offence caused minimal or no harm reflects a trauma-aware understanding of the justice process. Many victims, particularly children, are unable or unwilling to articulate the harm they have experienced due to fear, shame, emotional distress, or lack of support. The 2017 Blue Card and Foster Care Review highlighted that responses to harm must be responsive to the reality of trauma and systemic vulnerability and should never assume that silence equals safety. By ensuring courts do not draw conclusions from the absence of formal evidence of harm, the Bill advances a fairer and more protective sentencing framework.

[5] The Commission has previously supported the introduction of a standalone offence under the *Criminal Code* for unlawful sexual acts committed by persons in positions of care, supervision, or authority in relation to 16–17-year-olds. See Queensland Family and Child Commission (2024). *Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Bill 2024*. https://www.qfcc.qld.gov.au/sites/default/files/2024-07/Criminal%20Justice%20Legislation%20%28Sexual%20Violence%20and%20Other%20Matters%29%20Amendment%20Bill%202024%20-%20PCMR%20Luke%20Twyford_Redacted.pdf

Strengthening the Blue Card System

Summary

- The Commission supports the Bill's restoration of suspension powers under the WWC Act to ensure individuals facing serious charges can be promptly removed from child-related roles, aligning with recommendations from the 2017 Blue Card and Foster Care Review.
- The reforms address systemic risks by reinforcing the need for consistent and timely responses to emerging concerns about carer or worker suitability, including in cases where criminal convictions are not present.
- Technical amendments to the WWC Act improve legal clarity and operational effectiveness, supporting broader child protection strategies and maintaining public confidence in the blue card system.

The Commission supports the Bill's amendments to the WWC Act, which are critical to ensuring the full and intended implementation of reforms introduced through the WWC Amendment Act. These amendments respond to operational gaps and unintended consequences identified through the Commission's prior system reviews and oversight activities, particularly those outlined in the 2017 *Review of the Foster Care System and Blue Card System*.[6]

Restoring the Chief Executive's power to issue suspension notices for certain prescribed offences is an essential reform. This power, temporarily affected by earlier legislative changes, ensures that individuals charged with serious offences can be immediately removed from child-related environments, pending the outcome of criminal proceedings. Such action is critical for upholding community safety and preserving confidence in Queensland's child protection and screening systems.

The Commission's Blue Card Review emphasised the importance of timely, transparent, and consistent responses to disqualifying risk factors, including criminal charges, allegations, or other serious concerns. The report highlighted that while existing checks were strong, their effectiveness depended on the responsiveness of system authorities to emerging risks. Suspension provisions must be exercised with both caution and urgency to prevent individuals who pose a potential danger from continuing their work with children. Delays or inconsistencies in responding to these risks, such as listing individuals as 'inactive' rather than formally suspending or cancelling their authorisations, undermine the integrity of the system and reduce its protective capacity.

Stakeholder feedback during the Blue Card and Foster Care Review underscored the need for clear and enforceable criteria for suspending or cancelling authorisations, including in situations that do not involve a formal blue card cancellation or criminal conviction. The Commission previously supported the adoption of specific criteria for assessing risks to children in our submission to the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024.[7] We welcomed the introduction of a nationally

[6] Queensland Family and Child Commission (2017). *Keeping Queensland's children more than safe: Review of the blue card system.* https://www.qfcc.qld.gov.au/sites/default/files/2022-08/Review%20of%20the%20blue%20card%20system.pdf

[7] Queensland Family and Child Commission (2024). *Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024.* https://www.qfcc.qld.gov.au/sites/default/files/2024-07/QFCC%20Submission%20-%20Education%20Employment%20Training%20and%20Skills%20Committee%20%20Working%20with%20Children%20Checks%20Amendment%20Bill%202024.pdf

consistent decision-making framework based on a 'real and appreciable risk' of harm to children, as determined by a 'reasonable person'. This approach empowers the Chief Executive to act quickly to protect children, while ensuring decisions are made transparently and with procedural fairness through access to review mechanisms.[8] The proposed amendments to the WWC Act are aligned with these principles and reinforce the importance of timely and proportionate responses to potential risks in child-related roles.

The 2017 review also drew attention to gaps in carer oversight, particularly the practice of ceasing placements without formal action on a carer's suitability. This highlighted broader systemic risks and the need for a rigorous, risk-informed approach to child safety screening. Maintaining the ability to suspend blue card holders swiftly when risks are identified, regardless of whether criminal charges have been laid, is a basis of an effective and responsive safeguarding regime. The Bill's amendments help reinforce this capacity.

In addition to strengthening suspension powers, the Commission supports the Bill's minor technical amendments, including updates to terminology and correction of cross-references. These changes, while procedural in nature, are vital for legal clarity and operational consistency. Ensuring that practitioners, employers, carers, and organisations can navigate the blue card system with accuracy and confidence is essential for maintaining public trust and ensuring compliance.

The Commission continues to advocate for legislative and operational frameworks that are robust and adaptive, capable of managing complex and emerging risks while remaining fair, transparent, and child focused. The amendments proposed in this Bill are aligned with those objectives and will further ensure that Queensland's Blue Card system remains a comprehensive and effective child protection tool.

[8] In the 2017 Blue Card Review, the Commission recommended that the then Department of Justice and Attorney-General establish a process for regular independent audits of risk assessment decisions and processes - Queensland Family and Child Commission (2017). *Keeping Queensland's children more than safe: Review of the blue card system.* https://www.qfcc.qld.gov.au/sites/default/files/2022-08/Review%20of%20the%20blue%20card%20system.pdf