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19 November 2021

Queensland Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: lasc@parliament.qld.gov.au

Dear Committee members,

Submission on the Inspector of Detention Services Bill 2021

Thank you for the opportunity to make a submission to the Queensland Legal Affairs and Safety Committee ('the Committee') on the *Inspector of Detention Services Bill 2021* ('the Bill').

We have no concerns about our submission being published.

About knowmore

knowmore is a national, free and independent community legal centre providing legal information, advice, representation and referrals, education and systemic advocacy for victims and survivors of child abuse, including institutional child sexual abuse.

Our service was established in 2013 as to assist people who were engaging with or considering engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). Since 1 July 2018, knowmore has been funded by the Australian Government¹ to deliver legal support services to assist survivors of institutional

¹ Represented by the Attorney-General's Department and the Department of Social Services, knowmore also receives funding to deliver financial counselling services to people participating in the NRS, and to work with other services in the NRS support network to support and build their capability.

child sexual abuse to access their redress options, including under the National Redress Scheme.

Our clients in Queensland

knowmore has a significant client base in Queensland— 30% per cent of our current clients reside in the state.² Of the Queensland clients who completed intake in the first quarter of FY2021-22, 46% identified as Aboriginal and/or Torres Strait Islander peoples.

Many of these clients experienced sexual abuse as children while in detention settings. Survivors of childhood sexual abuse are also significantly over-represented in adult prisons.³

We therefore have a strong interest in reforms that impact on these institutions in Queensland.

knowmore's overall position

knowmore welcomes the Queensland Government's commitment to reforming the state's detention services and places of detention. knowmore supports the overall intent of the proposed reforms to promote and uphold the humane treatment of detainees and the conditions of their detention.

Further, we are strongly supportive of the aim to protect detainees from being subjected to harm, including torture and cruel, inhuman or degrading treatment.⁴ We are particularly pleased to see the Bill recognise the vulnerabilities of children in detention settings, and its reference to the particular needs of survivors of child sexual abuse. In addition, the Bill makes strong reference to promoting cultural awareness and safety within detention services, in the context of determining appropriate inspection of such places.

In considering the proposed reforms, knowmore has reflected closely on key findings and recommendations from the Royal Commission, in addition to its own work with survivors of child sexual abuse. The Royal Commission found that children detained in Australian detention environments are exposed to a high risk of sexual abuse,⁵ and we have a long history of working with survivors of child sexual abuse who were abused in youth detention settings in Queensland, and/or who are now in adult prisons in Queensland.

² As of 31 October 2021. See knowmore, [National infographic October 2021](#).

³ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Volume 5 [Private sessions](#), p.240 ff and Appendix S.

⁴ *Inspector of Detention Services Bill 2021* (Qld), s 3(1)(a)-(b).

⁵ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Volume 15 [Contemporary detention environments](#), p 9.

All of these perspectives inform our views on this Bill, and its relationship to the Queensland Government's implementation of Royal Commission recommendations. To this end, we have included a table at the conclusion of this submission that maps the Queensland Government's response to the recommendations from the Royal Commission. We encourage the Queensland Government to take all necessary steps to ensure that the Royal Commission's recommendations are fully embedded in Queensland legislation and practice to better ensure the safety and wellbeing of all Queensland's children.

Inspector of Detention Services

Overview

The Bill proposes that an Inspector of detention services should be established, who will be an officer of the Parliament and report on their inspections to the Legislative Assembly. knowmore is supportive of this reporting approach as a means of ensuring effective oversight of the Inspector role. knowmore further recognises that independent inspectors contribute to the accountability and transparency of detention services.⁶ Accordingly, the proposed Bill addresses relevant rights in the *Human Rights Act 2019* (Qld), as follows:

- Protection from torture and cruel, inhuman or degrading treatment (section 17)
- Freedom of movement (section 19)
- Privacy and reputation (section 25)
- Right to liberty and security of person (section 29)
- Humane treatment when deprived of liberty (section 30)
- Fair hearing (section 31)
- Rights in criminal proceedings (section 32)
- Right to health services (section 37).⁷

We are particularly supportive of the requirement for the Inspector to have regard to the cultural background or vulnerability of detainees to whom the review or inspection is relevant.⁸ We submit that these considerations should include requirements (perhaps to be monitored through the regular reporting to Parliament), for the Inspector and all staff to regularly attend relevant cultural awareness training.

Further, we submit that the consideration of "particular vulnerabilities" of detainees must include an awareness of the prevalence among youth detainee and adult prison populations

⁶ *Inspector of Detention Services Bill 2021* (Qld), s 3(2)(a)-(b).

⁷ Statement of Compatibility, *Inspector of Detention Services Bill 2021* (Qld), p 2.

⁸ *Inspector of Detention Services Bill 2021* (Qld), s 8(2).

of experiences of child sexual abuse, and a developed understanding of how those experiences and the complex trauma that results impacts on survivors in their daily lives and in their interactions with authority figures. We therefore recommend that the Inspector and all staff should also be required to undergo training to develop an appropriately trauma-informed approach to conducting their roles. Specialised training would help monitor for any warning signs or presence of child sexual abuse within youth detention facilities, as well as inform relevant support mechanisms within adult detention facilities. It will also help to lessen the impacts of re-traumatisation that may arise for survivors during any interactions.

Accordingly, knowmore strongly supports provisions requiring the Inspector to arrange for a person “whom the Inspector considers has appropriate expertise in the areas of child trauma and the prevention and identification of child sexual abuse to help the Inspector carry out the review or inspection”.⁹ The definition of trauma within the Bill includes:

- (a) *trauma related to—*
 - (i) *sexual abuse or suspected sexual abuse; or*
 - (ii) *violent crime; or*
 - (iii) *domestic violence; or*
 - (iv) *neglect; and*
- (b) *suspected trauma.*¹⁰

We submit that these are crucial inclusions in the Bill and a strong understanding of the impacts of trauma must form part of the expertise of the Inspector and all staff.

Best practice and independence

Under s 33 of the Bill, the Ombudsman is to be appointed as the Inspector of detention services under the *Ombudsman Act 2001* (Qld), amending s 58 of that Act. We have some concerns about the Inspector and their functions operating from the Office of the Ombudsman and recommend a revision to the Bill in this regard. While we understand there may be some administrative efficiencies resulting from the structural approach set out in the present form of the Bill, we would prefer to see the Inspector operate as a separate and stand-alone statutory role and office.

The Office of the Ombudsman is already mandated with a broad portfolio of other responsibilities and deals with a significant complaint workload. While the Explanatory Notes to the Bill provide that the Inspector will have its own resourcing dedicated to the performance of its functions, there is also provision in s 36 of the Bill for the delegation of

⁹ *Inspector of Detention Services Bill 2021* (Qld), s 9(7).

¹⁰ *Inspector of Detention Services Bill 2021* (Qld), s 9(8).

the exercise of the Inspector's functions and powers to qualified staff of the Office of the Ombudsman. The scope of these delegable powers means that a large component of the Inspector's functions can be delegated to "qualified officers" within the Office of the Ombudsman. This includes all functions other than the Inspector's reporting function to the Legislative Assembly.

We are concerned that such arrangements may lead to competition for limited resources and priorities with the Office of the Ombudsman, which in turn could adversely impact upon the performance of the Inspector's functions and the quality, scope and timeliness of the inspections undertaken, the reports published and the other duties that are to be discharged by the Inspector.

The Office of the Ombudsman has also existing responsibilities in relation to prisons and youth detention centres and currently conducts a program of visits, and receives complaints from prisoners. Given this history and context, locating the Inspector within the Office of the Ombudsman inevitably means that existing cultural approaches and relationships arising from this long-standing program of work will influence how the Inspector's responsibilities are approached and discharged in the future.

The proposed Bill has resulted from recommendations stemming from a number of reviews, including the Independent Review of Youth Detention. The Queensland Independent Review of Youth Detention made a number of recommendations including:

Recommendation 8.R1

The Review recommends that the Queensland Government replace the Youth Detention Inspectorate (ESU) and Office of the Chief Inspector (QCS) with an independent statutory Office of the Inspector of Custodial Services in a similar form to that of Western Australia.

Recommendation 8.R2

The Review recommends that the key features of the Queensland Inspector of Custodial Services should include:

- Independence
- transparency and
- accountability

In line with these recommendations, we submit that the Inspector should operate from a separate, independent statutory office. In further support of this submission we refer below to a number of comparative models.

The Statement of Compatibility for the Bill provides that:

*The Inspectorate model established by the Bill is based on comparable independent Inspectorate models, in particular that operating in Western Australia. It is also influenced by the current New South Wales, Tasmania and Australian Capital Territory models.*¹¹

The Inspectorate model proposed in the Bill diverges significantly from the New South Wales and Western Australian models. In NSW, while the *Inspector of Custodial Services Act 2012*¹² sets out the relationship that the Inspector of Custodial Services may have with the Ombudsman,¹³ it does not seat the role of Inspector in that office. In WA, the *Inspector of Custodial Services Act 2003* established the position of Inspector as an independent statutory role.

A similar approach, if adopted in Queensland, would further align with Article 18 of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('OPCAT'), which provides:

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

¹¹ Statement of Compatibility, *Inspector of Detention Services Bill 2021* (Qld), p 2.

¹² [Inspector of Custodial Services Act 2012](#) (NSW).

¹³ *ibid*, see in particular s 10 and s 26.

While this pertains to the national preventive mechanisms, we submit that the OPCAT provides guiding principles for all states and territories. We note that South Australia recently introduced the *OPCAT Implementation Bill 2021 (SA)*, which aims to implement key reforms in that state, with reference to the international instrument.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('OPCAT')

The Bill aligns partially with the OPCAT, which Australia has ratified. In particular, the OPCAT contains express provisions on the need for cooperation between the State Party (Australia) and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('SPT'). The OPCAT further provides that State Parties are obligated to establish a National Preventative Mechanism ('NPM'), which the Australian government has committed to implement by January 2022. The establishment of a national preventative mechanism must operate with functional independence to inspect the treatment of persons in detention settings:

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment.

In Queensland, the current preventative measures within detention services are provided for by the Queensland Corrective Services, the Department of Children, Youth Justice and Multicultural Affairs and the Queensland Police Service.¹⁴ This Bill aims to strengthen the current preventative measures by appointing an Inspector of Detention services and while knowmore is supportive of creating a more robust Inspectorate model within Queensland, we believe that the model should more closely mirror the structural approach that other jurisdictions have taken, with a view to increasing national consistency.

¹⁴ Statement of Compatibility, *Inspector of Detention Services Bill 2021* (Qld), p 1.

National Standards

knowmore is broadly supportive of the development of national standards in relation to the inspection and conditions of detention. In its 2020 report on the implementation of OPCAT in Australia, the Australian Human Rights Commission ('AHRC') made a number of recommendations on how the Australian Government can ensure that its NPMs uphold the protections contained within OPCAT. In its recommendations, the AHRC made specific mention of the inspection of places of detention.

Recommendation 10

In implementing OPCAT, Australian Governments should ensure NPMs have the power to inspect all places of detention, in accordance with Articles 1 and 4 of OPCAT. In determining which places of detention should be prioritised for inspection, it is appropriate for NPM bodies to assign the highest priority to locations where serious breaches of human rights are most likely to occur.

The AHRC report further promoted a national approach to inspections and detention conditions. In Appendix 1 of the AHRC report, a comparative analysis of other OPCAT jurisdictions including New Zealand, the United Kingdom, France and Germany is set out.¹⁵ In particular, the AHRC found that:

Some countries, such as France, have introduced national standards for OPCAT, based on international and domestic human rights law. Others, such as the UK and New Zealand, have moved to a partially standardised system. Still others, such as Germany, have not introduced national standards, instead relying on domestic and international human rights law.¹⁶

We submit that a key and initial step to establishing a national standard is to ensure that each state and territory that introduces legislative reform, looks to the best practice models of other jurisdictions. In this context, knowmore submits that the Western Australian model provides the best guidance for amendments to this Bill to address the concerns we have raised above.

¹⁵ Australian Human Rights Commission, [Implementing OPCAT in Australia](#) (2020), see in particular Appendix 1, p 60-63.

¹⁶ *ibid*, p 49.

Inspection of Places of Detention

Youth Detention

The Royal Commission found that “detention environments may present higher levels of risk of child sexual abuse, as compared to many other institutional contexts”.¹⁷ In particular, the Royal Commission found that the characteristics of contemporary detention environments that enable increased opportunities for child sexual abuse can include:

- environmental, such as the lack of privacy afforded to children, which can normalise behaviours that are potentially abusive or are precursors to abuse;
- operational, such as when staff are regularly afforded opportunities to be alone with, and have great authority over, children; and
- cultural, including cultures of disrespecting children or tolerating the humiliating and degrading treatment of children.¹⁸

The Royal Commission further found that:

*All of these institutions are places where children are extremely vulnerable and the power imbalances between adults and children within them are great. Varying levels of oversight, and connectedness to relatives and outside contacts are all factors that contribute to the safety or lack thereof of children.*¹⁹

Its Final Report also highlighted that:

*Youth detention facilities tend to resemble ‘total institutions’. Commissioned research describes total institutions as isolated and enclosed, with their primary purpose to exert near total control over the life of residents.*²⁰

Further, the Royal Commission found that the characteristics of youth detention facilities “jeopardise the proper identification, prevention and response to child sexual abuse”.²¹

The Bill provides that the Inspector should inspect youth detention centres “at least once a year”,²² and the Explanatory Note provides that “[A]nnual inspections are intended to

¹⁷ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Volume 15 [Contemporary detention environments](#), p 9.

¹⁸ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Volume 15 [Contemporary detention environments](#), p 9.

¹⁹ *ibid.*

²⁰ *ibid* at p 154.

²¹ *ibid.*

²² *Inspector of Detention Services Bill 2021* (Qld), s 8(1)(c)(i).

provide a stronger safeguard for children in detention and align with the Royal Commission's Final Report recommendations." While the Inspector will maintain the power to inspect a place of detention "at any time",²³ we submit that there needs to be a more robust inspection model contained within the Bill to address the issues noted by the Royal Commission. At a minimum, we submit that an Inspector should inspect a youth detention facility on a bi-annual basis to ensure that the conditions of detention and treatment of youth detainees remain up to standard. The current high numbers of children in detention, and the ongoing impacts of COVID-19 upon how inspections may from time to time be conducted,²⁴ underline this need.

During our work supporting survivors in prison to engage with the Royal Commission, we assisted high numbers of prisoners in Queensland gaols. Many of these survivors reported that they suffered sexual abuse as children, and usually related serious physical and emotional abuse, in youth detention settings; in particular, Westbrook (under all of its iterations as a Training Centre, Youth Centre and Youth Detention Centre) and the Sir Leslie Wilson Youth Detention Centre at Windsor. The prevalence of child abuse in these notorious institutions was of a level that impacted upon large numbers of children who were placed in those centres. Many of these clients reported that their experience of abuse in these youth detention settings has impacted adversely and seriously upon them throughout their lives, with such experiences being a factor contributing to their adult offending (which often involved serious violent crimes) and imprisonment.

Many children are simply unable to make disclosures about their experience of sexual abuse until many years later; the Committee will be aware of the Royal Commission's finding that it takes survivors on average 22 years to make a first disclosure, with men taking longer.

This reality, coupled with Queensland's sad history of prevalent and serious sexual abuse being perpetrated against so many children in detention, with such serious consequences for those children and for society, compel the taking of a more robust approach to ensuring our youth detention centres are as safe as possible for children in the future, and that the mistakes of the past are not repeated. More regular inspections are essential.

It is also important that inspections focus on how to prevent instances of child sexual abuse in youth detention settings and minimise any further impacts of such abuse on survivors. In s 38 of the Bill, it is provided that the Inspector may consult with or engage a person who has relevant professional skills or expertise that the Inspector considers appropriate. The

²³ *Inspector of Detention Services Bill 2021 (Qld)*, s 8(1)(b).

²⁴ See the commentary in the Office of the Ombudsman's 2020-21 [Annual Report](#) about the impact of COVID-19 upon the prison visit program.

example given in the Bill includes “a person who has professional experience of working with vulnerable persons, including for example, children”.²⁵ We propose that when the Inspector conducts a review or investigation of a youth detention facility, that the consultation or engagement with a relevant expert is mandatory, not optional. Particularly in situations where the appointed staff may not have the requisite specialised knowledge, this mandatory consultation would ensure that the specific vulnerabilities of children in detention are recognised, where they may otherwise be overlooked. The Royal Commission found:

*Commissioned research suggests that the nature of youth detention environments means they are high-risk institutional settings. The level of risk of child sexual abuse to which children in youth detention are exposed is influenced by factors such as placement decisions (for example, placing older and younger children together), the institutional culture, the level of access children have to trusted adults, and the extent to which operational procedures and the physical environment provide opportunities for abuse. Risk is also influenced by the vulnerabilities of the detained children, many of whom are particularly vulnerable to child sexual abuse due to experiences of trauma, family violence, abuse and/or neglect before entering youth detention.*²⁶

knowmore encourages stronger consideration of the best interest of the child principle, as contained in Article 3(1) of the UN *Convention on the Rights of the Child*.²⁷ In particular, we emphasise the need for this in relation to the inspection and monitoring of youth detention facilities. While we acknowledge the compatibility with rights contained in the *Human Rights Act* (Qld) within this Bill, we note a lack of reference to the best interests of the child, other than the provision to monitor youth detention facilities more frequently compared with adult facilities. The Bill in its current form overlooks this provision within the Convention on the Rights of the Child, as well as its replication in section 26(2) of the *Human Rights Act 2019*:

Every child has the right, without discrimination, to the protection that is needed by the child, and is in the child’s best interests, because of being a child.

²⁵ *Inspector of Detention Services Bill 2021* (Qld), s 38(a).

²⁶ Royal Commission, Final Report: Contemporary detention environments, p 11.

²⁷ UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p 3.

Due to the particular vulnerabilities of children and their increased risk of exposure to sexual abuse, we submit that the Committee recommend a more robust approach to ensuring the protection of children within detention services.

The Royal Commission also recognised that “there may be circumstances in detention institutions in which the best interests of the child cannot be easily reconciled with other imperatives, such as maintaining safety and security”.²⁸ The Royal Commission established guidelines for making institutions child safe.²⁹ We further note the National Principles for Child Safe Organisations (below) as a reference point for developing clearer guidance on how the Inspector’s functions can interact with the best interest of the child, to ensure that children in detention are not subject to harm.

National Principles for Child Safe Organisations

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

²⁸ Royal Commission, Final Report: Contemporary detention environments, p 10.

²⁹ Royal Commission, [Final Report: Making institutions child safe](#).

Adult Detention

As noted above, survivors of child sexual abuse are over-represented in adult detention facilities. Our experience working with this client group has provided us with many accounts and significant insight into the risks of further harm that the detention environment can pose for these survivors of child sexual abuse. The Royal Commission addressed these issues at length in Volume 5 of its Final Report,³⁰ but some of the prevalent issues include:

- Barriers existing within the prison environment to making disclosures about child sexual abuse (including concerns about the perceived futility of reporting to correctional services authorities or police), which in turn impact on survivors' wellbeing and recovery.
- The lack of available supports - either internal or visiting external providers of therapeutic treatment and support - to promote wellbeing and help survivors manage the impacts of complex trauma and heal. This is a particular issue for many prisoners who have reported to us that prison has provided an environment where they are able to become substance free and have the mindset and time to work on their behaviours and their trauma, if only suitable professional support was available.
- A lack of trauma-informed practice and knowledge within the prison environment of the impacts of child sexual abuse, which in turn can lead to traumatisation during routine practices such as strip-searching and urine testing of survivors, and the co-location of prisoners (i.e. locating survivors with child sex offenders, which is unfortunately particularly common in protection settings).
- A lack of cultural awareness around the experiences of Aboriginal and Torres Strait Islander survivors and the importance of culturally appropriate supports in the prison environment.
- A lack of access to appropriate supports for pre and post release planning to help survivors manage upon their release and outside the prison environment, recognising that many survivors have experienced long term 'institutionalisation'.
- Problems presented by the prison environment in prisoners being able to obtain and confidentially store records relating to their time in institutions as children and experiences of child sexual abuse.

³⁰ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Volume 5 [Private sessions](#), p.240 ff and Appendix S.

- Legal barriers and practical difficulties in being able to pursue justice-seeking options, such as redress³¹ or damages claims, while incarcerated.

Under s 8(1)(c)(ii) of the Bill, the Inspector is only required to inspect a prison “at least once every 5 years”. We submit that this is wholly inadequate to achieve the objectives of the Bill, which include ensuring the promotion and upholding of humane treatment and conditions of detainees, and the prevention of detainees from being subject to harm. More regular inspections must be mandated to address systemic and emerging issues of concerns within detention facilities.

For a comparative model, we draw on standards from other jurisdictions, including the Western Australia Office of the Inspector of Custodial Services (OICS), established by the *Inspector of Custodial Services Act 2003 (WA)*. That Act provides that the Inspector must inspect each place of prison, detention centre, court custody centre and lock-up “at least once every 3 years”.³² The inspections mandated by the Western Australia legislation indicates a substantial difference to the inspection requirements proposed in this Bill. In support of our submissions relating to national standards of inspection as outlined above, we submit that adopting a more frequent inspection model, as seen in Western Australia, can only contribute positively to the objectives of the Bill as a whole.

The Queensland Inspector should of course be resourced sufficiently to undertake any such increased program of work.

As outlined above, s 38 of the Bill grants the Inspector scope to consult with or engage with a person who has specialised skills or expertise in a relevant subject area. We submit that in discharging any function where survivors of child sexual abuse may be involved, such an approach should be taken, wherever reasonably possible. Where powers of the Inspector are delegable to another qualified officer, we submit the same standard of training or experience must have been attained. The insight that experts can provide in order to enhance the safety of survivors of child sexual abuse in detention settings will be critical in reducing the risks of further harm to detainees.

³¹ For example, the *National Redress Scheme for Institutional Child sexual Abuse Act 2018* restricts the eligibility of a person currently in prison, or who has ever been sentenced to a term of imprisonment of more than five years, to make a redress claim to the Scheme.

³² *Inspector of Custodial Services Act 2003 (WA)*, s 19.

Standards of Inspections

The Bill entrusts the Inspector with the role of preparing and publishing standards in relation to carrying out inspections.³³ We suggest that these standards must include stronger reference to the *Human Rights Act 2019* (Qld), the Convention on the Rights of the Child, as well as the OPCAT.

Conclusion

knowmore welcomes the reforms contained in the Bill. In a number of areas, however, we have identified ways in which we consider the Bill needs to be changed, or other legislative reform pursued as a matter of priority, to both strengthen the Bill and deliver on its objects; to better protect Queensland's children; and to align more closely with the Royal Commission's relevant recommendations.

We thank you for taking the time to consider our submission.

Yours faithfully,



WARREN STRANGE

Chief Executive Officer

ENCL.

- Appendix: Key recommendations from the Royal Commission into Institutional Child Sexual Abuse

³³ *Inspector of Detention Services Bill 2021* (Qld), s 8(1)(d).

Appendix: Key recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse

Table A.1: Key recommendations from the Royal Commission's Final Report and the Queensland Government's response

Volume	Recommendation	Queensland Government response
Making institutions child safe	<p><i>Recommendation 6.4</i></p> <p>All institutions should uphold the rights of the child. Consistent with Article 3 of the United Nations Convention on the Rights of the Child, all institutions should act with the best interests of the child as a primary consideration. In order to achieve this, institutions should implement the Child Safe Standards identified by the Royal Commission.</p>	Accepted in principle
Making institutions child safe	<p><i>Recommendation 6.5</i></p> <p>The Child Safe Standards are:</p> <ol style="list-style-type: none"> 1. Child safety is embedded in institutional leadership, governance and culture 2. Children participate in decisions affecting them and are taken seriously 3. Families and communities are informed and involved 4. Equity is upheld and diverse needs are taken into account 5. People working with children are suitable and supported 6. Processes to respond to complaints of child sexual abuse are child focused 7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training 8. Physical and online environments minimise the opportunity for abuse to occur 9. Implementation of the Child Safe Standards is continuously reviewed and improved 10. Policies and procedures document how the institution is child safe. 	Accepted in principle

<p>Making institutions child safe</p>	<p><i>Recommendation 6.6.</i> Institutions should be guided by the following core components when implementing the Child Safe Standards:</p> <p>Standard 1: Child safety is embedded in institutional leadership, governance and culture</p> <ul style="list-style-type: none"> a. The institution publicly commits to child safety and leaders champion a child safe culture. b. Child safety is a shared responsibility at all levels of the institution. c. Risk management strategies focus on preventing, identifying and mitigating risks to children. d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children. e. Staff and volunteers understand their obligations on information sharing and recordkeeping. <p>Standard 2: Children participate in decisions affecting them and are taken seriously</p> <ul style="list-style-type: none"> a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives. b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated. c. Children can access sexual abuse prevention programs and information. d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns. <p>Standard 3: Families and communities are informed and involved</p> <ul style="list-style-type: none"> a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child. b. The institution engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible. 	<p>Accepted in principle</p>
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	<p>c. Families and communities have a say in the institution’s policies and practices.</p> <p>d. Families and communities are informed about the institution’s operations and governance.</p> <p>Standard 4: Equity is upheld and diverse needs are taken into account</p> <p>a. The institution actively anticipates children’s diverse circumstances and responds effectively to those with additional vulnerabilities.</p> <p>b. All children have access to information, support and complaints processes.</p> <p>c. The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.</p> <p>Standard 5: People working with children are suitable and supported</p> <p>a. Recruitment, including advertising and screening, emphasises child safety.</p> <p>b. Relevant staff and volunteers have Working With Children Checks.</p> <p>c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations.</p> <p>d. Supervision and people management have a child safety focus.</p> <p>Standard 6: Processes to respond to complaints of child sexual abuse are child focused</p> <p>a. The institution has a child-focused complaint-handling system that is understood by children, staff, volunteers and families.</p> <p>b. The institution has an effective complaint-handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report.</p> <p>c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.</p> <p>Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training</p> <p>a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly institutional child sexual abuse.</p>	
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Volume	Recommendation	Queensland Government response
	<ul style="list-style-type: none"> a. Staff and volunteers receive training on the institution’s child safe practices and child protection. b. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures. <p>Standard 8: Physical and online environments minimise the opportunity for abuse to occur</p> <ul style="list-style-type: none"> a. Risks in the online and physical environments are identified and mitigated without compromising a child’s right to privacy and healthy development. b. The online environment is used in accordance with the institution’s code of conduct and relevant policies. <p>Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved</p> <ul style="list-style-type: none"> a. The institution regularly reviews and improves child safe practices. b. The institution analyses complaints to identify causes and systemic failures to inform continuous improvement. <p>Standard 10: Policies and procedures document how the institution is child safe</p> <ul style="list-style-type: none"> a. Policies and procedures address all Child Safe Standards. b. Policies and procedures are accessible and easy to understand. c. Best practice models and stakeholder consultation inform the development of policies and procedures. d. Leaders champion and model compliance with policies and procedures. e. Staff understand and implement the policies and procedures 	
Making institutions child safe	<p><i>Recommendation 6.8</i></p> <p>State and territory governments should require all institutions in their jurisdictions that engage in child-related work to meet the Child Safe Standards identified by the Royal Commission at Recommendation 6.5.</p>	For further consideration

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Making institutions child safe	<p><i>Recommendation 6.9</i></p> <p>Legislative requirements to comply with the Child Safe Standards should cover institutions that provide:</p> <ol style="list-style-type: none"> a. accommodation and residential services for children, including overnight excursions or stays b. activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children c. childcare or childminding services d. child protection services, including out-of-home care e. activities or services where clubs and associations have a significant membership of, or involvement by, children f. coaching or tuition services for children g. commercial services for children, including entertainment or party services, gym or play facilities, photography services, and talent or beauty competitions h. services for children with disability i. education services for children j. health services for children k. justice and detention services for children, including immigration detention facilities l. transport services for children, including school crossing services. 	Accepted in principle

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Making institutions child safe	<p><i>Recommendation 6.10</i></p> <p>State and territory governments should ensure that</p> <ol style="list-style-type: none"> a. an independent oversight body in each state and territory is responsible for monitoring and enforcing the Child Safe Standards. Where appropriate, this should be an existing body. b. the independent oversight body is able to delegate responsibility for monitoring and enforcing the Child Safe Standards to another state or territory government body, such as a sector regulator. c. regulators take a responsive and risk-based approach when monitoring compliance with the Child Safe Standards and, where possible, utilise existing regulatory frameworks to monitor and enforce the Child Safe Standards. 	Accepted in principle
Making institutions child safe	<p><i>Recommendation 6.11</i></p> <p>Each independent state and territory oversight body should have the following additional functions:</p> <ol style="list-style-type: none"> a. provide advice and information on the Child Safe Standards to institutions and the community b. collect, analyse and publish data on the child safe approach in that jurisdiction and provide that data to the proposed National Office for Child Safety c. partner with peak bodies, professional standards bodies and/or sector leaders to work with institutions to enhance the safety of children d. provide, promote or support education and training on the Child Safe Standards to build the capacity of institutions to be child safe e. coordinate ongoing information exchange between oversight bodies relating to institutions' compliance with the Child Safe Standards. 	Accepted in principle

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Contemporary out-of-home care	<p><i>Recommendation 12.4</i></p> <p>Each state and territory government should revise existing mandatory accreditation schemes to:</p> <ul style="list-style-type: none"> a. incorporate compliance with the Child Safe Standards identified by the Royal Commission b. extend accreditation requirements to both government and non-government out-of-home care service providers. 	Accepted in principle
Contemporary out-of-home care	<p><i>Recommendation 12.5</i></p> <p>In each state and territory, an existing statutory body or office that is independent of the relevant child protection agency and out-of-home care service providers, for example a children's guardian, should have responsibility for:</p> <ul style="list-style-type: none"> a. receiving, assessing and processing applications for accreditation of out-of-home care service providers b. conducting audits of accredited out-of-home care service providers to ensure ongoing compliance with accreditation standards and conditions. 	Accepted in principle
Contemporary out-of-home care	<p><i>Recommendation 12.6</i></p> <p>In addition to a National Police Check, Working With Children Check and referee checks, authorisation of all foster and kinship/relative carers and all residential care staff should include:</p> <ul style="list-style-type: none"> a. community services checks of the prospective carer and any adult household members of home-based carers b. documented risk management plans to address any risks identified through community services checks 	Accepted in principle

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	c. at least annual review of risk management plans as part of carer reviews and more frequently as required.	
Contemporary out-of-home care	<i>Recommendation 12.7</i> All out-of-home care service providers should conduct annual reviews of authorised carers that include interviews with all children in the placement with the carer under review, in the absence of the carer.	Accepted in principle
Contemporary out-of-home care	<i>Recommendation 12.8</i> Each state and territory government should adopt a model of assessment appropriately tailored for kinship/relative care. This type of assessment should be designed to: <ul style="list-style-type: none"> a. better identify the strengths as well as the support and training needs of kinship/relative carers b. ensure holistic approaches to supporting placements that are culturally safe c. include appropriately resourced support plans. 	Accepted in principle

Sources:

Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Volume 6*, Making institutions child safe.

Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report Volume 12*, Contemporary out-of-home care.

Queensland Government's third annual progress report on the Royal Commission, May 2021.