



# PeakCare

## Queensland Inc.

Secretariat  
Royal Commission into Child Sexual Abuse  
PO Box 6555  
Canberra ACT 2600

29<sup>th</sup> November 2012

PeakCare Queensland Inc (PeakCare) welcomes the Commonwealth Government's announcement of the Royal Commission into institutional responses by public and private organisations to child sexual abuse in Australia.

PeakCare is a not-for-profit organisation that performs the role of Queensland's child protection peak body. The organisation's membership base comprises around seventy non-government organisations involved in providing the full range of prevention, early intervention, child protection, out-of-home care and related services to children, young people and families across Queensland. A network of around ten supporters made up of individuals or other entities with an interest in child protection also subscribe to PeakCare.

We offer the following comments in respect of the scope of the terms of reference, the form of the Royal Commission, the number and qualifications of the Royal Commissioner/s and the reporting timetable for the Royal Commission.

### **SCOPE OF THE TERMS OF REFERENCE**

The announcement notes that the Royal Commission will be inquiring into public and private institutional responses to child sexual abuse in Australia. We submit that not only should the inquiry hear from adults who as children experienced such abuse during the 1900s, its scope should extend to the current day, and therefore hear from children and young people (and others) about contemporary approaches to ensuring children receive the quality of care to which they are entitled. This includes obligations around preventative measures and reporting and responding to allegations of sexual abuse of children.

In defining 'child sexual abuse', PeakCare supports a broad definition that includes deliberate sexual intimidation and sexually humiliating practices such as age-inappropriate invasion, by adult carers or other children, of a child's privacy when sleeping, toileting, changing or bathing. That those in authority had the opportunity to demean children in their daily lives caused many children and young people to be and feel uncomfortable and unsafe.

In considering the scope of organisations in scope for the review, PeakCare supports an interpretation that includes any circumstances where adults or carers in public or private organisations were held to have a legal or moral 'duty of care' for children or where they were in a position of trust or authority because of their position in the organisation.

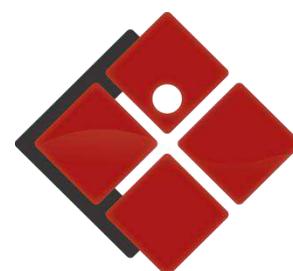
The consultation paper notes the existence of a large body of work available from recent inquiries. We hope that this extends to consideration of the findings and recommendations of the 1999 *Bringing Them Home* report as well, of course, other more recent Commonwealth inquiries into the circumstances and experiences of Forgotten Australians and former child migrants and various state and territory inquiries into the child protection and out-of-home care systems.

We suggest that it would be useful for the terms of reference to include an examination of the progress made implementing relevant recommendations from past Commonwealth, state and territory public inquiries.

In respect of the areas about which findings and recommendations may be made, the first dot point refers to the "making of claims". Without additional detail, it is not clear that this is referring to those affected by sexual abuse as children making legal, financial or other claims from commonwealth, state or territory governments, church or other organisations in respect of compensation or redress relating to their experience of sexual abuse as children. Findings and recommendations about the legal, policy, financial and other impediments to the making of claims is critical and must include reflecting on the schemes which have or have not been implemented across jurisdictions.

PeakCare also supports the Royal Commission making findings and recommendations about the need for changes to any laws, policies or practices around the nature and use of institutional care per se, irrespective of private or public provider. By this we mean the Royal Commission could inquire and make findings and recommendations about, for example, residential care or facilities for children and young people in out-of-home care or other settings such as boarding schools. We also support the making of findings and recommendations in respect of legal advice and assistance for victims and their families.

PeakCare supports the position put by Families Australia about the Royal Commission examining the barriers to truth that result from the handling of child abuse cases due to factors such as legal privilege and the confidentiality of the church confessional. Also, that the Royal Commission examine the extent of past and current collusion, by deliberate action or inaction, between authorities who had, and have, a duty of care to children.



## **FORM OF THE ROYAL COMMISSION**

PeakCare agrees about the imperative for national leadership and a national approach for this Royal Commission. For too long, Forgotten Australians, former child migrants and children in care have been treated differently across jurisdictions and have had access to different after-care support and services based on the jurisdiction in which they are or were in State care, rather than where they currently reside.

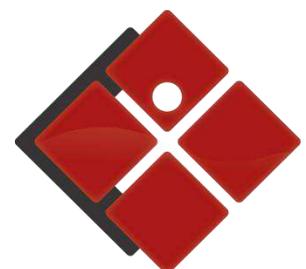
The significance and value of a national approach is underscored by the *National Framework for Protecting Australia's Children* and indicated by the squabbling already by some jurisdictions about their capacity and willingness to work on this inquiry. We are therefore supportive of resolving any consequences if states and territories do not agree to cooperate or do not support the Royal Commission by the suggested alternatives (i.e. endorsing the terms of reference or providing Commissioners with the power to investigate in that jurisdiction) prior to the commencement of Royal Commission.

It is noted that the Royal Commission will need access to information held by state governments. There are also relevant records held by the Commonwealth and territory governments, as well as records held by 'private' (i.e. church and other) organisations that 'cared' for children in the last century and that, in some instances, continue to exercise this role in the present. The Royal Commission will require access to these records, some of which Forgotten Australians, former child migrants and members of the Stolen Generations have previously and unsuccessfully sought access.

To foster openness, transparency and accessibility of submissions and hearings, PeakCare believes there should be live streaming of public hearings, the option for *in camera* witness statements, acceptance of oral or written submissions from affected individuals and organisations, and the holding of hearings in a range of locations supported by the availability of financial, practical and emotional support for victims of child sexual abuse who wish to give evidence. The latter particularly includes the need for strategies to handle submissions from children or young people who are in State care today. Effective strategies which the current Queensland Child Protection Commission of Inquiry is using include the web-posting of 'emerging issues papers' that include questions for discussion and seeking structured feedback from an expert advisory group about emerging issues and preliminary directions for change.

## **NUMBER AND QUALIFICATIONS OF COMMISSIONERS**

PeakCare supports the appointment of more than one commissioner and a mandated mix of professional backgrounds, skills and experiences. The findings and recommendations will not be limited to 'legal' impediments and changes. So too, the qualifications of Commissioners should reflect the matters to be considered and therefore include not only lawyers, but a sizeable proportion of social welfare workers. A number of Commissioners will also allow concurrent hearings across locations and therefore impact positively on reporting back in a shorter timeframe.



PeakCare regards it as essential that Indigenous Commissioners are appointed to ensure that proper significance is attached to both the consideration of issues that are unique to Aboriginal and Torres Strait Islander peoples and the means by which the identification, examination and analysis of these issues occurs for purposes of facilitating the participation of, and accountability to, Aboriginal and Torres Strait Islander peoples.

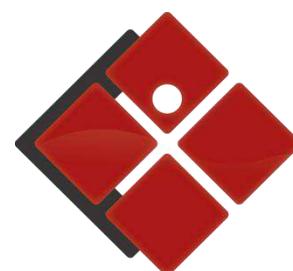
## **REPORTING TIMETABLE**

PeakCare acknowledges that the term of the Royal Commission must balance the gravity of the issue, due process and available resources. Self-evidently, the devotion of a high level of resources to gathering, hearing and analysing evidence over a limited period of time would deliver a more timely final report. This would be respectful of the expectations of victims, many of whom are now aged, and their advocates. Many organisations working with victims and survivors of child sexual abuse (eg. Micah Projects, Bravehearts and the Care Leavers Australia Network) argue that the holding of a Royal Commission is a long-sort goal achieved and that they are, generally speaking, ready to proceed with making submissions. There are many individuals however for whom an(other) inquiry will be angst-causing and re-traumatising and they will have to consider whether to say anything to family members and others or to the inquiry, which impacts on available supports, accessibility of submission-making processes and not rushing the inquiry.

PeakCare supports scheduled and targeted public reporting as key mechanisms to deliver on the high expectations for this inquiry. 'Regular reporting', as noted in the consultation paper, could be distracting and resource consuming if it is too frequent. PeakCare suggests progressive reporting against different aspects, for example, an initial report on findings and recommendations about historical approaches to child sexual abuse. Understanding that the Royal Commission's timeframe can be extended if needed, PeakCare supports an overall two-year timeframe to the final report on all areas against which findings and recommendations are to be made.

Based on our positive experience of the *Commission of Inquiry into Abuse of Children in Queensland Institutions* (Forde Inquiry), PeakCare supports independent monitoring of the implementation of responses to the Royal Commission's recommendations through reports to the Commonwealth Parliament. This reporting regime should incorporate a report from each jurisdiction on the tenth anniversary of the submission of the final report to assure victims of child sexual abuse and the community generally that there has been no return to the collusive, unmonitored, criminal practices by individuals in public and private institutions or systemically leading to the need for such a Royal Commission.

Should you have any queries or require further details about our comments, feel free to contact me and I would be pleased to assist.



Yours sincerely,

**Mr Lindsay Wegener**  
Executive Director  
PeakCare Queensland

