

6 January 2026

Commission of Inquiry into the Child Safety System

Commissioner

The Honourable Paul Anastassiou KC

C/o Harriet Coulthard

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To the Honourable Paul Anastassiou KC,

Submission to the Commission of Inquiry into Child Safety System

The Mental Health Lived Experience Peak Qld (MHLEPQ), envisages a Child Safety system that places children's best interest at its heart whilst safeguarding a trauma informed human rights approach. MHLEPQ welcomes the opportunity to provide the following submission to the Child Safety Commission of Inquiry (Inquiry).

MHLEPQ acknowledges that the best interests of the child are rightly recognised both internationally (*United Nations Convention on the Rights of the Child*) and in Queensland law (*Human Rights Act 2019 (Qld)* & (*Child Protection Act 1999 (Qld)*) as the primary consideration in care.

Despite this prescriptive right, there has been criticism that the Child Safety system at times, fails to adequately assess parent/s capability to care for their

child/children if there has been a history of mental health issues. This has resulted in unnecessary forced removal into 'corporate' parenting (out of home care).

It is accepted that the prescriptive rights of acting in the best interests of the child and safeguarding the family unit, can unintentionally create a dichotomy between parent's rights and children's rights. To assist with overcoming this dichotomy it is important to ensure that adequate support for parents is provided so as to enhance human rights for both children and their parents. Early prevention and intervention are necessary tools that can be used to build a stronger community.

Who are we

The MHLEPQ is the peak body for people with lived and living experience of mental health challenges, representing their voices in policy, systems improvement, and reform across Queensland. We take a strong interest in child safety, youth justice and mental health as the three often intersect when we discuss the removal of children.

Overall, submissions made by MHLEPQ highlight a critical disconnect between clinical and regulatory systems and consumer needs, driven by institutional coercion, power imbalances, and an over-medicalised approach to distress. Key consumer concerns include the neglect of social determinants like housing and the lack of cultural safety, which often lead to crisis-driven, emergency-based care rather than holistic support. For more details, visit [MHLEPQ](https://mhlepq.org.au).

Why our members are interested in Child Safety and this Inquiry

This submission is grounded in multiple MHLEPQ submissions and position papers over the years from our members and related advocacy bodies which highlights why our members have an interest in this inquiry. This includes because there is a:

- **Systemic failure** to protect the human rights of vulnerable individuals interacting with the child protection and youth justice systems.
- **Criminalisation of children in care**, the long-term impact of childhood trauma, and persistent human rights breaches within systems designed for support.
- **Traumatic impact** experienced due to removal on the child/children and parents. In children, higher mental health vulnerabilities, with trauma related to placement, unstable care environments, and limited access to appropriate services can be experienced. Notably, the disproportionate impact on Aboriginal and Torres Strait Islander people with lived experience of mental health issues.
- **Weaponisation of a parent's mental health issues** in a private setting (e.g., ex-partner) and/or by those who have mandatory reporting responsibilities (nurses, teachers, first responders etc.) In the former, it is a deliberate act of revenge whereas in mandatory reporting, it can have elements of vexatious intent, ignorance and/or lack of understanding or experience in mental health issues.

Members experiences

Unfortunately, our members see the following experiences, issues and barriers within the child protection system:

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- **Criminalisation of Vulnerability:** Children in residential care are frequently exposed to unnecessary police intervention for behaviours that may not be considered criminal in a family home environment.
 - **System-Based Harm:** Many individuals report enduring harm from human rights breaches within systems—including mental health and child safety—that were intended to support them. This often includes experiences of institutionalised coercion and restrictive practices like seclusion and physical restraint.
 - **The "Crossover" and Determinants:** There is a strong, documented relationship between involvement with child protective services, adverse childhood experiences (ACEs), such as housing insecurity and subsequent engagement with the justice system.
 - **Systemic Discrimination:** Consumers identify a lack of equality, systemic discrimination, and stigma as major barriers to receiving quality mental health supports that honour their choices and culture.
 - **Intergenerational Cycles:** Research and members feedback indicates that families involved with child protection have significantly higher rates of mental illness diagnoses, highlighting a need for early support to prevent cycles of maltreatment.
 - **Disclosure deterrence:** Consumers identified their own experience with the child protection system, either as children or as parents, traumatic. Their experiences shaped a fear of disclosing their mental illness due to stigma, retaliation and removal of children from their care.

- **Adversarial complaints-based system:** The difficulties, complexities and cost of overturning a compulsory reported child safety complaint or a privately made complaint between, for example, ex-partners.

What our members call for

When our members speak about the mental health system and their interaction with the child protection system, they call for:

- **Integrated and seamless pathways** to supports that prevent child safety issues being present in the first instance and offer greater protection for those who experience a mental illness.
- **Greater resources allocated** to provide a trauma informed system that adapts to the needs of the family unit. Always acknowledging that what is in the best interests of the child/children, takes precedence.
- **Alternatives to police and emergency departments** during crisis situations.
- **Transparency and accountability** in following up on a notification with the parent who has a mental health label.

Interaction with Human Rights

The interaction between these issues and human rights is viewed through the *Human Rights Act 2019 (Qld)*, *Child Protection Act 1999 (Qld)* and international standards contained in the United Nations *Universal Declaration of Human Rights* and the United Nations *Convention on the Rights of the Child*.

The right to mental health is advocated for by MHLEPQ and members as a fundamental human right. Key rights under the *Human Rights Act 2019 (Qld)*

which are frequently impacted include: the right to liberty and security, protection from torture and cruel, inhuman, or degrading treatment. (s.17).

Arguably, those with mental health issues are more likely to face the loss of parental rights than other members in the community. They, therefore, require stronger protections when it comes to assessment of their ability to care for their child/children.

Article 9 of the *Convention on the Rights of the Child*, provides that children are not to be separated from their parents except where a parent hurts or does not take care of the child/children. It is acknowledged that the *Child Protection Act 1999* (Qld,) provides prescriptive circumstances for when a child/children can be removed. This is a welcomed inclusion that places the well-being of the child above all interests.

Disclosing or discovering however, that a parent has a mental illness should never be the sole factor for the removal of children or for an investigation order to be issued. However, the rights of the parent– moral and legal – are sometimes dismissed due to a caseworker failing to understand their mental health issues, the social determinants impacting on the person and effects on care. This is in direct breach of Article 9 of the *Convention on the Rights of the Child* and section 26(1) of the *Human Rights Act 2019* (Qld) which states that:

Families are the fundamental group unit of society and are entitled to be protected by society and the State.

Judging people based on the label of their mental health issues alone does not meet child safety requirements. Just because a parent has a label of depression and presents with slowness in speech patterns and a general demeanour of

apathy, does not tell the whole story. Their resilience and love for their family may provide the strength to provide care.

MHLEPQ members strongly advocates for the establishment of a national *Human Rights Act* and a dedicated Mental Health and Suicidality Commissioner that would be situated within the Australian Human Rights Commission. This would provide a higher level of oversight for those in state care whilst ensuring that the rights of children and parents are not infringed.

Strategic steps to implement what we propose to this Inquiry

We ask the Commission of Inquiry to consider the following:

- **Parents be provided with a non-legal support advocate** when negotiating the care of their child/children. Such a program would mirror the Independent Family Advocacy Support (IFAS) program in operation in Victoria ([Click here for more information](#))
- **Increasing prevention initiatives** such as access and resourcing for parents particularly in regional, rural and remote areas to peri and postnatal peer support such as that offered by [Peachtree Perinatal](#).
- **Specialised trauma informed mental health training** implemented for caseworkers responsible for making decisions about removal of children so that accurate assessments can be made.
- **Employment of lived/living experience case workers** who can draw upon their own experience with mental health issues, to better inform decisions concerning the removal of children into corporate out of home care.
- **That data be released relating to the:**

- percentage of cases of removal of children involving mental ill-health reasons.
- length of time that children are placed into corporate care due to a parent's mental health issues.
- number of times within the children's placement into corporate care, the parent is assessed.

In summary, MHLEPQ members encourage and stand by the 'nothing about us without us' mantra. This embraces and recognises the role that should be played by the lived experience (peer) workforce and specialisations in experience within the child safety and justice system.

Please don't hesitate to reach out to Danie Williams-Brennan, Policy Director and primary author of this submission on 0410 077 696 or at DanieW@mhlepq.org.au

Sincerely,



Simon Katterl

Chief Executive Officer

Mental Health Lived Experience Peak Queensland