

Equality and Integrity: Reforming Criminal Defences in Queensland

April 2025

The Queensland Catholic Education Commission (QCEC) welcomes the opportunity to provide a submission on the consultation paper *Equality and Integrity: Reforming Criminal Defences in Queensland*.

QCEC is the peak strategic body with state-wide responsibilities for Catholic schooling in Queensland. This submission is provided on behalf of the five Diocesan Catholic school authorities and 17 Religious Institutes and other incorporated bodies which, between them, operate a total of 313 Catholic schools that educate more than 160,000 students in Queensland.

Defence of domestic discipline

The defence of domestic discipline in accordance with section 280 of the *Criminal Code* is relevant to schools as it provides a recognition that teachers may sometimes be placed in the position of having to use force to manage or control a child. This is particularly the case where a child poses a risk to themselves or others. Such situations are very challenging for teachers, being unsought and unpleasant. Teachers should never be prosecuted for fulfilling their duty of care responsibilities to keep children safe.

Queensland Catholic schools do not rely upon corporal punishment for student behaviour management purposes. Rather, Catholic schools work to foster positive, safe and supportive school environments where students can grow and learn. Our school communities work together to establish expected behaviours and teach them to all students. By working in collaboration with parents and students in a proactive manner, problem behaviours are reduced and positive and respectful relationships established among students and staff.

Reform Option 1:

Repeal the defence and introduce diversion and other supporting measures

While this option may be suitable in relation to some actions of parents, it is not appropriate in respect of teachers. Teachers should not be subject to a court based diversionary scheme for fulfilling their responsibilities for the safe management and control of children.

This section of the consultation paper inconsistently deals with the elements of section 280 of the *Criminal Code* by focusing solely on 'punishment', without mentioning 'management' and 'control'. This gives a misleading impression of what is happening in schools.

The consultation paper notes that physical punishment is not used in government schools but fails to note that this is also the case in the vast majority of non-state schools, including Catholic schools. There is a lack of recognition of the broad consensus across Queensland education that physical punishment is not appropriate or productive of improved student behaviour. The use of physical punishment is not 'banned' in government schools, rather it is not used as a matter of policy. The same situation applies in Catholic schools.

When the elements of management and control are reintroduced in a subsequent section, there is an acknowledgement that there may be a need for additional protections for teachers that would clarify that teachers can use physical force for some purposes, including to prevent harm or injury, but not for the purpose of discipline or correction.

It is stated that the use of force in such circumstances is already protected by law in Queensland, but further information is not given. QCEC would appreciate greater details on this point, so that the Catholic school sector can make an informed assessment as to whether its teachers have the necessary legal protections to fulfill their obligations to keep children safe.

Reform Option 2:

Amend the defence to limit its scope and provide clarity

If section 280 of the *Criminal Code* is to be retained, QCEC would support amendments to:

- provide guidance as to factors relevant to the assessment of reasonableness
- limit the purposes for which domestic discipline may be used
- include definitions of ‘teacher’ and ‘master’.

Amendments to section 280 would be appropriate to set out factors relevant to a consideration of reasonableness including age, physique and mentality of the child, as well as a non-exhaustive list of when the application of force would not be appropriate. Such amendments should be informed by community standards of reasonableness.

Section 280 of the *Criminal Code* could be enhanced by amendment to clarify the meaning of ‘management’ and ‘control’. The suggested examples would be supported of:

- a) preventing or minimising harm to the child or another person
- b) preventing the child from engaging or continuing to engage in criminal, offensive or disruptive behaviour
- c) performing the task of supervision for good order and care.

The definition of ‘schoolteacher’ or ‘master’ should be broad enough to cover any person employed by a school authority to maintain the school as an educational community. Schools employ a range of staff who may need to manage or control children in the daily operations of a school. The definition could be aligned with that of ‘teacher’ under the *Education (Queensland College of Teachers) Act 2005* if that includes all persons undertaking duties in a school.

Thank you for your consideration of this submission. QCEC looks forward to further consultation.

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