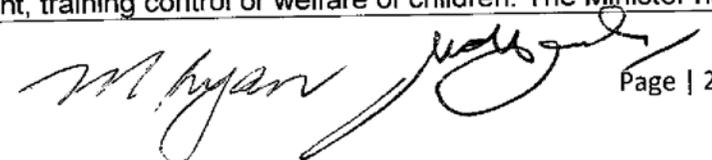


Attachment 1 – Outline of the relevant legislative framework

Year	Act	Description
1879	<i>The Orphanages Act</i>	<p>Meteor Park Orphanage was licensed under <i>The Orphanages Act of 1879</i> on 11 Dec 1885. The Sisters of Mercy were invited to staff the orphanage at Neerkol in 1885. Under the <i>Orphanages Act of 1879</i>, the management and supervision of Licensed Orphanages were subject to such control as the Minister prescribed, including regular inspection.</p> <p>From the late 1940s, Meteor Park Orphanage was known as St. Joseph's Home, Neerkol.</p> <p>An Inspector of Orphanages was appointed on 1 April 1875, and in 1876 responsibility for orphanages was transferred from the Colonial Secretary's Office to the Public Instruction Department. This was given legislative status under <i>The Orphanages Act of 1879</i>, and the Public Instruction Department, Orphanages Branch was established.</p>
1896	<i>Children's Protection Act</i>	<p>Provision of child welfare services in Queensland was governed by the <i>State Children Act 1911</i> until 1965. It was supplemented by the <i>Children's Protection Act 1896</i> to provide for the protection of children (sections 1, 7 and 9 were relied on).</p> <p>Section 1 – Punishment for Ill Treatment Applied to boys under 14 and girls under 16. It made it an offence for any person with the custody, control or charge of a child to ill treat, neglect, abandon or expose such a child to unnecessary suffering or injury to its health. Persons found guilty were subject to a fine or up to 6 months in jail.</p> <p>Section 7 – Evidence of a Child of Tender Years Where a child did not understand the nature of the Oath, evidence could still be received if the Court deemed that the child possessed sufficient intelligence to justify the reception of the evidence and understood the duty of speaking the truth. A person could not be convicted by such evidence unless the testimony was corroborated by some other material evidence.</p> <p>Section 9 – Punishment of Child by Lawful Guardian Stipulated that nothing in the Act could be construed to take away or affect the right of any parent, teacher or other person having lawful control or charge of a child to administer reasonable punishment to such a child.</p>
1911	<i>State Children Act</i>	<p>The <i>State Children Act</i> repealed the <i>Orphanages Act</i> in 1911. The provision of child welfare services in Queensland was governed by the <i>State Children Act 1911</i> until 1965.</p> <ul style="list-style-type: none"> Section 14 of the <i>State Children Act</i> stated that all State institutions established under any repealed enactment were deemed to be established for their respective purposes under and for the purposes of the <i>State Children Act</i>.

Attachment 1 – Outline of the relevant legislative framework

		<ul style="list-style-type: none"> • The <i>State Children Act</i> established the State Children Department with a Director to replace the Inspector of Orphanages. The Act provided the Director of the State Children's Department with control of all state children until the age of 18 and control of their property until they were 21. • Under the State Children Act the Governor in Council had the power to abolish and establish institutions such as orphanages (s14). • The Governor in Council could also consent to the same sorts of establishments being established by private benevolence and issue them with a licence. State children could be admitted to those licensed institutions, which would receive a capitation fee (s15). • At any time, on the advice of the Director of the State Children Department, the Governor in Council could cancel an institutions licence if dissatisfied with its condition, management or maintenance (s18). • An officer of the Department would visit every state child at least once every three months to ensure their treatment was satisfactory (s49(1)). • The governing authority of each institution, subject to the Minister, was responsible for management of the institution and appointment of all staff (s15). • The Minister had discretionary powers to appoint employees of State institutions and could also appoint a committee of management and prescribe powers, authorities and duties to that committee (s8). The Minister could also appoint honorary visitors to assist in procuring and visiting 'boarding out homes', and to supervise state children who had been placed in employment or discharged or released on probation under the Act (s9).
1946	<i>Immigration (Guardianship of Children) Act</i>	<ul style="list-style-type: none"> • The Commonwealth Minister for Immigration delegated his powers and responsibilities for child migrants to the various State authorities. • In Queensland, it was the Director of the State Children Department. Provision was made for the Children's homes to be approved as institutions for the care of child migrants.
1965	<i>Children's Services Act 1965</i>	<p>The <i>Children's Services Act</i> replaced the <i>State Children Act 1911</i>. Part 4 of the Act concerns institutions.</p> <p>Under the new <i>Children's Services Act</i>:</p> <ul style="list-style-type: none"> • The State Children Department was renamed as the Department of Children's Services • 'Neglected child' was replaced with 'child in need of care and protection' • The Governor in Council could still establish or abolish admission centres; homes; assessment, remand and treatment centres; and other types of institutions for the 'care, protection, education, treatment, training, control and welfare (including religious, moral and material) of children in care' (s30). Institutions like Neerkol retained their licence under the new Act, but were expected to meet higher standards of care. • The Minister was responsible for approving any institution conducted or to be conducted by any person or organisation for the care, protection, education treatment, training control or welfare of children. The Minister had the



Attachment 1 – Outline of the relevant legislative framework

power to grant and revoke licences and to name the governing authority for the institution (s31). The governing authority, subject to the Director, had the sole management and supervision of their institution and control of the appointment of all persons employed at such institution.

- The Director of Department of Children's Services was to supervise the standard of care attained in each licensed institution (s34).
- The Director of Department of Children's Services was to be notified by licensed institutions if a child was admitted who was not a child in care (s36).
- If the Director was dissatisfied with the management, maintenance or condition of any licensed institution they could provide written notice of that fact to the governing authority asking the institution to show cause why should not cease to be a licensed institution. If the institution did not show sufficient cause within 2 months, the Director could then recommend the Minister revoke the institution's licence (s39).
- Whether or not an institution was licensed under this Act, the governing authority of any institution with a child in its care had a duty to provide adequate food, clothing, lodging and care for the child, maintain the institution in a 'fit and proper state' for the care of a child, secure adequate education and religious training for the child as approved by the Director or in 'the best interests of the child' under sections 40, 79 and 80.

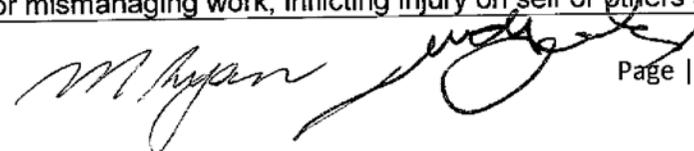
The *Children's Services Act 1965* made it clear that the governing authority of each institution was responsible both for its actions and omissions and for those of any of its staff. It was no longer possible, in establishing liability, for the governing authority or person in charge of the institution, to say that they did not know about the misdeed or omission or to say they had instructed staff not to do such things.

Section 69 of the Act provided that a child carer shall not ill treat, neglect, abandon or expose the child in a manner likely to cause unnecessary suffering or to injure his physical or mental health in any way. Penalties under the Act included 12 months jail.

There was no recognition of sexual or emotional abuse in the *Children's Services Act*.

Children's Services Regulations 1966 – Use of Corporal Punishment

The Children's Services Regulations 1966 (Regulation 23) laid down standards for the punishment of children for misbehaviour or misconduct such as: failing to comply with the rules of the institution, assaulting any person, swearing, issuing threats, behaving offensively, disorderly, indecently, obscenely, lying or dishonesty, wilful damage, absconding or attempting to abscond, being negligent at work or refusing or mismanaging work, inflicting injury on self or others and



Attachment 1 – Outline of the relevant legislative framework

		<p>anything prejudicial to the good order and discipline of the institution.</p> <p>Regulation 23 indicated that one of the available punishments for any of the above offences could be corporal punishment. It stated that corporal punishment could be inflicted <i>only by the person in charge or under his direction and only by an 'approved' leather strap applied over a child's ordinary cloth trousers; and that when inflicted, there shall be a suitable witness and punishment register.</i> Corporal punishment was not to be inflicted on girls or in the presence of other children and was to be used as seldom as possible.</p>
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A handwritten signature in black ink, appearing to read "M. Ryan" followed by a stylized flourish.