

CREATE Foundation Feedback on the Review of the Queensland Civil and Administrative Tribunal Act 2009 (QCAT Act)

“Young people should be involved in all of it. Receive regular updates of where in the process it’s sitting and where in the plan it’s going to be actioned.”

Young person, CREATE consultation 2025.

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About CREATE Foundation

CREATE Foundation is the national consumer peak body for children and young people with an out-of-home care experience. We represent the voices of over 45,000 children and young people currently in care, and those who have transitioned from care, up to the age of 25. Our vision is that all children and young people with a care experience reach their full potential. Our mission is to create a better life for children and young people in care. To do this we:

- **CONNECT** children and young people to each other, CREATE and their community to
- **EMPOWER** children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard to
- **CHANGE** the systems impacting children and young people, in consultation with them, through advocacy to improve policies, practices and services and increase community awareness.

We achieve our mission by facilitating a variety of programs and services for children and young people with a statutory care experience and advocating for policy and systems change that will improve young people's experiences and outcomes.

Introduction

Thank you for the opportunity to provide feedback on Issues Paper 2: Merits Review as part of the Statutory Review of the Queensland Civil and Administrative Tribunal Act 2009 (QCAT Act).

CREATE Foundation welcomes the opportunity to provide feedback and recommendations on the QCAT Act Review in relation to the adequacy of existing merits review and complaint pathways available to people seeking to challenge government decisions that affect their lives. CREATE supports the Review's focus on strengthening the accessibility, fairness and effectiveness of review mechanisms, particularly for children and young people in the out-of-home care system.


The feedback provided by CREATE in this submission draws on the perspectives of children and young people with an out-of-home care experience, in line with our organisational mission and our role as the national peak body representing children and young people with a care experience.

Overview of CREATE's feedback

CREATE Foundation advocates for the wellbeing, safety and stability of children and young people in the out-of-home care system. As the national consumer body representing children and young people with a care experience, CREATE works to elevate young people's voices and advocate for systems that are robust, trauma-informed and culturally safe. Within this broader safeguarding framework, QCAT plays a critical role by providing independent oversight of government decision-making through its review jurisdiction.

CREATE believes that the voices of children and young people must be embedded at the heart of all systems that affect them. QCAT offers an independent pathway to challenge decisions that impact children and young people's safety and wellbeing. For this role and function to be effective, tribunal processes must be accessible, understandable and trusted by young people. Where this is not the case, both procedural fairness and the protective purpose of review mechanisms are undermined.

This submission presents CREATE's feedback and recommendations across the following themes, informed by the insights and perspectives of children and young people with an out-of-home care experience, gathered through CREATE's programs and consultations:

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1. Promote accessibility, safety, and youth-centred engagement as core principles of the QCAT review process
 2. Ensure early review steps support, rather than hinder, young people's access to QCAT
 3. Strengthen procedural protections for vulnerable applicants within Tribunal review processes

Promote accessibility, safety, and child-centred engagement as core principles of the QCAT review process

Based on many years of consultation with children and young people around best practice complaints systems, CREATE has long advocated for a robust complaints system that is youth-centred, accessible, safe, independent, and transparent. CREATE recommends that the QCAT Act be strengthened to put forward those principles and ensure that QCAT Tribunal review processes are genuinely accessible and safe for the children and young people in out-of-home care.

CREATE's consultations consistently show that many young people have limited understanding of formal complaints and review processes. Information is not shared consistently, and there are significant gaps in how young people are informed about their rights and the steps required to make an application through the Tribunal. This includes difficulties understanding how to apply, what Tribunal processes involve, what support is available, and what outcomes may result.

Young people mentioned that most complaints were not filed through formal processes because they lacked sufficient information about what constitutes a complaint and how to raise it:

"I didn't know all of this existed, I just went through my CSO [child safety officer] to lodge complaints." Young person, CREATE consultation 2025.

CREATE supports QCAT's efforts to provide appropriate information about the procedures and pathways of the Tribunal's review processes. However, the information must be targeted to children and young people, ensuring that it is accessible, age-appropriate and easy to understand by them.

In addition to the inadequate dissemination of information regarding complaint procedures, young people also expressed their frustration with processes that fail to encourage meaningful engagement or provide transparent communication. They spoke about how tailoring complaints mechanisms to different age and developmental stages is crucial to improve accessibility and communication about complaint progression and outcomes:


"I don't think kids in care would find it easy to use the complaints process if they have a disability or if they were really young in care. It could be good for older young people who have an understanding." Young person, CREATE consultation 2025.

"It depends on the young people too and whether they understand the process. They might not know how to use a phone or laptop." Young person, CREATE consultation 2025.

"Young people should be involved in all of it. Receive regular updates of where in the process it's sitting and where in the plan it's going to be actioned." Young person, CREATE consultation 2025.

To fulfil its statutory purpose of delivering fair, just, accessible and efficient review, QCAT should embed child-centred principles across all stages of its processes, including:

1. Provide clear and accessible information about complaint and review pathways
2. Ensure transparency about Tribunal processes and outcomes
3. Offer practical guidance and supports to help children and young people understand and engage meaningfully with their review matter

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4. Provide methods for applicants to track the status and progress of their case
 5. Ensure processes are timely and prioritise the safety and wellbeing of children and young people.

Ensure early review steps support, rather than hinder, young people's access to QCAT

CREATE recognises that the availability of internal review and mediation processes prior to escalation to QCAT is needed and desirable in order to avoid unnecessary proceedings that may involve additional cost, delay and use of Tribunal resources. However, in matters involving vulnerable people — particularly children and young people in out-of-home care — these processes must be operated in a manner that is safe, timely and genuinely effective.

Young people consistently report that they do not feel believed, do not trust internal processes, and fear negative consequences when raising concerns. These views stem from lived experiences of not being taken seriously or, in some cases, being “punished” for speaking up — including through adverse impacts on the quality of their care or decisions affecting their lives.

“They did not take me seriously. It got to the point where I had to nearly take my own life before they took me seriously.” Young person, CREATE Youth Advisory Group 2024.

“[When a complaint is made] youth workers get angry and turn it against you and lash out at you.”
Young person, CREATE Youth Advisory Group 2024


“I felt like I wasn’t heard. Every time I made a complaint, they would believe the workers over me.”
Young person, CREATE Youth Advisory Group 2024

“Our complaints don’t get resolved. They don’t believe us kids in care.” Young person, CREATE Youth Advisory Group 2024

When concerns are not addressed early, issues can escalate into serious complaints or incidents. Young people have shared that in these circumstances it is critical to have the ability to raise concerns outside the service provider organisation or government department where the original decision was made. In this context, mandatory internal review can operate as a barrier to justice rather than a gateway to early resolution.

Reflecting on the insights and perspectives of children and young people in care, CREATE advocates that internal processes should be optional support pathways, not procedural barriers, especially in jurisdictions involving children, young people and other vulnerable groups. To ensure the safety and accessibility of children and young people to access to justice, CREATE recommends:

1. Internal or pre-QCAT procedures aim to safeguard access to justice by ensuring they are secure, transparent, timely, and efficient, especially in cases involving children, young people, and vulnerable cohorts.
2. Existing internal review frameworks should be strengthened to ensure they are transparent, accessible, safe, outcome-focused, and within a short statutory timeframe.
3. Mandatory internal review should be avoided in matters involving children and young people in out-of-home care or other vulnerable cohorts, where delays or power imbalances may place applicants at risk.
4. Guarantee timely access to QCAT if internal review is ineffective or delayed.



Strengthen procedural protections for vulnerable applicants within Tribunal review process

Children and young people in out-of-home care are often required to navigate complex administrative systems while experiencing placement instability, impacts on their wellbeing, and often limited access to trusted adult support. These structural circumstances place them in a position of reduced power and limited control over decisions that directly affect their lives.

Complaint and review processes within QCAT frequently require children and young people in care to challenge decisions made by government agencies, creating an inherent power imbalance. This, combined with additional barriers relating to age, instability, legal literacy, and access to advocacy, can hinder their ability to participate meaningfully in Tribunal processes and to fully realise their right to access justice. These factors must be recognised in the design of review pathways.

To uphold procedural fairness, the QCAT Act should be strengthened to ensure that Tribunal processes explicitly recognise and respond to the unique circumstances of children and young people in out-of-home care. This includes embedding practices that require:

1. Trauma-informed and culturally safe approaches
2. Recognition and mitigation of power imbalances between applicants and decision-making authorities
3. Provision of appropriate procedural supports and protections to enable children and young people to participate meaningfully
4. Transparency in processes, timeframes and outcomes so young people understand what is happening and why.

CREATE reiterates that embedding youth-centred, trauma-informed and culturally safe approaches within the QCAT Act is critical to ensuring that children and young people in out-of-home care may access and engage in the processes meaningfully and safely. This includes how the information is provided to them, how the hearing is designed and facilitated, how they are supported to understand what is happening, and how their views are heard and respected. These principles are essential to guarantee the fairness and efficacy of QCAT's review function for all applicants.

Thank you again for the opportunity to contribute.

Should you have any questions or require additional information, please contact the CREATE Foundation's Advocacy Team at advocacy@create.org.au