

# TERMS OF REFERENCE

## QUEENSLAND SENTENCING ADVISORY COUNCIL

### **COMMUNITY BASED SENTENCING ORDERS, IMPRISONMENT AND PAROLE OPTIONS**

I, Yvette D'Ath, Attorney-General and Minister for Justice and Minister for Training and Skills, having regard to:

- the 2016 *Queensland Parole System Review Final Report* (Parole System Review Report) by Mr Walter Sofronoff QC, in particular the observations made in the report regarding the lack of flexibility of community based sentencing options available to a court and the likely adverse impact this has upon the prison population and the need to improve Queensland's sentencing laws;
- recommendation 2 of the Parole System Review Report that court ordered parole should be retained;
- recommendation 4 in the Parole System Review Report that a suitable entity, such as the Sentencing Advisory Council, should undertake a review into sentencing options and in particular, community based orders to advise the Government of any necessary changes to sentencing options;
- the Queensland Government's Response to recommendations 3 and 4 of the Parole System Review Report which stated that the Government will have the Queensland Sentencing Advisory Council undertake a review that considered those recommendations.
- recommendation 2 in the 2016 Queensland Audit Office report, *Criminal justice system-prison sentences, Report 4: 2016-17* that the Department of Justice and Attorney-General in collaboration with the Queensland Police Service assess the need to review sentencing legislation to reduce the complexity of sentence calculations;
- the importance of judicial discretion in the sentencing process and providing courts with flexible sentencing options that enable the imposition of sentences that accord with the principles and purposes of sentencing as outlined in the *Penalties and Sentences Act 1992*;
- the importance of sentencing orders of the court being properly administered so that they satisfy the intended purposes of the sentencing order and facilitate a fair and just sentencing regime that protects the community's safety;
- the purpose of parole is allowing an offender to serve part of their period of imprisonment in the community in order to successfully reintegrate a prisoner into the community and minimise the likelihood an offender reoffending;
- the need to further encourage and maintain public confidence in the criminal justice system and ensure that sentencing practices meet the community's expectations; and
- the impact of any recommendation the Council may make on the over representation of Aboriginal and Torres Strait Islander people in the criminal justice system;

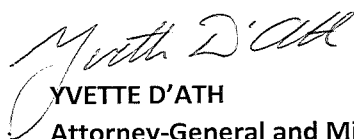
refer to the Queensland Sentencing Advisory Council, pursuant to section 199(1) of the *Penalties and Sentences Act 1992*, a review of community based sentencing orders, imprisonment and parole options.

In undertaking this reference, the Queensland Sentencing Advisory Council will:

- review sentencing and parole legislation, including but not limited to the *Penalties and Sentences Act 1992* and the *Corrective Services Act 2006*, to identify any anomalies in sentencing or parole laws that create inconsistency or constrain the available sentencing options available to a court and advise how these anomalies could be removed or minimised;
- consider recommendation 3 of the Parole System Review Report and advise as to whether a court should have discretion to set a parole release date or parole eligibility date for sentences of greater than three years where the offender has served a period of time on remand and the court considers that the appropriate further period in custody before parole should be no more than 12 months from the date of sentence;
- consider and advise on recommendation 5 of the Parole System Review Report that court ordered parole should apply to a sentence imposed for a sexual offence;
- assess restrictions on the ability of a court to impose a term of imprisonment with a community based order and advise on whether those restrictions should be removed or modified in order to better enable offenders to be appropriately monitored and managed upon release into the community to support the reintegration and rehabilitation of an offender and prevent recidivism;
- consider flexible community based sentencing orders that provide for supervision in the community that are used in other jurisdictions (for example, the community correction orders contained in *Sentencing Act 1991* (Vic)) and advise on appropriate options for Queensland;
- assess whether there are any inherent complexities in the legislative framework including recognition of pre-sentence custody, that contribute to, or cause complexity in calculating an offender's overall period of incarceration, and advise on how those inherent complexities can be addressed with a view to simplifying the calculation process and preventing discharge and detention error;
- consult with key stakeholders, including but not limited to the legal profession, the judiciary, victim of crime groups, prisoner advocacy and support groups, relevant government department and agencies; and
- advise on any other matter relevant to this reference.

The Queensland Sentencing Advisory Council is to provide a report on its examination to the Attorney-General and Minister for Justice and Minister for Training and Skills by 30 April 2019.

Dated the 25<sup>th</sup> day of OCTOBER 2017



**YVETTE D'ATH**

**Attorney-General and Minister for Justice and Minister for Training and Skills**