

1 October 2021

Committee Secretary  
Community Support and Services Committee  
Parliament House  
George Street  
Brisbane Qld 4000

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Dear Committee Secretary

**RE: Child Protection Reform and Other Legislation Amendment Bill 2021**

**About Women's Legal Service**

Women's Legal Service Queensland (WLSQ) is a specialist community legal centre, established in 1984, that provides free legal and social work services and support to Queensland women. We assist women in the areas of family law, domestic violence, child protection and some aspects of sexual violence. WLSQ provide state-wide assistance through our state-wide domestic violence legal helpline, and have a designated rural, regional and remote priority line to increase women's access to our service in non-metropolitan regions. We undertake outreach work at the Brisbane Women's Correctional Centre and at Family Relationship Centres in Brisbane. We also conduct domestic violence duty lawyer services at three Courts: Holland Park, Caboolture and Ipswich. Our specialist domestic violence units in Brisbane, the Gold Coast and Caboolture provide intensive case work and Court representation for our most vulnerable clients.

We thank you for the opportunity to provide this feedback.

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**Overall concerns**

Women's Legal Service Queensland (WLSQ) supports the amendments as proposed by the Child Protection Reform and Other Legislation Amendment Bill 2021 (the Child Protection Reform Bill) to enable the reinforcement, and strengthening of children's rights and voices in



the legislative framework and in decisions that affect them. WLSQ also supports a legislative basis for the chief executive (working with children) to request domestic violence information from the Queensland Police Commissioner for the purposes of blue card assessments.

WLSQ does not provide services to children in the child protection space, and therefore does not seek to make submissions in relation to those aspects of the proposed legislative amendments. WLSQ does work closely with women and children who experience domestic violence, and confirm that WLSQ also provides a “women who are respondents on domestic violence applications” service. In practice WLSQ supports information about the existence of domestic violence orders being considered as relevant and concerning for continuing to hold and obtaining a blue card.

Our submission seeks to highlight the potential inadvertent consequences on women and their capacity obtain a blue card in relation to the care of children and work that they are able to apply for, on women who use WLSQ.

The Child Protection Reform Bill amends the Working with Children Act to include a new head of power to enable the chief executive (working with children) to request domestic violence information from the police commissioner, as well as incorporating legislative pathways for the exchange of information about the status of blue card checks between the states. Both of these amendments should make children and other vulnerable groups safer both in Queensland and nationally.

Clause 79 amends section 223 (Deciding application – negative notice cancelled or holder of eligibility declaration ) to provide that domestic violence information can be considered as new assessable information when the holder of an eligibility declaration or a person who has had their negative notice cancelled makes a working with children check (general) application.

Clause 80 amends section 228 (Deciding exceptional case if disciplinary information or other relevant information exists) to provide how the chief executive is to have regard to domestic violence information in deciding whether there is an exceptional case for a person. Under the new section 228(2)(a), if the chief executive is aware of domestic violence information about the person, the chief executive must have regard to the circumstances of a domestic violence order or police protection notice mentioned in the information, including the conditions imposed on the person by the order or notice. In considering the domestic violence information, the chief executive must also have regard to the length of time that has passed since the event or conduct the subject of the information occurred; the relevance of the information to employment, or carrying on a business, that involves or may involve children; and anything else relating to the information that the chief executive reasonably believes is relevant to the assessment of the person.

Clause 87 inserts a new section 315A – Chief executive request for Domestic Violence information about a person - allowing the chief executive (working with children) to request domestic violence information from the police commission if the chief executive reasonably

enable the police commissioner to share that information with the chief executive (working with children).

## **Considerations**

### **Practical implications in relation to obtain DV orders.**

Many women who experience domestic violence are reluctant to involve Police and the authorities because of the danger to themselves and their children. Another very significant factor is the likely detrimental impact on her and the children should the respondent be unable to work, and provide financial support to the victim and the family. The existence of a domestic violence protection order, which will affect the respondent's blue card status, and their ability to obtain and maintain employment, may provide added barriers for women to report the domestic violence and seek protection through domestic violence orders.

### **Consenting without admissions to orders**

In practice, respondents will be more likely to "consent without admission" to an order, if the order will not affect the respondent's existing blue card status. The amendments proposed will significantly affect this position, and may increase the amount of defended applications in court because the respondent has more to lose if the order is made. This will have a detrimental impact on women who experience domestic violence.

Furthermore, WLSQ is aware that women will make admissions to perpetrating domestic violence, even if they are the person most in need of protection, to save face, to plicate the primary aggressor, out of guilt for attempting to defend themselves and because it is "easier" to agree than to defend the order. Again, before the amendments, the existence of a civil domestic violence order would not have triggered the need to inform the blue card service, and therefore would not have had a negative impact on her employment and blue card status. WLSQ is concerned that this will have a significant detrimental impact upon women in need of protection and their financial stability and independence.

### **Misidentification of the person most in need of protection**

WLSQ is aware that there is a concerning high proportion of women being misidentified as respondents. This misidentification results in domestic violence orders being placed upon women who are not the primary aggressor, but might have lashed out in self-defence, or the primary aggressor has successfully manipulated the narrative when the Police and other authorities respond to an incident. Often, where Police are unable to identify the primary aggressor, they will obtain cross-orders, in line with a risk averse position, however, with these proposed amendments, the existence of the domestic violence order on both parties will have an impact on both of their employment and carer capacities.

In practice, WLSQ note that where a woman has been misidentified by the Police as the respondent, we are rarely able to successfully make representations to the Police to have the domestic violence order revoked, or withdrawn. The Police will indicate that it is a

matter for the Court to determine, and historically women will often consent to the order because they lack the resources, and support to participate in the complex legal process of a defended hearing. This outcome would be even more detrimental to the primary victim of domestic violence, if the domestic violence order then caused her to lose her job, and affected her capacity to obtain employment.

### Recommendations

- 1) WLSQ supports information about the existence of domestic violence as being relevant to blue card assessment and eligibility.
- 2) WLSQ supports the development and application of domestic and family violence training and expertise within the Blue Card Services to minimise the unintended consequences on the primary victim if there has been a misidentification of the person most in need of protection.
- 3) WLSQ supports the Chief Executive utilising specific domestic and family violence experts and professionals, taking into account the gendered nature of domestic violence, when making a determination to suspend or cancel a person's blue card.
- 4) WLSQ supports the chief executive taking into consideration who is the person most in need of protection from domestic violence, if the chief executive is provided information that both parties have been named in orders against each other and that both parties have blue cards.

Yours faithfully,



**Kristen Podagiel**  
Interim CEO