

**Queensland Catholic Education Commission**

Level 1, 143 Edward Street, Brisbane Qld 4000

GPO Box 2441, Brisbane Qld 4001

Ph +61 7 3316 5800 Fax +61 7 3316 5880

email: enquiries@qcec.catholic.edu.auwww.qcec.catholic.edu.au

ABN: 57 525 935 419

Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018

Response from the Queensland Catholic Education Commission

October 2018

Queensland Catholic Education Commission

The Queensland Catholic Education Commission (QCEC) welcomes the opportunity to provide feedback on the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018 (the Bill).

QCEC is the peak strategic body with state-wide responsibilities for Catholic education in Queensland. This submission is provided on behalf of five Diocesan Catholic School Authorities and 17 Religious Institutes and other incorporated bodies which, between them, operate a total of 304 Catholic schools that educate more than 147,000 students in Queensland.

QCEC strongly supports the work being undertaken to strengthen and modernise the Blue Card system (working with children checks for employees and volunteers) resulting from the recommendations of the *Keeping Queensland's Children more than safe: Review of the Blue Card system* report and the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse. Blue Cards are an important component of an overall risk management strategy with respect to the safety of children and function as a clear expression of community standards as to who is suitable to work with children. QCEC has actively participated in consultation in this area and looks forward to continuing to work with the Queensland Government in improving and consolidating the Blue Card arrangements.

The following comment is provided on the main aspects of the Bill:

No Card, No Start

The Bill implements a 'No Card, No Start' policy for all persons working in paid child-related regulated employment. Currently paid employees are able to start child-related work after their employer has lodged an application on their behalf. This has been the case since the inception of the Blue Card system. Volunteers, trainee students and people operating a business are already subject to a 'No Card, No Start' requirement.

For a 'No Card, No Start' policy to be effective and feasible, it is essential that Blue Card application processing timelines be significantly reduced. Schools, like other institutions dealing with children, are at times required to employ staff at short notice. For example, previous staff may leave suddenly and new staff may need to be appointed immediately for the supervision or care of children. If these arrangements are adversely impacted because Blue Card applications cannot be processed in efficient time periods, it will potentially negatively impact upon children and their required care. This situation can be exacerbated in small regional and rural areas where staffing presents a greater challenge.

As such, QCEC strongly endorses planned improvements in processing timeframes supported by the implementation of a new online portal system, which we have been advised will likely reduce processing times for 'simple' applications to approximately five (5) working days.

Provided the 'No Card, No Start' policy is adequately supported by improved processing timeframes, QCEC supports the introduction of the new policy as it will provide a greater level of coverage of Blue Cards from the very start of child-related employment.

Obtaining a Blue Card before entering child-related employment

The Bill will remove the requirement that for paid employment a person must have an agreement to work with an organisation before applying for a Blue Card. Currently, applications for paid employment Blue Cards must be completed by both the employee and employer, with employers required to check the employee's identification documents.

This change is supported as it should, over time, help to address the issue raised above of potential staff not being work ready due to not having a Blue Card. It is envisaged that as there is greater awareness of the 'No Card, No Start' policy, people seeking work in child-related industries will obtain a Blue Card as part of their preparation for employment.

Persons seeking a Blue Card to undertake volunteer work will still be required to demonstrate that they have an agreement with a regulated organisation to provide volunteer services in order to have their application fee waived. This is considered reasonable as the charging of fees should not act as a barrier to the encouragement of volunteering in the community.

Development of an Organisational Portal

As noted above, the Bill allows for communications between Blue Card Services and organisations to be managed through the adoption of an online organisational portal system. This will include online applications and the fulfilment of notification and other requirements. This is a positive move and should allow for greater streamlining and efficiency.

QCEC has participated in initial consultation as to how the organisation portal will operate for an organisation such as Catholic education with multiple sites and different levels of organisational responsibility and management. For the Blue Card organisational portal to be most effective, and to ensure that it is able to foster greater compliance, further discussion will be required concerning such issues as levels of access, viewing and/or editing rights and relevant authorisations across the Catholic education sector.

An additional area that requires further clarification is how the information available on the organisational portal will potentially impact upon schools' record keeping requirements. This is particularly in respect of the requirements to keep records of all staff and volunteers, including those with a valid exemption who therefore will not be registered in the organisational portal as applying for a Blue Card.

Photographs on Blue Cards

The inclusion of photographs on Blue Cards is supported as a means of assisting correct identification and validity of cards. It is noted that the introduction of a photograph may require procedural changes where instead of viewing a Blue Card positive notice, the physical Blue Card will be required to be viewed to ensure that the card matches the relevant individual.

Expansion of disqualifying offences

The expansion of disqualifying offences, including violent offences against children and adults, is supported.

'High risk' persons not able to rely on an exemption

Amendments contained in the Bill seek to address the situation of persons with negative notices and other 'high risk' persons relying on exemptions contained within the *Working with Children (Risk Management and Screening) Act 2000* to carry out child-related work. To address this issue, the Bill proposes the introduction of two new terms – 'restricted employment' and 'restricted person'.

The Bill creates an offence on the restricted person to not start or continue in restricted employment, which is supported. An offence is also placed on the employer not to employ or continue to employ the person in restricted employment if they know or ought reasonably to know the person is a restricted person.

It is noted that schools are likely to be in a position not to be able to independently verify that a person is in fact a restricted person. This will present schools with significant difficulties in ensuring that they are not inadvertently committing an offence under the Act. Schools will require further advice and strategies on how the intention of these amendments are to be achieved in practice. For example, schools as part of their own risk management may require a signed statement from a relevant person who may be a volunteer or parent, that they are not a restricted person. Confirmation is sought that this type of practice would be sufficient in respect of employers' obligations with regard to restricted persons under the Act.

Stay of 'negative notice' decision pending an appeal

QCEC supports the position that, where QCAT overturns a decision to issue a negative notice, the order of QCAT is automatically 'stayed' until one of the following happens: the period in which an appeal may be made against this decision expires; or, if an appeal is lodged, the appeal is finally decided. This change complements the 'No Card, No Start' policy and puts the welfare and best interests of children first.

Section 557 of the Bill

Finally, it is noted that section 557 of the Bill deals with existing prescribed notices which are either undecided or withdrawn prior to the commencement of the Bill and which, on commencement, would involve a person who would become a disqualified person under the Bill. In such cases, the application will be taken to be withdrawn. The Bill further provides, under subsection 557(3)(c), that where the relevant person is the director of a school governing 'board', the chief executive of the Department administering the working with children check scheme must notify the accreditation board. It is suggested that this section would be enhanced through use of the correct terminology, namely the director of a school governing 'body' not board.

Exemption Cards for Teachers

Currently, teachers are required to apply for an exemption card to undertake child-related regulated services beyond their professional duties. The exemption card has no expiry and remains in force for as long as the holder is a teacher registered with the Queensland College of Teachers or until the exemption card is cancelled.

The Bill introduces a three-year term for exemption cards. This will mean that registered teachers will be required to renew their exemption card every three years. This will place an additional administrative burden upon teachers undertaking duties beyond their school role that are also socially beneficial, such as volunteering for sporting clubs and parishes. If this change is progressed, there will need to be

comprehensive education and awareness raising about the new requirements to avoid inadvertent non-compliance by teachers.

Register of Home-Based Care Services

It is noted that the Bill establishes a register to improve the visibility of home-based services, inform decision making and risk assessments, and facilitate information sharing between relevant agencies to promote the safety of children. Access to the register is currently limited in the Bill to authorised users from the Queensland Police Service, the Department of Education, the Department of Child Safety, Youth and Women and the Office of the Public Guardian. It is suggested that this access also include authorised users from the non-state school sector so that all children of school age are covered by the register.

Thank you for your consideration of this submission. For any further information or clarification, please contact Chris Woolley, Director – Governance Strategy and Corporate Services, by phone [REDACTED] or email [REDACTED]

A handwritten signature in black ink, appearing to read 'Lee-Anne Perry', with a large, stylized flourish at the end.

Dr Lee-Anne Perry AM
Executive Director