

Education (General Provisions) and Other Legislation Amendment Bill 2024

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Submitted by: Free2homeschool
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Free2homeschool is a community representative group created for the purposes of connecting the grass roots community of homeschoolers into a cohesive group to enable dissemination of information and education on the impacts of this bill. We aim to empower and inform the homeschooling community in Queensland and across the country with the tools they need to make informed decisions and take action regarding proposed homeschooling changes.

Executive Summary

This joint submission by Amanda Bartle, Patricia Fitzgerald, and Hilary Uhr, covers the following key issues with the Bill.

1. [Introduction](#)
2. [Consultation process](#)
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1. Introduction - flawed basis

Flawed basis of this bill

The reasons presented for these changes were the growing number of homeschooling families and the need for more oversight, an aim to reduce the workload for families and HEU, and child safety.

Growing Numbers of homeschoolers

Growing numbers of homeschoolers due to failing school systems and the major educational interruption that was Covid 19 are not appropriate reasons to increase oversight of homeschooling. Covid was temporary and current registration numbers for this past year show a decline in growth. Legislating for a past event is pointless. Further to this parents leaving the school system in large numbers is not a homeschooling issue but a school issue. The focus ought to be on the schools that are performing so poorly rather than on the current homeschoolers who are thriving.

Aim to reduce workload for families and HEU

Stakeholders were originally told part of the purpose of these changes was to reduce the workload of families and HEU. This current proposal increases that workload substantially, in both the short term and the long term. In the short term, HEU will need to write policies and educate homeschoolers on how to create acceptable plans and reports. 10000 registered homeschoolers will need to learn how to create a plan and report that is 'consistent with the national curriculum' On top of this, the new requirements for "demonstrating academic progress' across all areas of the plan is more than double the workload of current reports which require demonstration of learning opportunities in 3 subjects.

Child safety

The guiding principle of providing an education in the best interest of the child was delivered as being in response to a single suicide of a homeschooled child. We have a new guiding principle that affects every homeschooler, because of one child's death. Any child suicide is one too many, however, it is a large leap from one child who was well known to child protective services, to new legislation for all. If a child in a school commits suicide is it the fault of the school? Does the school then experience this level of oversight and change?

2. Consultation process

The homeschool community has expressed concerns about their lack of inclusion in consultation and the active exclusion of their participation.

In round 1 there was a consultation paper that about 300 of the 8461 registered homeschoolers completed. This effectively means this bill was created based on a 3.5% consultation rate. This

wouldn't be so concerning, however the round one consultation papers look nothing like this proposal before the committee.

Round two of the consultation process completely excluded all registered homeschooling families, the very people it most affects. Instead 2 associations and businesses that stand to make a profit on the inclusion of the national curriculum were consulted. Surely it is a breach of ethical obligations to include businesses in consultation like this? The registered homeschooling population has NOT been consulted on the bill sitting before you.

Patricia Fitzgerald and Amanda Bartle, both known to be significant stakeholders representing the people directly, were deliberately excluded from consultation due to their lack of affiliation with an official organisation, and despite requests to the board and the Education Minister. In the absence of an official Queensland representative association, we question why more homeschooling families were not included in the process and why those asking to be part of the process were excluded?

As a part of this concern, a social media poll reaching out to a number of registered Queensland families has been conducted. To date there have been 453 responses to this, with 46% of these families indicating they have not even received the email from the Home Education Unit alerting them to the proposed Bill, and this is only indicative of those active on social media. There are many other families we have not yet reached, on and away from social media. With the potential that almost half of the current 10,048 registered children's families are not even aware of this Bill there are significant concerns around key stakeholders as registered homeschool families are failing to have their opportunity for a say on the proposed changes.

In addition, the community has indicated to us that they feel there has been no transparency around what mechanisms are likely to be used to carry out the changes, regardless of whether they commence on Assent or by Proclamation. Given the guiding principle is to commence on assent, there is great uncertainty about what this will mean for families. They report to us they feel they have been excluded from much of the consultation process, a process which is designed to rely on spokesperson organisations (such as unions and business councils for example) however, when the changes will impact such a large number of families, they are communicating to us that they feel left out of the process. The community as a whole has little trust and no working relationship with the home-education Unit, and little faith in further consultation during policy drafting.

Questions

- Is this considered adequate consultation?
- Is exclusion of key stakeholders over the inclusion of businesses acceptable and ethical practice?

Recommendations

- Consider the contents of the submissions, which we assume number much higher than the initial round one consultation paper responses, in formulating further recommendations on this bill
- Reject the proposals highlighted here as having a lack of consultation with the affected community behind their creation.
- More consultation with home educating families is required to understand the variety of educating we deliver now, to ensure the expected requirements

3. New guiding principle

3a. Insufficient basis for new requirement - misplaced Child Safety objectives

The government has drawn a connection between home education and the findings of the Child Death Review Board that simply does not exist.

The Board is established under the *Family and Child Commission Act 2014* (Qld) and empowered to perform specific functions (Part 3A; see ss. 26, 29, 29A, 29B, 29D, 29F, 29H, Schedule 1). The purpose of the Board is specifically to review deaths of children connected to the Child protection system, which is the responsibility of the Department of Child Safety, and to make recommendations about improving the child protection system.

The death of any child is tragic. The Child Death Review Board reports that in 2022-2023, 72 children known to the Department of Child Safety died. **One** of those reported deaths was a home educating child. The report states that this child was registered with the Home Education Unit (Department of Education), was a client of CYMHS, an inpatient at a Queensland hospital, and had had a concern and notification recorded with the Department of Child Safety.

Child protection laws in Queensland exist for children and young people in need of protection or at risk of significant harm (*Child Protection Act 1999* (Qld) s.5A, s.9; *Family and Child Commission Act 2014* (Qld) Schedule 1). **Homeschooling children are not by default in need of protection or at risk of significant harm.**

While the Board may consider the interaction of many different sectors and agencies that relate to children, it is not the role of the Board to make general recommendations about all children in Queensland, nor about specific education matters.

The Bill overreaches by taking a recommendation from the Board and applying it to the general population of homeschooling children, not homeschooling children in need of protection from harm.

Outside of this one matter, the government has not provided any data of received concerns and notifications to demonstrate that there is a broader, or any, systemic issue with the safety of home educated children.

3b. Addressing the real issues - Child Safety system failures

The report notes that Child Safety was notified about the home educating young person who died by suicide; that Child Safety did not commence an Investigation and Assessment in the two weeks between the young person being discharged from hospital and their death; and that the Department of Education's Youth Engagement Service had not commenced.

The Board report states that Child Safety was *notified of concerns*. The Child Safety Practice Manual sets out the steps and timeframes for protecting children. Why did this child's intake and notification not proceed to Investigation and Assessment within the required timeframe?

The Child Safety Practice Manual requires that:

1. Each notification is given a response priority at intake, with a given timeframe, and this must be recorded.
2. The response timeframe will be 24 hours, 5 days, or 10 days (business days).
3. Commencing Investigation and Assessment requires sighting and interviewing the child. Referring a matter to a SCAN team does not constitute commencement.
4. A history of suicidal behaviour ought to result in a Suicide Risk Alert being recorded and a risk management plan being developed.
5. A history of suicidal behaviour is likely to constitute a critical incident and attract a short timeframe for the commencement of the Investigation and Assessment process.

The responsibility for meeting these timeframes for delivering protection to a child at risk of harm lies with the Department of Child Safety. Any failure to meet these obligations must be treated as a fundamental factor in this child's case.

Without transparency about these matters, there exists no reasonable justification for the insertion of the new guiding principle into the Act, and imposing this standard on the home educating population at large.

Passing this Bill will expose the government to future legal challenges through applications for judicial review of this administrative action, whether on the grounds of enacting legislation based on an improper purpose; having had regard to irrelevant considerations; having failed to consider relevant matters; or inconsistency with fundamental legislative principles, which includes compatibility with the *Human Rights Act 2019* (Qld) (*Legislative Standards Act 1992* (Qld), s. 4; [Queensland Parliament Legislation Handbook](#); [Queensland Parliamentary Procedures Handbook](#); [Queensland Parliament Cabinet Handbook](#)).

The Bill is trying to achieve a child safety objective under the guise of home education reform. A child safety assessment function does not belong in education legislation. The Bill's response to

this tragedy is completely out of proportion and is a misinterpretation of the Board's functions and purpose. The actual need for new law is an essential criteria set out in the Queensland Government Better Regulation Policy 2023.

Further consideration of the government's other legal responsibilities to home educating children is contained [below](#).

Questions:

- Where are the Department of Child Safety, Department of Health, and Department of Education internal reviews of agency processes in relation to this case?
- What action has the Department of Child Safety taken to address the issues raised within its portfolio?

Recommendations:

- Remove child safety responsibility objectives and functions from this Bill.
- Remove introduction of s.7(da) as a guiding principle.
- Investigate and review Child Safety service delivery in the case of the child referred to. Better fund Child Safety to ensure children are sighted and receive protection in time to positively affect their lives.
- Consider an additional ability for Child Safety to review and oversee educational conditions of those children known to Child Safety, whether enrolled in school or registered with the Home Education Unit.

4. Registration eligibility

We have no concerns with age eligibility for registration, we – as a community – are pleased to see the eligibility age raised to 18 years to ensure equity across all educational options. This brings home education equality to our older students and financial stability for many.

Recommendations

- Retain as is and with the age increase.

5. Simultaneous Enrolment

The community notes that the proposed changes do not enhance educational outcomes and access opportunities for children of Queensland.

Simultaneous or part-time enrollment would be a valuable addition to Queensland homeschoolers. It would allow them to participate in public education on a part time basis, access specialty classes, and perhaps transition more smoothly into and out of home education and the school system. Simultaneous enrollment or a part time enrollment system could provide senior students with access to VETis tafe courses within schools, valuable social access, and

connect isolated children in rural areas with their local school community. Part time enrollment could also support homeschool students to access training for sports and health initiatives. If child safety and reintegration into the public education system to lower home education growth were the goals of this bill, this is an area overlooked for meeting those goals. Many children experiencing school cant, or with high needs could partake successfully in school on part time basis, allowing some educational and well-being oversight where extra support is necessary or desired.

The current bill has offered nothing to improve this space and we are aware of a number of Brisbane principals who are open to the idea of having .2 enrollments with homeschool students so they can access on campus services. Although the amendment is more clarification, lacking simultaneous enrolment means we are at the mercy of school principals with regard to any access to extracurricular activities and resources supplied by the school, without clarity in legislation they feel their hands are tied.

Questions

- Is simultaneous enrolment or part time enrollment detrimental in any way to Education Queensland, individual schools, home education students or the HEU?
- Has flexible access to schools been considered in the creation of this bill as a potential solution to school cant?

Recommendations

- Add the option for simultaneous or part-time enrolment as it would afford students more tailored access to educational opportunities across the board.

6. Distance Education fees waived

Currently many distance education schools are overwhelmed with enrolments and are only accepting enrolments during set periods of the year. Although this extension in recognition of more children in need of this access, the proposed removal of provisional registration will create more problems with families moving to access distance education whilst on the waiting list. An issue specifically created with Clauses 56-60. This means families would be unregistered for up to a term while waiting for their place.

Questions

- Was consideration given to the waiting times for access to distance education in the making of this bill and the removal of provisional registration?

Recommendations

- Approve. Any improvement afforded to increase access to students to educational opportunities under a funded system is a benefit for those children.

- Approve fee reduction. No concerns with allowing more options for fee reduction with Distance Education opportunities in providing access for even more students who seek this style of educational access.
- Provisional registration period to be reinstated to ensure families can remain legal and registered while awaiting applications for distance education to be processed.

7. Redefining/removing provisional registration

The removal of all types of provisional registration without a plan submitted.

Removal of the s.270 provisional registration itself is not a concern. The gap this leaves behind with its removal is a concern. Removing provisional registration until after a plan is submitted is a child safety concern. A significant number of homeschool children are considered accidental homeschoolers. These families did not plan to homeschool and often leave school rapidly and with traumatic experiences. With the current proposal these families would either need to remain in school (where their child may be at risk) or create a year's plan, outlining educational experiences aligned to the national curriculum, overnight. This is not feasible nor is it something that trained teachers within the school system are ever expected to do.

Round one of the consultation process included an option for providing 90 days to complete this education plan, and we find this to be a more reasonable and safer option. We note that 90 days is equivalent to public school holidays for the year and that this bill also carries a proposal that homeschooling is to be considered 365 days a year, from registration approval.

Questions

- What child safety provisions have been included in this bill for children leaving the school system in a hurry?
- What is the disadvantage of offering an instant provisional registration period and providing parents with time to create a plan?
- Is it logical to assume that parents will not actually begin to teach their children until AFTER their plan is submitted and approved by HEU? And if so, shouldn't HEU be approving plans much faster?

Recommendations

- A parent-led body between the HEU and families to provide adequate support to reduce the time needed to complete such applications and educational plans and assist in the process of application.
- Applications accepted automatically, providing provisional registration for a period to allow parents/caregivers the time to collate documents, find adequate support, and to ensure the time to plan an education plan to a high-quality education.
- A proposed provisional period of 3 months or one school term to ensure both adequate time for families to apply as well as offering coverage for prospective distance ed families awaiting enrolment.

- Understand that the provisional registration period is still learning time within a family unit, and at the very least – it can be classed as a holiday period.

8. Additional reporting requirements with application

Expecting educational evidence outside of current registration period

This amendment includes a condition that parents returning to homeschooling within a 12 month period must report on the time of previous registration. We consider this gross overreach to be requesting educational evidence outside of the current registration period. We believe this to be unrealistic.

Parents in this situation are likely to have made each move out from homeschooling and back with a permanent choice mindset. As such it is unlikely they would have kept the required work samples to provide that proof. They are attempting to comply with compulsory schooling requirements, and remain legally registered. This is an unnecessary hurdle that demonstrates distrust and creates another barrier to compliance that has no benefits to a child's educational outcomes.

There are already existing provisions with the granting of registration, to apply conditions on a registration going forward where concerns may exist around multiple applications and cancellation of registration of children.

Questions

- What academic benefit to a child is expected from this extra reporting condition?
- How many parents actually use this loophole to avoid reporting?
- What alternative means of support can be provided to help parents struggling to find the best fit education for their children, without imposing unnecessary extra paperwork.

Recommendations

- There are already provisions within granting of registration where conditions can be imposed on a registration going forward and can be applied where recurring concerns around registration and cancelling of registration can be addressed.
- Reporting should remain as during the current registration process to not delay a family's access to application when the home education application is decided or required.

9. Requests for further information

Reducing show cause timeframes

Show cause times have been reduced from 28 days to 14 days under this proposed amendment. The community has concerns about this shortened time frame. The people who

are given these notices are people who are already struggling to meet the time deadlines or complete the tasks to a satisfactory level to pass HEUs standards. A show cause notice does not indicate a parent who has not provided a high-quality education, only one that may not have provided the proof of such to the HEU. These parents need time to seek help and support, and to learn what it is that they need to do to demonstrate that they have provided a high-quality education.

At this current point in time, this task is done by volunteers within the homeschooling community. With the growing homeschooling numbers these volunteers, of which we are some, are busy fulfilling this gap in support that is not provided by any other agency or government department. We, even as community volunteers, need more time than 14 days proposed to meet the needs of the people receiving these notices.

We see no advantage to anyone in the shortening of this timeframe and suggest the committee reject this proposal entirely. It puts more burden on home educating parents and the community volunteers that support them.

Questions

- Is HEU going to provide an increased level of support to go along with these decreased time periods and offset the extra burden on the community's volunteers?

Recommendations

- Longer time for the gathering of requested further information for the chief executive.
- 30 days to be a fair proposal to allow the time to address the matter and not impede too significantly on time allocated to children's learning nor increase anxiety in the parent who wants to comply but feels stressed under a short time pressure.

10. Issuing of certificates/notices

Removal of the certificate

Removing the certificate of homeschooling may appear insignificant. However, the homeschooling population use these certificates as a way to authenticate their homeschooling experience in the eyes of Centrelink/Human Services for requesting exemptions from mutual obligations. Centrelink/Human Services rely on the certificate for a number of credibility and proof purposes and will need to rewrite policy and be retrained if this proposal is approved.

It is also used with businesses (such as theme parks, various attractions and even online resources) to allow access to school-type discounts when attending as a group and access discounts for online educational programs. It also provides, to family and friends, something tangible to be proud of. We as a community lose our only proof of credibility with the removal of this certificate.

If the aim is to reduce the burden on parents, drop the requirement to return it on cancellation of enrollment.

Replacing it with a notice, which may include visible conditions of enrollment, is a clear demonstration of how unimportant we are as a sub-group of educators to the Department of Education. With our rapidly growing numbers, we deserve more respect and support, not less.

We do not think it is too much to expect that the state's Home Education Unit provides us each with one single certificate of registration at the beginning of our homeschool journey.

Questions

- How does removing the certificate benefit the community?
- How can we ensure we are recognised by businesses and services within the community to access supports and services without sharing all private information without a certificate?

Recommendations

- Maintain certificate issuing.
- Remove requirements to return certificates at the end.

11. Curriculum and Reporting

Following Australian curriculum and excessive reporting expectations.

Onerous paperwork has long been the bane of homeschooling in Queensland. We are the state with the most paperwork and this proposal does nothing to lighten that load for homeschoolers or for the HEU.

The new proposal to 'demonstrate academic progress' across all subject areas within the plan is discriminatory and holds homeschool families to a higher standard than any fully trained school teacher.

Many homeschooling children have neurodiversities or disabilities. Their academic progress is earned after much effort and time. It often involves dedicated lessons focussing on one curriculum area at a time. To make solid progress in literacy these children may need to spend less time on history. To expect them to develop academically across all subject areas every year is unreasonable.

Defining a high quality education as aligning to the National Curriculum assumes the National Curriculum IS a high quality education. That is not its purpose, nor has it been written to stand in legislation as 'high quality education'. It is a baseline education to be used by schools. There is no research to demonstrate it is responsible for improved academic standards, just as there is no research that homeschoolers are not currently providing high quality education without it. In fact the proposed Bill completely failed to even recognise the need for access to university level subjects whilst being home educated.

Legislative changes should be backed by research when they are as significant as this will be. It is noted that 80% of all homeschoolers will need to change the way they homeschool their children to meet this proposal with absolutely no research to suggest it is going to result in better outcomes for these homeschooled children. In addition, this definition as stated excludes the use of university study as part of a high school education, something that many homeschoolers access from age 13 onwards, including two of my three homeschooled children.

Currently it was briefed that around 20% use the national curriculum. I feel confident that if the community was addressed on this matter, this would actually correlate to around 20% mention the national curriculum in their planning, and that even less would be actively using it. Since the Briefing (18 Mar, 2024), we have had numerous home educating parents make contact with us to clarify that they only mention ACARA in their plans because it was suggested to them or was already on the plan template provided by HEU, but they do not include it in their learning experiences or planned activities.

Having to adhere to 'demonstrating educational progress' across all subject areas is more onerous than the reporting expectations on teachers and schools. Not only are teachers not required to do this much reporting, but they are provided with far more support in what they do. Teachers spend many hours designing lesson plans to deliver within the framework and 86% still state that they do not have enough time to do so for high-quality plans (5-year Productivity Inquiry: From learning to growth Inquiry report – volume 8, 2023).

What is in our documentation also is not the entirety of what is provided to our children. It is an overview and more than enough to adequately show evidence to what our children are learning. Any more than this is purely a waste of our time as educators and taking away from our children.

It is clear with these proposed amendments that the education department is very out of touch with what home education is and what it looks like in action. More adequate consultation is required to show how increased regulatory tasks is not for the benefit of our children, nor their education.

Questions

- In a school, an end of year report card often shows not more than a letter grade. Teachers are not expected to demonstrate academic progress in any subject, let alone all of them. Why is the homeschooling community being held to a higher standard than our state school system?
- What evidence does the department have that home education provided under the existing arrangements is unsatisfactory?
- What is the problem with 'high-quality education' criteria, such that a single curriculum will be mandated?
- What is the reason for mandating the use of the national curriculum?

- How can working to a national school curriculum be flexible enough to be seen as high-quality education in our environment when our children all learn so differently and have differing interests?
- What evidence is there that home educated students are struggling to integrate into mainstream school any more than students who are transferring from any other environment?
- We already experience significant delays in HEU processing our plans and reports in a timely manner, if we are required to do even more reporting and planning, how will HEU cope with this?
- Will HEU be provided with any significant staffing increases to cope with the increased workload on both them and us, and be able to support us with the process?

Recommendations

- We wish to maintain our current standards of high-quality education in respect of each child with the flexibility to make sure that high-quality is obtained, specifically tailored to the child, their interests and their needs.
- Reject proposed reporting requirements. Enforcing more paperwork to tick a curriculum box is not going to improve educational quality, what we complete now is onerous enough already.
- No requirement to have to prove aptitude, ability or development outside of providing an educational plan suited to the child.
- Acknowledge that 80% of homeschoolers do not currently use the National Curriculum and thus do not want to and that requiring it removes their rights to choose an education that meets their families needs.
- Include wording that allows for university level study as part of a homeschool plan.
- Include wording that allows for open ended flexibility to a choice of indefinite resources and curricula
- Sampling of reporting processes in the way Victoria is required, where 10% of families are notified and given an ample time frame to complete their report to be reviewed.
- A parent representative body between the HEU and the community of home educating families as recommended continuously, since 2003.

12. Incompatibility and inconsistency with other legislation

The explanatory material supporting the Bill has not adequately demonstrated that new law is needed, in relation to a guiding principle, curriculum, reporting, or registration.

The actual need for new law is an essential criteria set out in the Queensland Government Better Regulation Policy 2023.

12a. Human rights: Rights of the child - right to education

It must be acknowledged that the right to education is broader than education conducted in a school setting, or as provided for by the national curriculum. The right to education is inclusive of

home education, and the Bill, while purporting to deliver improved education for all Queensland students, will, for some students, actually limit their ability to access education appropriate to their needs.

Inadequate consideration has been given to the rights protected in the *Human Rights Act 2019* (Qld), (**the HR Act**), despite the Human Rights Statement of Compatibility published on the Queensland Legislation website.

Home educating children in Queensland are afforded protections under the HR Act. These include, but are not limited to:

1. The right of recognition and equality before the law (s. 15). Every person has the right to enjoy the person's human rights without discrimination. A child is a person and is entitled to this right and the protection of such rights (s. 11).
2. The protection of families and children (s. 26). "Every child has the right, *without discrimination*, to the *protection* that is needed by the child, and is in *the child's best interests*, because of being a child" (s. 26(2)) (emphasis added).
3. The right to education (s. 36(1)). "Every child has the right to have access to primary and secondary education *appropriate to the child's needs*" (emphasis added).

A legislative requirement to follow the ACARA curriculum or any standardised benchmarks is incompatible with the needs, abilities, learning style, and health of many home educating children.

Home educating children are entitled to education that allows them to learn and develop. Children who have not found their needs to be met in mainstream schooling, or who choose to home educate for any reason, retain the right to an education.

The Mparntwe (Alice Springs) Declaration of 2022 is a document that provides guidance on achieving these fundamental rights for every child. The Bill does not meet this criteria.

Limitation of a human right is permissible only in the circumstances outlined in s. 13 of the HR Act.

We note that no consideration to the right to education has been covered in the Statement of Compatibility.

12b. Anti-discrimination: Discriminatory effect of the proposed Bill

The proposed amendments to home education in Queensland is discriminatory. The Bill has the potential to disproportionately impact on an already vulnerable population of families frequently dealing with disability, chronic ill health, neurodivergence, and trauma. The Bill, if enacted, will discriminate, both directly and indirectly, against these children and families.

Under the *Anti-Discrimination Act 1991* (Qld), children are protected from direct or indirect discrimination on the basis of protected attributes contained in section 7. This includes a range of attributes that may form part of a family's reasons for home educating. Notably, discrimination on the basis of impairment is prohibited. Many children home educate due to disability.

Questions

- Is the Bill consistent with the HR Act? Is the Bill consistent with the Mparntwe Declaration as a means of interpreting the right to education?
- Is the Bill consistent with the *Anti-Discrimination Act*?
- Does the Bill duplicate laws and powers in the child safety system (*Child Protection Act 1999, Family and Child Commission Act 2014*)?

Recommendations

- Remove specific obligations on home educating children
- Leave 'high-quality education'
- Remove reference to a set curriculum