



EDUCATION, EMPLOYMENT, TRAINING AND SKILLS COMMITTEE

Members present:

Hon. MC Bailey MP—Chair
Mr JP Lister MP (teleconference)
Mr N Dametto MP (teleconference)
Ms JE Pease MP (teleconference)
Mr BL O'Rourke MP (teleconference)
Mr D Zanow MP

Staff present:

Ms K Guthrie—Committee Secretary
Ms H Radunz—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE WORKING WITH CHILDREN (RISK MANAGEMENT AND SCREENING) AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Friday, 28 June 2024

Brisbane

FRIDAY, 28 JUNE 2024

The committee met at 10.01 am.

CHAIR: Good morning. I declare this public briefing open. I am Mark Bailey, the member for Miller and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today, the Turrbal people, and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. Welcome, and thank you for supporting the committee's work.

With me here today via telephone are: James Lister, the member for Southern Downs and deputy chair; Mr Nick Dametto, the member for Hinchinbrook; Barry O'Rourke, the member for Rockhampton; and Joan Pease, the member for Lytton, who is substituting for Margie Nightingale, the member for Inala. With me here in person is Darren Zanow, the member for Ipswich West.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee. I remind committee members that departmental officers are here to provide factual or technical information. Questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to please turn their mobile phones off or to silent mode.

**BOURKE, Mr Greg, Acting Executive Director, Strategy Policy and Legislation,
Department of Justice and Attorney-General**

**COCSETTI, Mr Michael, Principal Legal Officer, Strategy Policy and Legislation,
Department of Justice and Attorney-General**

**McCONE, Ms Sally, Acting Director, Strategy Policy and Legislation, Department of
Justice and Attorney-General**

Mr Bourke: I would like to acknowledge the traditional owners and custodians of the land on which we meet and pay my respects to elders past and present. Thank you for the opportunity to brief the committee about the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill. The bill before you proposes to make significant reforms to the Working with Children (Risk Management and Screening) Act 2000 to improve, strengthen and support the operation of the blue card system in Queensland and enable greater participation by First Nations people. The Royal Commission into Institutional Responses to Child Sexual Abuse conducted a review of working with children check schemes across Australia and made a series of recommendations to improve their operations. A further review of the system in Queensland was then conducted by the Queensland Family and Child Commission, otherwise known as the QFCC, which built on the earlier work undertaken by the royal commission.

The bill will implement, either in full or in part, 12 recommendations made by the QFCC in its report *Keeping Queensland's children more than safe: review of the blue card system*. In addition to the reviews by the royal commission and the QFCC, the blue card system has also been the subject of inquiry by the former Legal Affairs and Safety Committee during its consideration of the private member's Working with Children (Indigenous Communities) Amendment Bill 2021. In response to the recommendations made by that former committee, the Queensland government committed to prioritising work on certain recommendations made in the QFCC's blue card review report—in particular, to review the decision-making framework to ensure it is fit for purpose. The need for a
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recalibration of the decision-making framework was further highlighted by the Women's Safety and Justice Taskforce and the Youth Justice Reform Select Committee. The new decision-making framework established by the bill is the result of that work.

Consistent with the findings of the QFCC and the royal commission, the bill implements a new risk to the safety of children test to guide blue card assessments. Shifting to a risk-based threshold will bring Queensland's blue card system into broad alignment with other jurisdictions, the national standards for working with children checks, the royal commission recommendations and other comparable frameworks such as the disability workers screening system. It also addresses stakeholder concerns that the current approach in the act is too risk averse and disproportionately impacts First Nations stakeholders.

The bill identifies several statutory factors to which the decision-maker must have regard in undertaking a blue card assessment. This includes, amongst others: the nature, gravity and circumstances of the conduct which forms the basis of the assessable information; whether the conduct involves a pattern of concerning behaviour; and the person's conduct since the event. For First Nations applicants the bill specifically includes a statutory factor that requires the decision-maker to consider the effect of systemic disadvantage and intergenerational trauma and the historical context and limitations on access to justice. In making a decision under the working with children act, the bill will also enable the chief executive to access specialist advice in relation to the complexities of a particular case where such advice would be valuable in determining whether to refuse a blue card application or cancel a negative notice.

Specifically, the bill provides that the chief executive may establish one or more advisory committees, with the membership and scope of each committee to be prescribed by regulation. As part of the implementation of the new decision-making framework, the bill will also simplify the disqualification framework by omitting the unnecessary and redundant eligibility declaration process. As well as a new decision-making framework, the bill will implement other key recommendations made by the QFCC and the royal commission to improve safeguards for children and align Queensland with other jurisdictions.

Of particular note, the bill amends schedule 1 of the working with children act to expand the requirement to obtain a blue card to several new areas of child related employment and business, including entertainment, party, beauty and photography services involving children. It will establish a consistent exemption for parent volunteers which provides that a parent is not required to hold a blue card if the parent is providing a service or activity to children which includes the person's own child unless they are attending an overnight camp or excursion or providing close personal contact to a child other than their own. It will also remove the existing exemptions for workers at amusement parks and practising lawyers who provide legal supports to children.

The bill also implements a number of other QFCC blue card review report recommendations, including: providing the chief executive with a new suspension power to more appropriately mitigate risk where a cardholder has a change in assessable information; introducing a new power to enable the chief executive to more effectively monitor compliance with the act; and enabling genuine researchers to access data about the blue card system. Further, the bill makes a range of other amendments intended to improve the overall operation of the blue card system.

Lastly, as the committee may know, the government has recently tabled its response to the recommendations made by the QFCC in its 2023 report *A thematic analysis of provisionally approved kinship carers who receive a subsequent blue card negative notice*. The government response indicated its in-principle support for these recommendations. As the QFCC observed, the working with children act assesses suitability for child related employment, not suitability to be a parent or kin. As caring for a child on the basis of familial or cultural obligations is not employment, the QFCC notes that the screening of kinship carers requires a more nuanced approach. The bill will implement the first stage of the government's response by removing the requirement for kinship carers to hold a blue card.

The amendments are proposed to commence by proclamation, and automatic commencement under the Acts Interpretation Act 1954 will not apply. This is to enable sufficient time for government to consult on and develop a new screening framework to be administered by the Department of Child Safety, Seniors and Disability Services that maintains the safety of children whilst enabling a nuanced assessment of risk for kinship carers.

In closing, the bill contains significant reforms to the blue card system to ensure it remains a strong and effective tool in promoting child-safe environments. I would like to again thank the committee for the opportunity to brief you today. We are happy to answer any questions you may have about the bill.

CHAIR: I will turn it over to the committee for any questions from our members.

Mr LISTER: My question relates to cultural context, elements of systemic disadvantage and intergenerational trauma and the historical context and limitations on access to justice. Is it correct to say that only persons who are Aboriginal and Torres Strait Islander are entitled to that statutory factor in assessing their applications?

Ms McCone: Yes, that is correct.

Mr O'ROURKE: My question is with regard to the difference in the approach to kinship carers proposed in this bill as compared to the member for Traeger's private member's bill. I just wondered if you could expand on that and what that looks like.

Ms McCone: The private member's bill proposed a model that would result in a conditional blue card, so people in particular communities or areas would be assessed by a community justice group and at the end of that they would make a binding recommendation where a person would receive a conditional blue card. That approach is inconsistent with previous recommendations, including those of the royal commission, that a blue card should be unconditional and that a blue card should be transferrable. It should not matter what you are doing or what location you are in, a blue card is transferrable and conditional. I think that is the kind of approach we have taken under the private member's bill.

Mr Bourke: I think that would result in a restricted clearance that would be limited to a certain geographical area. It was shifting the decision-making to a community justice group and then letting them make a binding decision, and that would be limited to a geographical area. This bill says that the blue card is not the appropriate tool for assessing kinship carers and removes them from the blue card system but buys time for that alternative system and process to be developed by Child Safety to provide the most appropriate, nuanced assessment of a kinship care household.

Ms PEASE: Thanks very much for coming in today and presenting and giving us background information on this important piece of legislation. I am particularly interested with regard to kinship carer requirements. Will that apply to all members of the kinship carer's household or just primary caregivers? What I mean by that is other household members who might be over the age of 18.

Ms McCone: It will not be applied to adult household members in the first stage of the bill. The definition of 'adult household member' is very broad. It includes a person living in the carer's household as well as any adult who may create an unacceptable level of risk to the child because of the nature and context of their contact with the child. In practice, this can include a broad range of people from a sibling living in the house turning 18 to an unrelated border living in the house. Ongoing work during development of a new screening framework will consider the most appropriate screening of adult household members and the risk in the context of a kinship carer's household.

Ms PEASE: In terms of processing, will this be impacted by alternative approaches to the two types of people who will be applying for blue cards?

Mr Bourke: Could you possibly clarify that question?

Ms PEASE: Given that Aboriginal and Torres Strait Islander people will potentially have a different level of requirement compared to other people who apply for a blue card, will that impact the processing of blue cards?

Mr Bourke: I am sorry, I still cannot quite connect the question. Do you mean in terms of decision-making of blue cards for First Nations people, or are we still on the kinship carer side of things?

Ms PEASE: Both, I suppose. Is it going to put any constraints or time delays on this process?

Mr Bourke: I think the first point is that the amendment around removing the blue card requirement for kinship carers is the first stage, so the new framework would be developed as part of a second stage, and then once implemented that would become an issue for the department of child safety to manage. They have a current provisional approval system that requires swift and immediate action where placements are required, but that will be for them to develop in the second stage of work.

As part of the broader blue card system there have been significant reforms and enhancements to the systems that support that, including a range of online systems as part of the government's No card, No start reforms. Largely, a person who returns no assessable information will get through the system very quickly. We might have a couple of statistics. Largely, there has been foundational work undertaken before these reforms which means it can deal with the large volume of people who apply for a blue card every year and pushes people through that who do return no assessable information quite quickly. Sally might have a few statistics for you.

Ms McCone: At the moment there are 945,312 people who hold a blue or exemption card. These figures are at 31 May 2024. Blue Card Services has processed 329,714 blue cards in the past year, and 3,104 high-risk individuals were prohibited from working with children this year. There is an average turnaround time. If a person applies for blue card and they do not have any police or other relevant information, a card is issued on average in 1.84 days. Blue card applications with no police or other relevant information are finalised within five days in 95.6 per cent of situations.

Mr Bourke: It is a high-volume system. It is already dealing with those high volumes, and there is the foundation to support those increases to the scope through those foundations.

Ms PEASE: Thank you, I have no further questions.

CHAIR: Is the department able to provide statistics on the principal convictions that have led to provisionally approved kinship carers receiving a subsequent blue card negative notice?

Mr Bourke: I think there is an examination of 11 particular case studies in that 2023 QFCC report that the commissioner undertook, so there is some specific thematic analysis there. Otherwise, I think we would have to take that specific question on notice, Chair, to see what we could get you. It can be difficult sometimes to extract that type of information out of the rather large data base that supports the blue card system, but I can take it on notice in an endeavour to see what I can provide to you or what we can extract. However, there is that foundation for what came out of the 2023 report around the provisional assessments getting a yes and then a subsequent negative notice. It is quite thoroughly unpacked by the commissioner in that 2023 report, so we might be able to extract a bit of that for you as well, if that would be useful.

CHAIR: I would appreciate that. If you can take that on notice and come back to the committee that would be terrific, thank you.

Mr DAMETTO: Has the department quantified how many previously ineligible blue card holders would subsequently be granted blue cards under the new scheme if this was to proceed?

Mr Bourke: That piece of work has not been undertaken, no, member. It is a new, more transparent and targeted decision-making framework. Obviously each particular case would be to the particular nuances of those circumstances, and the facts before the decision-maker. That piece of work that you refer to has not been undertaken, no.

Mr DAMETTO: In regards to consultation, what consultation did the department undertake with Aboriginal councils in remote Indigenous communities before the amendments were put together then proposed?

Ms McCone: We took a range of consultation. We did rely on a lot of previous consultation that had been undertaken by the QFCC as part of development of its recommendations. We invited peak Aboriginal and Torres Strait Islander representative bodies to information sessions. We provided two information sessions. The bill was out for consultation for close to a three-week period, I think, so we did undertake that, but we did not directly go to those organisations.

CHAIR: The explanatory notes point out that removing the exemption for amusement park workers was not mentioned in the QFCC blue card review report. Could you tell the committee more about the rationale behind removing that exemption?

Mr Coccetti: The removal of the exemption from amusement parks stems from the approach being taken in relation to commercial services. The QFCC and royal commission talked about commercial services in terms of requiring entertainment providers and others to now be captured. As you would have seen through the material, that includes a Santa or an entertainer performing. In that environment, the approach has then been taken that similar activities are occurring at amusement parks where there might be a costumed entertainer or somebody performing that sort of function for children, therefore it was considered that, given the approach taken in relation to commercial services, we would also conversely need to remove that amusement park exemption so that those entertainment workers who are providing similar services would also be captured.

The removal of the exemption does not extend to all amusement park workers. It is not the case that everybody in an amusement park with thousands of workers who may be engaged would be required, but it is more targeted at where they would fall within the category of an entertainment service provider, supervising children in a play part of the facility or whatever the case might be. Those particular individuals would be required to get a blue card.

The entertainment service category also includes an exemption for people providing food and beverages. It also includes equipment providers who have no further contact with children. If it is somebody who is a fryer cook who is merely just working a particular burger stall or whatever might

be, those particular individuals would not be required. It is mainly looking at people who are providing the entertainment service, the party service. If they fall within those particular categories, then they would be captured.

Given the approach taken with commercial services as a whole, it was considered that the amusement park exemption should also be removed to make sure that those particular parts of amusement parks were also captured in the same way as a Santa who is appearing at a shopping centre or the wide range of entertainment services that exist.

Mr ZANOW: Further to that question regarding amusement park operators—let's say shows and festivals where you have rides and you have other amusement devices that people are being strapped into for whatever reason—are they exempt?

Mr Coccetti: It is difficult to give a definitive answer without speculating for each individual person. I would not want to give an answer that would suggest we are giving advice as to who may be within scope. I will give the legislation components, but it really would fall on its merits. To give some guidance in relation to that, the entertainment services category talks about where they do have that nexus or contact with children. If it is a person who, in terms of the exemption, is merely maintaining the equipment and had no contact with children, then they would fall within the exemption which is provided in the bill. However, if they were having regular contact with children in that entertainment category, then they would need to consider applying for a blue card. That assessment will be done by the employer. Where an employer is providing child related work, they would need to do that assessment in not employing people who did not have a blue card, but also it is on the employee themselves to consider whether they would be captured and not engaging in child related work.

At a practical level, if anybody was concerned, we would encourage them to contact Blue Card Services and find out and engage in that process to work out whether they need a blue card, but it is very nuanced in terms of the exemptions talking to, as I mentioned, the food, beverage and equipment categories and where you have no further contact would not require a card. Likewise, if you are not really engaging in a child related activity, and extrapolating that out further, somebody who does not even have a nexus or any sort of contact with children may very well not meet those thresholds either, but it is going to apply to each individual scenario. It is difficult to give a blanket 'everybody at a show ground would not be captured'. Sorry, have I explained that clearly?

Mr ZANOW: That is okay. As a supplementary question, what is the definition then of 'contact' under the bill?

Mr Bourke: 'Contact' would take its ordinary meaning. There is a specific definition of 'contact' in the decision-making aspects, but otherwise 'contact' would take its ordinary plain meaning from physical to electronic and the various ways in which a person may facilitate contact. Also, in the amusement park exemption category, it is worth acknowledging there is an existing frequency test under the act. For example, if it is a one-day fete or a one-day show, there is a test under the act that if your child related work is under seven calendar days, no card is needed. For those one-off events, an organiser can have faith knowing, 'I have face painters on, and I am doing this or I am doing that,' then no card is needed. However, if you are plying your trade going around show to show doing that, it is obviously a very different contemplation where that seven-day frequency test would not be invoked. It is meant to protect those one-off instances or that short little period where a particular festival or fete might be occurring.

Mr ZANOW: If we extrapolate that to an overnight camp or excursion, for instance, can you tell the committee more about how you would treat a parent who, say, volunteers at an overnight camp, but then all of a sudden the parent's child is unable to attend, but they still do?

Mr Coccetti: There is a particular nuance with overnight camps that applies, in clause 38. Overnight camps are treated in a very specific way where, as you will see in clause 38, it is the new amendment in subsection (5) where it talks about the frequency test and the parent volunteer exemption do not apply in relation to an overnight camp. The expectation would be, if we use an example of a parent volunteer who is going with their child to, let's say, a school camp, that in those particular instances, irrespective of the parent volunteer exemption, they would still be required to get a blue card. Overnight camps in that close personal contact component, they would be required to obtain a blue card. To be more specific to your point, if that child did not go to the camp, the parent would still have been screened prior to that event occurring. If the child did not attend for whatever reason, but they still went, they would still be screened prior to.

Mr Bourke: That overnight camp is specifically highlighted by the royal commission as a really high-risk plan of activity where they said that that overnight dimension adds another layer and that, while, yes, a parent volunteer exemption should be in play, it should be carved out so that all the adult

people engaging in overnight camps do require a card. It is that tricky balance of trying to facilitate the parent's engagement and the like, but providing that protective environment when they do go off to a camp.

Mr DAMETTO: In regards to the emergency services exemptions, there have been a lot of discussions in the past around rural fire brigade officers and volunteers having to acquire a blue card. Can the department speak to how the amendments affect those emergency service volunteers?

Ms McCone: Currently in Queensland, emergency services volunteers do require a blue card. The exemptions in the act are specifically related to major disasters or a state of disasters. I think there is a state of fire emergency and also disaster situations. They are tied to where there is an existing process for a minister or under legislation in relation to a disaster. There are powers under existing acts, for example, under the Disaster Management Act and the Queensland Fire and Emergency Services Act for a minister to make a declaration, declaring an emergency. When that happens, the exemption under the working with children act will kick in so that volunteers and emergency workers from other jurisdictions can come and assist in an emergency where there is a risk to life. The exemption will last while those emergency services workers are in Queensland and until that declaration ends. Currently, emergency workers coming to Queensland are required to either hold a blue card or they can stay relying on the seven-day frequency test, but once that seven-day frequency test is over, those emergency services workers have to go back; they are not able to be used anymore. This ensures Queensland has access to the emergency services it needs during the whole disaster period.

Mr DAMETTO: So I have that clear in my head, we will be allowing emergency services volunteers and workers from interstate to operate in Queensland without a blue card during an emergency situation, but potential Queensland volunteers who do not have a blue card and therefore cannot join the Rural Fire Service cannot volunteer?

Ms McCone: This is correct, yes.

Mr Bourke: It may be that some of those interstate emergency service workers hold a clearance in their own jurisdiction, but this exemption does not have to contemplate that. It acknowledges in those significant events the declaration has been made; we need the assistance of that other jurisdiction and call them up. It alleviates the blue card considerations and enables the calling on of that manpower to deal with the event.

CHAIR: If you have a major bushfire crisis or a cyclone, you have workers coming in from other states to assist, so you do not want them held up through bureaucracy; is that right?

Ms McCone: Yes, and if it lasts more than seven days, they can continue to be in Queensland dealing with the emergency.

Mr DAMETTO: I understand the intent, but I think it is interesting that we are not going to allow our own potential volunteers to get involved in a situation where Queenslanders need them most because of the current blue card service.

Mr O'ROURKE: In regards to that seven-day period, is that seven days in every 12 months? How does that work? What is the timeframe that that seven-day period fits into?

Mr Coccetti: Clause 38 refers to the person is employed for no more than seven days in a calendar year. So January to December is that frequency test.

Mr O'ROURKE: That is the same for emergency volunteers who come from interstate?

Mr Bourke: In relation to the emergency volunteers who come from interstate, in that declared state of emergency that frequency test is not in play; it is that you are able to rely on those interstate workers for as long as needed while that declaration is in place. Again, we basically neutralise the frequency test there so that for as long as the declaration is in effect, you can call on those interstate or international people to help you respond to that emergency or disaster situation.

Mr O'ROURKE: Thank you for clarifying that.

CHAIR: Under the bill, would every executive committee member of a church, club or association require a blue card or merely those engaged in making decisions about children? Are there measures in place to require a blue card for those who take decisions about children within one of these types of organisations but who are not an executive committee member?

Mr Coccetti: I will answer them in two parts, if I can. I will take the first and hopefully that will answer the second. Clause 126 expands the churches, clubs and associations category, and it talks in subsection (1)(a)(iii) that it captures somebody who is engaged in decision-making in relation to a child as a member of the executive committee. Subsection (2) talks about executive committees and

what that entails. That particular provision looks at the kind of executive decision-making, executive committee structure for associations, churches, clubs and those kind of categories. There is an existing provision in section 14 of the act which talks about executives of corporations. I will pull that up and be more definitive. This particular provision is looking at that cohort of boards and executive committees at that type of level in relation to children.

Could I ask for some clarity around the second part of the question? If we are talking about somebody who would be at a lower level making decisions around children, that is not so much contemplated, in relation to the provision talks about being a decision-maker on one of those executive type levels. Again, though, depending on the nature of the child related work that they are engaging in, that may not necessarily mean they would not need a blue card, if I am explaining that clearly. If somebody is in another part of the organisation that is engaging in some form of child related work, it is likely that they would be required to get a blue card, not through this particular part of the category, but in some other form they may very well be captured as well. It is not that they are excluded, it is just that this particular part covers those executive decision-makers.

CHAIR: I am thinking of sometimes you have a subcommittee with a particular task and that might include children. Someone involved there that is not on the executive, but has responsibility for doing X or Y, would they be captured, is the question?

Mr Coccetti: Again, I would suggest that it is difficult in terms of getting into that subcommittee level, but if anybody had any particular doubt as to whether they were captured, encourage them to engage with Blue Card Services in that first instance and get that advice because it will be on a case-by-case basis once we get to subcommittees or sub-subcommittees or whatever the case might be. However, by all means, if somebody was in doubt, they could definitely contact Blue Card Services.

CHAIR: It may just depend on the nature of the activity, right?

Mr Coccetti: To determine the nature of the activity, yes.

Mr Bourke: It is a broad definition of 'executive committee' in the limb that is a group or body of people, by whatever name called, that manages the affairs of the church, club or association relating to children, so you provide an expansive interpretation to that to probably try to avoid the sub-sub, the getting too technical, in the way that you would give it a very kind of beneficial, broad interpretation.

Mr ZANOW: Has AI been taken into consideration in this bill in any form?

Mr Bourke: No.

CHAIR: There being no further questions, we will close this briefing. Thank you very much to all three representatives for answering our questions and for the information presented here today. The timeframe for the answer to the question taken on notice is Friday, 5 July. Thank you to our Hansard reporters and parliamentary broadcast staff for their assistance. A transcript of these proceedings will be available in due course. I declare this public briefing closed. Thank you, everybody.

The committee adjourned at 10.40 am.