EDUCATION AND INNOVATION COMMITTEE

Members present:

Mrs RN Menkens MP (Chair)
Mr SA Bennett MP
Mr MA Boothman MP
Mr MR Latter MP
Mr TS Mulherin MP
Mr MJ Pucci MP
Mr NA Symes MP

Staff present:

Ms B Watson (Research Director)
Ms E Booth (Principal Research Officer)

PUBLIC HEARING—EDUCATION LEGISLATION AMENDMENT BILL

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 12 OCTOBER 2012

Brisbane

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Committee met at 9.39 am

CHAIR: Good morning. May I welcome you this morning to this public hearing to support the parliament's Education and Innovation Committee in its examination of the Education Legislation Amendment Bill 2012. Before we start, I ask that all mobile phones be switched off or set to silent.

I now declare the hearing open. Thank you all very much for your interest and for your attendance today. I welcome the people in the audience. I am Rosemary Menkens, the member for Burdekin and chair of this committee. I would like to introduce the members of the Education and Innovation Committee. With me today are: Mrs Desley Scott, the member for Woodridge; Mr Michael Latter, the member for Waterford; Mr Mark Boothman, the member for Albert; Mr Steve Bennett, the member for Burnett; Mr Neil Symes, the member for Lytton; and Mr Michael Pucci, the member for Logan. Ms Annastacia Palaszczuk, the member for Inala, is unable to be here today and sends here apologies.

This hearing is being recorded and will be transcribed by Hansard for publication on the committee's web page. It is also being webcast live and the video will be available on the committee's web page until it is superseded by a subsequent web cast recording. It may also be used for training purposes.

On 21 August 2012 the parliament referred the Education Legislation Amendment Bill to the Education and Innovation Committee for examination. A report back to parliament is due by 29 October this year. The task before the committee is to consider the bill in terms of the policy intent to be achieved as well as fundamental legislative principles and lawfulness, and provide a report to the parliament before the bill is debated in the House.

If passed, the bill will make the following amendments to the Education (General Provisions) Act 2006: enable the states schools of distance education to deliver kindergarten programs to children who live in remote locations, have medical issues or an itinerant lifestyle; clarify that section 204 of the Criminal Code does not apply to school staff who fail to report a suspected likelihood of future sexual abuse; and remove the requirement that anniversary letters be sent to students who have been permanently excluded from state schools—students will now be advised of their review rights at the time of their exclusion. The bill would also amend the Education (Queensland College of Teachers) Act 2005 to permit Queensland to adopt national professional standards for teachers in lieu of the current Queensland standards for teachers.

To date, the committee has considered the eight submissions received from a range of stakeholders in respect of the bill and has received a briefing from the Department of Education, Training and Employment. The purpose of today is to further inform the committee's consideration of the bill.

Although the committee is not swearing in witnesses, these hearings are a formal process of the parliament. As such, any person intentionally misleading the committee is committing a serious offence. By the same token, parliamentary privilege applies to evidence presented here today.

Although this is a public hearing, you are able to request, through me as chair, that any material or information you provide be kept private, and you can object to particular questions. You might also wish to take questions on notice if you do not have information at hand. The details about how witnesses are to be treated are contained in schedule 3 to the parliament's standing orders—instructions to committees regarding witnesses—with which each witness has been supplied. I believe you have also received a copy of the brochure on being a witness to a committee hearing.

Members of the public are reminded that they are here to observe the hearing and may not participate in it. In accordance with standing order 208, any person admitted to this hearing may be excluded at the discretion of the chair or by order of the committee.

The committee has invited three organisations that provided written submissions to the committee to attend to discuss their input in more detail. They are the Queensland Law Society, the Queensland Teachers Union and the Queensland Catholic Education Commission.

CRANNY, Mr Glen, Chair, Criminal Law Committee, Queensland Law Society

D'CRUZ, Ms Raylene, Policy Solicitor, Queensland Law Society

DUNN, Mr Matt, Principal Policy Solicitor, Queensland Law Society

WARD, Mr Johnathan, Member, Children's Law Committee, Queensland Law Society

CHAIR: it is now my pleasure to welcome witnesses from the Queensland Law Society. Would you like to make a brief opening statement before members of the committee ask questions relating to the submission you have provided?

Mr Cranny: Thank you, Madam Chair, I will take that opportunity and then I will pass to Mr Ward to do likewise.

CHAIR: Thank you so much, Mr Cranny.

Mr Cranny: I shall do. My name is Glen Cranny and for the committee's information I am a solicitor in private practice in the area of criminal defence work in Brisbane. Mr Ward is a member of our Children's Law Committee and a youth solicitor with the South West Brisbane Community Legal Centre at Inala. The society's position in relation to the proposed bill is to welcome the proposed amendment, which would make clear that teachers do not commit a criminal offence or are not punishable for failing to report suspected sexual abuse which may occur in the future. The society in its submission to this parliament dated 24 September welcomed that.

Beyond that, though, we have some ongoing concerns about some of the terms and scope of the legislation, which I would like to briefly touch upon now. The society's concerns particularly concern the ongoing suggestion of criminal sanction being applied to the nonreporting of suspected sexual abuse. That concern arises specifically because of what we say are impossibly vague language used in the legislation itself. Firstly, in terms of the proposed definition of sexual abuse, can I say as a practising lawyer that that drafting is surprising to me. It is, in my view, very difficult to be regarded as likely to be interpreted and enforceable in due course. It refers to concepts and phrases that are really unknown in terms of legislative provisions and legislative interpretation. One can imagine great difficulty in a court ultimately interpreting the meaning of things such as 'power', 'coerces', 'exploits'. We are talking about children's relationships here oftentimes. Those sorts of phrases are going to be extraordinarily difficult for courts to interpret in due course but, if we take things back a step, extraordinarily difficult for teachers on the ground to determine whether or not they have an obligation to report, whether or not the knowledge that they have become aware of is something that triggers a reporting obligation. One can imagine if we are talking about a 15- and a 16-year-old in a relationship or a 15- and a 17-year-old in a relationship or something like that, is there an element of coercion or power imbalance in that type of relationship? There are all sorts of shades of grey there. We feel that what ultimate will happens is that teachers, who are concerned about the prospect of committing a criminal offence for suspected abuse so defined, will take the default position of simply reporting it as a matter of course.

A couple of concerns arise out of that. The first is that that is placing the teachers in a difficult position in that they do not have clarity as to their reporting obligation—when their reporting obligations are triggered and when they are not. Secondly, it will mean that if there is, as we fear, a practice developed of default reporting then the police are going to be provided with lots of information, much of which they probably cannot do much with, and that can have consequences for those involved.

One of the principal concerns that we have identified in the submission is within this definition of sexual abuse the fact that it is an inclusive definition rather than an exhaustive one. There are various limbs given to the definition there of 'sexual abuse' but the fact that it is inclusive would suggest that there are other things that could equally fall within the definition. We have supposed in our submission—and it is a fair supposition—that it may well be thought that any criminal behaviour would fall within the definition of sexual abuse. We say that because of the use of the word 'includes' rather than 'means'. So if the definition of sexual abuse is thought to include any criminal behaviour, then you are immediately capturing consensual relationships between 15- and 16-year-olds, you are capturing relationships between two people who might not yet be 16, any relationship between children, for example, which involves anal intercourse if they are not 18—these sorts of things. One can imagine a great concern for students in this situation. One can take the example of a teenage pregnancy—a 15-year-old girl pregnant to her 16-year-old boyfriend. If she were ever to become aware that, by approaching the school councillor, for example, that her boyfriend would be reported to the police, that is a very serious consideration for her to bear in mind and one that might dissuade her from so doing. So that particular concern arises out of the use of the non-exhaustive definition of sexual abuse.

I mentioned before that terms such as 'coerces' and 'exploits' are not really terms that are known in my experience to the criminal law. In this environment one often talks more about issues of consent, issues of significant harm. They are the sorts of terms that are more commonly found in this environment. One can imagine, for example, a sexual relationship that might commence between a 15- and a 16-year-old perhaps within a few months of the 15-year-old girl's mother dying. Is that exploitation? Some would say that it is. Some would say that it is not. But in those circumstances the 16-year-old boy, who may be unaware of the trauma in the girl's life, finds himself the subject of a police report because of what he understood to be a happy and consensual relationship with his 15-year-old girlfriend. So we see some significant problems in that aspect of it and we see there being difficulties with students feeling free to report things to teachers in a confidential manner. So we say that some of the terms are impossibly vague. The inclusive definition is a difficulty. There is an unintended effect in terms of the ability to confidently and confidentially report these things to school councillors.

Overlaying all of that is the fact that it is still regarded as a criminal offence not to do so for teachers. The amendments, which we have welcomed, have only removed the criminal liability in respect of the concerns about future abuse, but they still apply in respect of suspected current abuse. The concern that led to the amendment to remove the criminal liability, particularly section 204 of the Criminal Code, is

obviously, therefore, still operative in respect of teachers who are aware or who reasonably suspect current abuse—abuse very widely defined, as I have discussed. So teachers are still liable to one year's imprisonment for a criminal offence in respect of making an error of judgement about failing to report suspected abuse in the context of these very wide definitions, which make it difficult to interpret.

That is all I will say at this stage subject to questions from the committee, but I will hand over to Mr Ward to speak next about the anniversary letter issue in particular.

Mr Ward: I am Jonathan Ward and, as has been mentioned, I am a member of the Children's Law Committee at the Queensland Law Society and I am also a private practitioner at the South West Brisbane Community Legal Centre. I will address the anniversary letter issue. I will start by speaking broadly about school exclusions. The Education (General Provisions) Act 2006 contains a very complex—some would say confusing—web of mechanisms for exclusion by the principal, the principal's supervisor and the director-general of education. Students can be excluded by multiple parallel mechanisms at the one time and the appeal process is complicated. This matter of the anniversary appeal is an example of the complexity of the process. If a student is excluded permanently the appeal period, or the period in which that student is allowed to appeal, is limited to one month of the year and that starts from the anniversary of the decision. If the student is excluded under multiple mechanisms, these periods may or may not overlap for those multiple mechanisms under which the student was excluded.

The grounds for the exclusion include disobedience, misconduct, conduct prejudicial to the good order and management of the school, unacceptable risk to the safety or wellbeing of other students or the staff of the school or, if the student is over the compulsory school age, their enrolment may be cancelled on the basis of a refusal to participate. There is a large amount of discretion placed with the decision maker in deciding what conduct warrants exclusion. There is a difficulty making these decisions against a consistent standard with complete information. As a result the internal review processes of these decisions are complicated. They require quite complicated submissions, they often take a number of months and they have a large failure rate. According to the director-general's statistics, 19 of the 25 appeals in this area were unsuccessful.

There is a lack of support to young people who are trying to re-engage with schools. Some young people are referred to the Youth Connections Program, which is a Commonwealth funded service to assist young people to re-engage with education, but there is no systemic referral process from schools to someone who can help. This service—Youth Connections—often has a long waiting list.

The director-general noted in her briefing that only 25 young people had attempted to use the anniversary appeal mechanism. This may be for a number of reasons. That critical month each year during which the young person is able to appeal their exclusion decision does not always coincide with a suitable time of the year to re-enrol. It does not always coincide with the young person achieving stability in terms of homelessness, accommodation and other supports. It would not always coincide with having an adult in their life who can assist them with the complex process of writing a submission. The anniversary letters serve as a reminder of the possibility for enrolment, but these other factors may cause the appeal process to be underutilised.

The focus of the legislation should be to make the appeals process more accessible rather than less accessible, so that students who are making the effort to re-engage with school are encouraged to do so. Many children who are excluded are in the care of the department of child safety. The anniversary letters may notify the child safety officer that a young person is eligible to re-engage with school and that may cause them to start processes to explore the best option for the young person, which may or may not be to appeal that original decision. In our submission, the best way to address the lack of the use of this anniversary appeal mechanism would be to broaden the appeal mechanism so that it can be accessed all year round and to simplify the appeal process so that a young person who wishes to re-engage in school is encouraged to do so and also introducing some systemic measures to ensure that young people who are excluded from school can receive support and encouragement from adults when they wish to work towards re-engaging. That would improve the use of these appeal mechanisms. There are a number of models for exclusion processes that may encourage re-engagement with schools and we encourage these models to be investigated.

CHAIR: Thank you for that. I would invite any of our members here if they wish to ask questions.

Mr SYMES: My question is to Mr Glen Cranny. Do you have any suggestions as to how sexual abuse and likely sexual abuse could be better defined?

Mr Cranny: Yes, I have a couple of suggestions in that regard. I do not profess to be an expert draftsman by any stretch, but a couple of things occur to me immediately. One I have already identified, which is the use of an exhaustive definition. I think as soon as you have an inclusive definition the immediate notion is, 'You listed some things that are included. What else is there?' So I think that makes it hard for teachers to interpret. So the nature of the definition is important.

Secondly, I would have thought that it would be easier for teachers to apply and for the law to apply if sexual abuse was viewed in terms of issues of consent or issues of a relationship which a teacher believes might cause serious psychological or physical harm to a child—something like that. They are the sorts of terms that people see more commonly in other legislation. Here, issues such as power imbalances and maturity are very subjective terms and make it very difficult for teachers and ultimately for courts in applying those sorts of definitions.

CHAIR: Thank you for that. I appreciate that.

Mr LATTER: My question is to you, Mr Ward. Thank you for raising your concerns regarding the anniversary letters. As you are aware, the department briefed us a few weeks ago on this issue. They proposed an alternative means of informing young people of their rights, such as advising them at the time of exclusion and putting the information online combined with improved case management of excluded students of their rights to re-engage in education. Subsequently, I think the importance there is particularly centred around extensive case management, which would see a regional caseworker working with these children to re-engage them in education, be that at a state school or a high school education but also alternatively TAFE education if that is an avenue for them. So given that extensive case management of these students, where is the benefit of a continued anniversary letter out to the students? From your perspective, is this going to add value?

Mr Ward: I have not seen any of the case management proposals. They might be internal policy, which I am not aware of. My experience and that of other members of the Children's Law Committee is that excluded students currently are not receiving support. I am not aware of the proposals there.

I think notifying the child of their appeal rights at the time of the exclusion is often of limited success, because that is the time at which the student is facing the instability and the disruptions that have led to the exclusion. In 12 months time their situation might have changed quite a lot. They may be dealing already with the traumatic circumstances that they were going through at that time. I think it is unlikely that that student would retain the information that they received at the time of the exclusion. So by having that reminder the child might be in a position to re-engage after one year. That reminder can start the process of looking for what the best option is. It may not be necessary to use the appeal mechanisms, or it may be, but at least having the reminder each year can remind the student or a carer for the student that those options are available. I do not know the length of time that the department is proposing to undertake casework with the young person and whether that casework will actually be centred on re-engaging them with the particular school or not.

The other thing is that it might be two years down the track, it might be three years down the track when the casework is probably not likely to be continuing, the young person might have tried other educational options, failed at those and then be looking at, 'Okay, what's left. We have got a local school.' They might be in a position to re-enrol there. So I hope that has answered your question—I am not sure.

Mr PUCCI: Mr Cranny, are you aware of any increased numbers of teachers or staff looking for advice on what to report or any increased reporting since the mandatory reporting legislation has come in?

Mr Cranny: I am not, Mr Pucci, no. That is not something that has come across my desk in the course of my practice. I cannot assist you with that. I am not sure what practical impact the recent amendments have so far made.

Mr BOOTHMAN: Mr Ward, in your experience are there more effective ways than anniversary letters for students to learn their rights about issues such as these?

Mr Ward: I think there was an Australian Law Reform Commission report in 1997. It was called *Seen and heard: priority for children in the legal process*—ALRC report No. 84. That discussed a number of alternative exclusion processes. It included a community conferencing model. That is something which youth solicitors see work rather well in relation to youth justice issues and similar principles could apply to an exclusion from school where the student has to answer to the important people in the decision-making process, undertake to do certain things and, on that basis, they might be able to be reintroduced into the school. I believe that that was trialled in Queensland and I believe that there were some successful outcomes, according to that report.

The other option could be to have a panel make the decision, including some community members. Then that could be a way of providing for some case management, which is answerable to a panel. So there is a case planning system where, if the child makes efforts to re-engage and to change their behaviour, then there is a system in process which can recognise those improvements and allow them to be reintroduced into the school. The other thing is that very oftentimes the exclusions are the result of behaviour associated with disabilities and mental health conditions. In that context the anniversary letters may come at a time when the student has changed their medication, their treatment or the therapeutic processes have started to kick in for that young person.

In terms of informing young people of their rights, it is important that someone sits down with them and explains to them the processes. I am not aware of the new arrangements that the department may have for some case management there, but I am aware that, in my experience, very often young people really have no idea at the time that they are excluded. They are often aware of the critical incident but they are not often aware of the underlying reasons for the exclusion and they are often not aware of how they could influence that process and how they could become a part of the decision as to whether or not they should be accepted in the school. So I would certainly think that putting these notices in child-friendly language and having a caseworker who can sit down with them and ask, 'Why have you been excluded? How can this change?' would be very beneficial to young people. That is a role that youth solicitors play but, unfortunately, we are not able to operate over the entire state and we are reliant on people to refer the young person to us before we can provide that assistance.

We have certainly had some success in negotiating with principals at an early stage in the process and often involving other professionals, such as child psychologists, who can then put a plan into place for the young person's behaviour—it might be behaviour associated with a disability—so that that child can be reintroduced into the school.

CHAIR: Thank you for that, Mr Ward. Our time is coming to an end. I sincerely thank you for coming and sharing your views on this bill, because we appreciate that. The committee will deliberate on the advice that you have given us today in preparing our report to the Legislative Assembly. I thank you all very much for your time.

Mr Cranny: Thank you and good morning.

BEVIS, Mr Daniel, Acting Industrial Advocate, Queensland Teachers' Union

MERTENS, Ms Leah, Research Officer/Assistant Secretary, Professional Issues, Queensland Teachers' Union

CHAIR: Please come forward. Good morning to you both and thank you very much for coming here today to share your views on the Education Legislation Amendment Bill. I now welcome representing the Queensland Teachers' Union Leah Mertens, who is the research officer/assistant secretary, professional issues, and Daniel Bevis, who is the acting industrial advocate. Would you like to make a brief opening statement before members of the committee ask questions relating to the submissions that you have provided?

Mr Bevis: Yes, we would like to make a brief opening statement. I will hand over to Leah, who will give a statement surrounding the professional issues.

Ms Mertens: Thank you for the opportunity to allow us to prepare a submission to this hearing. In terms of the submission that we sent into you on 24 September, there have been some developments since that time of which I would like to advise the committee. You have probably heard in the media that the QTU reached an in-principle agreement with the Department of Education, Training and Employment on 29 September regarding a new certified agreement. Within the new certified agreement there is a new draft clause, which, while the new agreement is subject to the usual ballot process, which is going on now, the parties have committed to consult prior to any implementation of initiatives arising from the Australian Institute for Teaching and School Leadership—that is AITSL—agenda, including those matters linked to improving teacher quality.

I have the clause here, if you would like me to read it out, which we have agreed to. The new section in the certified agreement, should it all go ahead, subject to ballot processes, reads—

Part 14—Teacher professionalism: the parties acknowledge their shared interest in and commitment to advancing teacher professional matters.

14.1.2—This shared interest and commitment may continue to be demonstrated through a range of mechanisms, including—

And there is a range of dot points. Induction and introduction to teaching programs is the first dot point. Secondly, professional development and training opportunities; thirdly, professional standards for teachers; fourthly, performance planning, including but not limited to developing performance framework and principles capability and leadership framework; fifthly, performance management processes; and, lastly, joint statements. Then it goes on—

14.1.3—The parties commit to consult prior to any implementation of initiatives arising from the AITSL agenda, including those matters linked to improving teacher quality.

I would like to reiterate that we have agreed that we will be implementing national professional standards. However, prior to doing so we will be consulted by the department and we look forward to working with the department on that development and on that implementation.

Mr Bevis: All our other issues are outlined in the submission presented to the committee. I am happy to answer any questions in relation to those issues raised in the written submission.

CHAIR: Absolutely, thank you both for that. I might start with the first question: in your submission you did express concerns about the children in e-kindy not actually being registered or enrolled in the School of Distance Education. Could you outline further your reasons for believing that e-kindy students should be considered as enrolled in the School of Distance Education?

Mr Bevis: There are issues in relation to staffing numbers. There is an allocated methodology for staffing for schools of distance education that is based on enrolment numbers. Having these students or these kids who are enrolled in the e-kindy program not included in those enrolment figures for the school will affect staffing numbers. The issue with the program, even if it is developed by outside agencies, is the use of facilities within the schools of distance education need to be taken into consideration to some degree in terms of adequately ensuring additional resources are there at the schools of distance education as they need to be.

CHAIR: So you believe this is a different scenario to normal state schools, the e-kindy program as compared to kindergartens within the normal state school? Perhaps I am wrong, but those children are not actually allocated in those figures in a normal state school, are they?

Mr Bevis: No, not in a normal state school. With the schools of distance education, the pilot program has been running at the Brisbane School of Distance Education with the sharing of, I suppose, a limited amount of resources. When we talk normally about a school that has a kindergarten program attached to it, it really is attached to it on the school grounds. With the School of Distance Education, there are not so much school grounds as a building. It is just to take into account and to appreciate the fact that, if some of those facilities in that building are going to be taken up running this program, there needs to be consideration given to how can we add to those resources to ensure that no teachers and no other students are worse off because that limited resource has been taken up running another worthwhile program. Whereas with a general school with a kindy attached to it, generally it is in an old building that they have designated or it is an area on the school grounds that they have designated. There is not the same level of, I suppose, interruption to the resources that the school would have.

CHAIR: Understood, thank you. Are there any other questions? We did note that you did have a very full submission and we certainly appreciate that. No other questions? Do you have any other comments that you would like to make, either Leah or Daniel?

Ms Mertens: Thank you, Mrs Menkens. I would like to reiterate, in the third section in terms of the national professional standards, that we are opposed to the section that states that the approval must be given by the minister in terms of adopting or developing standards. We believe that the QCT is a highly professional organisation that has been established for quite some time now. It is an excellent regulatory body that ensures that the teaching profession remains of a very high standard. We believe that they are fully able to adopt standards and alter them to enhance the existing Queensland professional standards without the need to constantly be running back to the minister for approval. I am not sure if the minister would be fully au fait with the national standards and the Queensland standards, but certainly staff at the QCT are highly educated and involved in and are very au fait with those standards. We do not believe that it is necessary to have that particular section in the amendment.

We believe that the QCT is quite capable of adopting national standards, as they have been working on the Queensland standards and they have, in fact, assisted AITSL to develop the national standards. If you like, Queensland was the flagship. We had our standards in place in 2006 and in 2010 all of the education ministers signed up for the national ones. We are very much leading the way here in Queensland. A lot of that good work is thanks to the Queensland College of Teachers, which has many of our QTU reps on the boards and committees. I would like to leave it there, thank you.

CHAIR: We certainly note that. No other questions?

Mr Bevis: I will finish by saying that I am looking forward to hearing from the government in terms of the detail about how the reduction of anniversary letters or removing anniversary letters will 'enhance support for front-line services', which was part of our written submission. I am looking forward to the government's response to the details about how that will enhance front-line services.

CHAIR: Yes. There has been a response which, because of the timing, we have been unable to publish. I can assure you that it will be published very shortly on the web. That will be available. We are sorry that it was unavailable because of the timing. There has been quite a detailed response where the government has outlined quite a large area that, I think, to a certain extent may answer some of those queries.

Mr Bevis: Thank you.

CHAIR: Thank you very much for that. I thank you for your attendance. Certainly the committee will deliberate on the advice that you have given us today in preparing its report back to the Legislative Assembly. Thank you for your time.

Mr Bevis: Thank you.

Ms Mertens: Thank you.

SLATTERY, Ms Jane, Executive Office Education Programs, Queensland Catholic Education Commission

WILKINSON, Mr Mike, Executive Secretary, Queensland Catholic Education Commission

CHAIR: Our final witnesses today represent the Queensland Catholic Education Commission. They are Ms Jane Slattery, the Executive Office Education Programs, and Mr Mike Wilkinson, the Executive Secretary of the commission. Would you like to make a brief opening statement before members of the committee ask questions relating to the submission you have provided?

Mr Wilkinson: Thank you, Madam Chair. We would like to make an opening statement. The QCEC values the opportunity for its representatives to appear before the committee today. My interest lies chiefly with those sections of the bill that deal with the reporting of likely sexual abuse while my colleague, Jane Slattery, is well positioned to comment on matters related to e-kindy and broader education issues. The QCEC is a peak body at state level for 22 Catholic school employing authorities and, in 2012, 138,000 or almost one in five Queensland students are educated in one of 292 Catholic schools, which employ more than 17,000 teachers and staff.

The main focus of the commission's submission to the committee relates to the section of the Education Legislation Amendment Bill that deals with the reporting of likely sexual abuse. This submission was prompted by the fact that the QCEC regards sexual abuse as abhorrent and contrary to everything that the Catholic Church and its schools stand for. The concerns expressed in our response do not question the need for rigorous legislation in the area of child protection, but seek to comment on practical issues that have the potential to produce some unintended consequences.

We would like to draw to the attention of the committee the fact that Catholic schools, like all non-government schools in Queensland, are subject to the stringent requirements of more than one piece of legislation. This includes the Education (Accreditation of Non-State Schools) Act and the Education (Accreditation of Non-State Schools) Regulation, which require non-state schools to have processes in place to ensure that all harm to students, including sexual abuse by employees and others outside the school community, are reported to police and Child Safety. Those provisions do go a little beyond those required of state schools in Queensland. While the QCEC supports the legislation contained in the bill, there are still some concerns regarding the requirement to report the likelihood of sexual abuse that is yet to occur. We note that the training of staff will be a challenge, as will the processes required of staff to be clear about the grounds on which they will make a decision to report. In our submission, we have requested that the parliament offers some guidance to school-employing authorities, either through a statement in the House or provision in the ensuing regulation, that will support the intention of the bill that employers are to take disciplinary action when a staff member fails to report likely sexual abuse.

QCEC is very supportive of the move for the national professional standards for teachers to be adopted by the Queensland College of Teachers. The QCEC is also supportive of the e-kindy initiative which will not fall under the responsibility of Catholic education in Queensland but does have the potential to serve those families in remote areas who might otherwise have chosen a kindergarten operated by a Catholic authority. We welcome the opportunity to respond to questions from members of the committee.

CHAIR: Thank you.

Mr PUCCI: I was curious as to why you would feel that staff of distance education would have greater difficulty than other school staff in knowing when to report likely future sexual abuse.

Mr Wilkinson: The reporting of likely sexual abuse in most instances comes down to what we call the observance of grooming behaviour. No abuse has occurred but you are looking for the telltale signs that might indicate that it will occur in future. That is hard enough in a face-to-face situation. If you are in an electronic medium—as you would be with e-kindy—the task is just that much harder. We have been trying to run some scenarios to see where this would be likely to occur. Is it somebody who is passing in the background as the camera might be focused on a child? Is it something that the child might reveal in the course of an e-kindy session? Those sorts of things are difficult enough when you are face to face. The electronic medium just makes it a little harder.

Mr PUCCI: Just to follow-up. What do you believe should be included in the guidance material for these teachers to assist them in knowing when to report something?

Mr Wilkinson: Very good training. The training is around. We have a number of international experts in Australia who are very busy. One who comes to mind to be Freda Briggs from South Australia. She is now retired from university life, but she is still working with schools and school authorities as a consultant to assist teachers to understand what they need to look for in terms of the behaviour of children and, for that matter, the behaviour of adults who could be perpetrators.

Mr BOOTHMAN: Do you have any views on the consultation process for developing the national professional standards for teachers? I have actually noticed there is no response to that.

Ms Slattery: Can you just restate the question.

Mr BOOTHMAN: Do you have any views about the consultation process for the development of national professional standards for teachers?

Ms Slattery: QCEC has been involved in that consultation on an ongoing basis providing feedback on them. So I do not think we have any problem with the consultation process and we fully endorse them as they stand.

Mr SYMES: What do Catholic schools do in relation to advising students who are excluded about their rights of review?

Mr Wilkinson: With 22 authorities it is very difficult to respond for each one of them. Generally speaking our schools take a very pastoral approach to the whole business of behaviour management. There would be many, many processes in place to inform parents, children and young people of what is involved in terms of unacceptable behaviour, and what the consequences are of that, leading all the way through to exclusion.

I have been out of schools for a long time now, but I can recall one of our Catholic principals in the Ipswich area who would go to extraordinary lengths to manage that process, even down to the point of taking the person who obviously did not have a place in his school to a number of schools in the area to discuss what would be the best move for them. That is the sort of approach we take. Ours is more of a pastoral approach rather than a legalistic one. I suppose we resort to the law as a last resort. It is pretty serious when we have to do that in our context.

Mr SYMES: Are there set guidelines that the QCEC outlines to all schools that fall under their umbrella?

Mr Wilkinson: No. The relationship of the QCEC to its 22 authorities is interesting. The simplest way of putting it is that we do not have authority over any schools. Our role is to support and assist those 22 authorities that do have jurisdiction in whatever ways they invite us to support, usually. They have not invited us to engage in that particular area and we believe that they are doing the job pretty well.

CHAIR: I note in relation to the mandatory reporting amendment you recommended that when the minister moves the second reading of the bill that there be specific mention of how failure to report is intended to be dealt with. Why do you think it is important that the message be sent very clearly about disciplinary action rather than criminal charges? Is there a perception out there that criminal charges apply and is that perception affecting reporting behaviour? Would you have any comments on that?

Mr Wilkinson: It is a bit of a challenge when we are training teachers for them to understand that in this matter which is mandatory it is a criminal offence and in this matter which is, and we are going to use the word, compulsory it is not a criminal offence—if you fail to report likely sexual abuse. The real problem comes for the principal of the school or the employing authority. How do I discipline this particular teacher? Is it a sacking offence—that is the extreme? Is it a slap over the wrist? Just how do I deal with this? Public perception will be a part of it. I suppose it is all very well to have the freedom to make those decisions about how the disciplinary action should be taken but it would be useful to have some guidance. I suppose we are looking at the worst case scenario where a teacher is terminated and decides to take legal action on that. When that comes up it is going to be very difficult for the employer unless there is some sort of guidance through the parliament or at least through the regulation.

CHAIR: Thank you, Mr Wilkinson, I take note of those comments.

Mr Wilkinson: I would just like to add a comment about the comments made by the Law Society around the definition of sexual abuse. We are fairly supportive of those remarks. In the discussions leading up to the Education and Training Legislation Amendment Act we argued strongly for a definition, but for a different reason. In fact, we were getting a negative reaction to our argument from the legal fraternity that was saying that we do not really need a definition at all because it makes the legal process complicated in the courts. I did not fully understand that. However, our argument was that when we are training teachers in this very important matter of recognising circumstances of sexual abuse, we need some sort of benchmark. That definition as it stands is useful. I suppose it could be more useful if it was an exhaustive definition, as the Law Society was recommending. But, at this stage, we are satisfied with the definition as it is.

CHAIR: Thank you for that. I appreciate that comment particularly.

Mrs SCOTT: When you have the high end, the more serious, situations then it is elevated to a higher level within the Catholic education hierarchy. But within the schools themselves do they all have a uniform way of dealing the lower end, such as when you have relationships with students and so on, or is that at the discretion of the principal and maybe the various student counsellors and so on within the schools?

Mr Wilkinson: We are talking about reporting sexual abuse and harm?

Mrs SCOTT: Yes.

Mr Wilkinson: We have an extremely comprehensive resource. Can I come at it this way. The non-state schools accreditation act requires that we have written procedures for student protection in each and every one of our non-state schools including Catholic schools. Those written procedures are very detailed legal documents. Since the ETLA we have revamped that. We have revamped our training materials around that as well. We do have generic training resources issued by QCEC. The written procedures are the ultimate responsibility of each of those 22 authorities. For at least two of the authorities I have viewed those written procedures and they are extremely detailed. They go all the way from the higher end of sexual abuse down to reporting self-harm.

Mrs SCOTT: So right through. Good.

Mr Wilkinson: I can say that on 22 November we are meeting with some of our religious institute school authorities to ensure that they are on the same page—that they are doing what is required. That is not a thing that we can demand of them. It is a service we are offering them so that when the board calls in their documents at times of changes in accreditation, those documents will pass muster.

Mrs SCOTT: I am familiar with a couple of Catholic high schools and I imagine within the pastoral care team and so on you probably practice early intervention and guidance to students?

Mr Wilkinson: Yes, very much so. The earlier the better.

Mrs SCOTT: Well done.

CHAIR: Thank you so much. I think that seems to have drawn it to an end. Could I thank you most sincerely for coming here today and sharing your views on this bill. The committee will deliberate on the advice you have given us today in preparing our report back to the Legislative Assembly.

I thank everyone for their attendance at today's public hearing. I believe the committee has gathered some very valuable information that will assist in the inquiry. I would like to formally place on record the committee's appreciation of the assistance of all those involved in the inquiry. I declare the hearing closed.

Committee adjourned at 10.38 am