



January 2019

Health and Other Legislation Amendment Bill 2018

Submission



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The Local Government Association of Queensland

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland and is the collective voice of local government on a range of issues. The LGAQ has been advising, supporting and representing local councils since 1896 allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Scope of Response

The LGAQ appreciates the opportunity to provide comment on the Health and Other Legislation Amendment Bill 2018 (the Bill).

The LGAQ was contacted by Queensland Health on 5 October 2018 regarding this legislation and given approximately a week to provide feedback. As such, there was no time provided to consult with our membership prior to the Bill's introduction on 13 November 2018. However, the LGAQ did seek feedback from Bundaberg Regional Council after comments were provided to Queensland Health.

We appreciate that there is a short timeframe for comments, but must also highlight that rushed policy is not in line with the Partners in Government Agreement between the Queensland Government and local governments (<https://www.dlgrma.qld.gov.au/resources-ilgp/laws-policies/partners-in-government-agreement.html>). Specifically, the Queensland Government agreed to:

“Undertake timely and meaningful engagement on all policy, legislation, strategy and program initiatives where local government has an interest, with where practicable, a minimum consultation period of four weeks to allow the LGAQ to engage meaningfully with its members.”

We do not agree that this policy is exempt from practicable considerations and note that Queensland Health has not provided timely and meaningful engagement in this instance. The local governments that we represent may be aware of other ramifications of the proposed changes, and we strongly suggest that thorough consultation on these changes occurs.

Summary and Recommendations

The LGAQ is providing comments on Part 6 – Amendment of Health Act 1937 – the insertion of Chapter 7A Pollution events. Although this submission does not address the other sections of the Bill – the absence of comments does not imply support or concern about those sections.

In summary:

- Allowing polluters to control public health messaging for pollution events in Queensland could result in the spread of inaccurate or delayed information. This is particularly concerning in a digital age where social media can quickly amplify misinformation if mishandled – with significant consequences.
- As a partner in ensuring community public health in Queensland under the *Health Act 1937* – local government is the only party in a position to fully understand the public impact of pollution events across community areas like tourism – business – land values and safety. Local government must be recognised and consulted during any direction or publishing of a pollution notice.
- External communication about pollution events must be facilitated by trained public health professionals – and there needs to be greater consistency in the process for managing communication processes.

Concern about polluters controlling public messaging

The LGAQ acknowledges that there is a legitimate concern about the potential for pollution events to impact public health – and that these regularly occur in Queensland. There are many examples of pollution events – the most recent being the attention and concern about PFAS (per- and poly-fluoroalkyl substances) resulting from the use of certain fire-fighting foams. We recognise that timely and appropriate public notification of significant pollution to reduce human exposure to the hazards is essential to managing public health impacts.

Notwithstanding – in the opinion of LGAQ – section 313E of the Bill abdicates public health responsibilities to those who are creating public health risk. By placing the responsibility to notify the public with the polluter rather than public health professionals – there is no guarantee that messaging will be appropriate – sufficient – or timely. Further – polluters are not appropriately skilled to correctly report on public health risk – and we believe they are more likely to minimize the messaging and reporting of the risk to the public.

The LGAQ questions why there is a need for additional powers to be given to Queensland Health's Chief Executive to compel polluters to notify the public about pollution. Historically – Queensland Health's use of media – such as issuing a media statement – have been more than enough to draw the public's attention to areas of concern. In fact – Queensland Health's reputation and role as the protector of public health in Queensland is such that any communications or advice are highly regarded. There is no reason to believe that communications about a pollution event would be viewed differently now or in the future.

Recommendation: The LGAQ suggest that external communications (i.e. by Queensland Health) about pollution events should be facilitated by public health professionals not polluters to ensure that the public is appropriately informed about the health risks.

Absence of local government in seeking advice or messaging

The LGAQ acknowledges the value of expertise of public service officers in providing advice to the Queensland Government. Indeed the LGAQ is pleased to see that the chief executive must consult with public service officers about the contamination event before taking further action (section 313G). However we are concerned that this advice may not fully consider the potential impacts of decisions made by the Queensland Government.

Whilst the advice may be technically sound it may not consider the practical impacts on communities that must respond to directives and notifications. For example notifying the public about pollution events is likely to impact tourism businesses land values and several other aspects of a community. Thus advice must not be confined to a singular point of expertise and should include consideration for the very real impacts on the community affected.

Thus the absence of local government who are jointly responsible for public health under the Health Act 1937 is unacceptable. The opinion of the LGAQ is that there are no conceivable circumstances in which leaders of local communities should not be involved in the process of notifying their communities about public health risks particularly given their roles to:

- a. manage the local disaster management committee
- b. be part of the response and offer the quickest support ensuring the risks are managed
- c. be informed about the impact (e.g. location of vulnerable populations relevant businesses etc.)
- d. support community messaging

Recommendation: To this end, the LGAQ strongly suggests that the local government where the pollution event occurs must also be consulted by the Chief Executive prior to the giving of a direction or publishing a pollution notice.

Scale of pollution event

The current bill provides no consideration for the size or scale of pollution events meaning that any level of pollution or contamination will be in scope. Given the broad definition of pollution and contamination there is no clarity regarding whether Queensland Health intends to pursue all or only significant events though we assume the latter.

We must not underestimate the impact of false alarms when it comes to pollution events. Despite the need to notify the public promptly the consequences of misinformation are significant and not easily recalled. Public health is of such critical importance that there must be a strong process for ensuring that the risks are real. The ease in which social media can

spread misinformation should not be exaggerated by a process in which the speed of notification supplants rational evaluation of the risk.

Recommendation: The LGAQ recommends including a pollution or contamination threshold to confine the notification to significant events to avoid unnecessary alarm in areas affected by small scale or adequately managed pollution events.

Duplication of existing legislation

The proposed legislation is unclear about how these powers relate to existing powers of both Queensland Health and other relevant Queensland Government departments such as the Department of Environment and Science.

For example there is already a requirement under the Environmental Protection Act 1994 section 320C for a person to notify the administering authority affected land owners and the public about pollution events. Another example is Part 5 of the Public Health Act 2005 that identifies environmental health events which could potentially be expanded to include notification provisions. Yet another example is the existing incident reporting requirements for water service providers under the Water Supply (Safety and Reliability) Act 2008 which should also be considered regarding a pollution event.

Recommendation: The preference of LGAQ is to modify existing powers to rectify deficiencies rather to create new potentially duplicate powers.

Consideration in disasters

Like the previous concern about other existing legislation the Bill does not acknowledge how these provisions will operate in the context of a declared disaster. There are particular reporting requirements during a disaster as per the Disaster Management Act 2003 and relevant regulations and guidelines. Should a contamination and pollution event occur during a disaster this will be an additional legislative consideration that may complicate or potentially delay that process.

Recommendation: Efforts to ensure consistent messaging during disasters should be maintained, and a reference to this end should be considered in this Bill.

Contact

Should further information on any aspect of the LGAQ's response be required please do not hesitate to contact Mr Arron Hieatt Lead Water and Sewerage Infrastructure on [REDACTED] or [REDACTED]