



15 September 2011

The Research Director  
Industry, Education, Training and Industrial Relations Committee  
Parliament House, George Street  
BRISBANE QLD 4000

By post and email: [ietir@parliament.qld.gov.au](mailto:ietir@parliament.qld.gov.au)

Dear Research Director

**QUEENSLAND CATHOLIC EDUCATION COMMISSION (QCEC)  
RESPONSE TO THE EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL 2011**

We refer to the letter from Mr Kerry Shine MP dated 12 August 2011. The Queensland Catholic Education Commission (QCEC) is grateful for the opportunity to provide comment and some recommendations on the *Education and Training Legislation Amendment Bill 2011* (ETLA 2011).

QCEC is the peak body at state level for twenty-three Catholic school employing authorities with 135 000 students and 16 000 employees.

The response which follows focuses on the amendments to the *Education (General Provisions) Act 2006* and the *Education (Queensland College of Teachers) Act 2005*.

The QCEC response represents the views of the Commission which have been informed by extensive consultation and advice from the QCEC Student Protection Subcommittee, the members of which are senior practitioners from the Catholic school authorities who have a very close working knowledge of the implementation of current legislative requirements in Catholic schools. Formal legal opinion also informs this response.

QCEC wishes to preface this response by stating that Catholic school authorities are fully committed to ensuring the safety of children and young people in Catholic schools in Queensland. This means that Catholic school authorities are also committed to being fully compliant with all legislative requirements. In particular, by complying with the accreditation requirements under the *Education (Non-State Schools Accreditation) Act 2001*

Queensland Catholic Education Commission



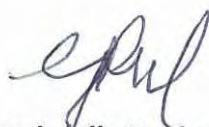
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and the Education (Non-State Schools Accreditation) Regulation 2001, Catholic schools in Queensland, with other non-state school authorities, have extensive accountabilities which go beyond those of the state school sector.

The concerns expressed in this response do not question the need for rigorous legislation in the area of child protection but seek to address a range of practical issues which have the potential to produce some unintended consequences should the *Education and Training Legislation Amendment Bill 2011* be enacted in its present form. These consequences may be counterproductive to the intention of the Bill and a source of harm to persons who are innocent of any wrongdoing.

Should the committee require oral input to support or clarify matters raised in this response, QCEC would be pleased to arrange for representatives to address the committee at its convenience.

I commend the following response to the Committee.



**Gabrielle Power West**  
Acting Executive Director

**Queensland Catholic Education Commission (QCEC) Submission  
to  
The Industry, Education, Training and Industrial Relations  
Committee  
of  
The Parliament of Queensland**

***Education and Training Legislation Amendment Bill 2011***



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## **1. Amendments relating to the *Education (Queensland College of Teachers) Act 2005***

### **Amendments to:**

- (i) provide for the automatic cancellation of teacher registration or permission to teach where a person is convicted, after commencement Education and Training Legislation Amendment Bill 2011  
Page 2 of part 4 of the Bill, of a serious offence, irrespective of whether the person is sentenced to imprisonment;**
- (ii) permanently prevent a person, including a former teacher whose registration has lapsed, from applying for teacher registration or permission to teach if they are convicted of a serious offence after commencement of part 4 of the Bill;**
- (iii) enable a person who is prohibited from applying for registration or permission to teach to seek, in limited circumstances, an eligibility declaration, which if granted, will enable the person to then make a separate application to the Queensland College of Teachers (QCT) to apply for registration or permission to teach; and**
- (iv) enable the Queensland Civil and Administrative Tribunal (QCAT) to make disciplinary orders to prohibit a person from applying for registration or permission to teach for a stated period of time or for life.**

### **QCEC Advice to the Committee:**

QCEC gives unqualified support for the amendments as proposed.

## 2. Amendments relating to the *Education (General Provisions) Act 2006* [EGPA]

- (a) Amendments to extend the mandatory requirements regarding the reporting of sexual abuse to include reporting where a staff member becomes aware, or reasonably suspects a student (who is a child or a student with a disability) has been sexually abused by any person, or reasonably suspects a student is likely to be sexually abused by any person.

### QCEC Advice to the Committee:

QCEC is supportive of the intentions of the amendments proposed but wishes to make the following comments:

1. The QUT report which instigated action to amend the legislation talks of the mandatory obligation to report abuse being imposed on “teachers”. The report refers to the unique position occupied by teachers in that they have “frequent and close relationships with children, and possess expertise in monitoring changes in children’s behaviour. Accordingly, teachers are seen as being well-placed to detect and report suspected child sexual abuse.” (Page 26: *Teachers Reporting Child Sexual Abuse: Towards Evidence-based Reform of Law, Policy & Practice* November 2009, Matthews, Walsh, Butler & Farrell).

The proposed legislative change places a mandatory obligation on “a staff member” which would include cleaners, groundsmen, tuckshop convenors, school officers etc. (It is unclear if volunteers are also included as the term ‘staff member’ is not defined.) People in these positions have not had the same training or opportunity to develop “expertise in monitoring changes in children’s behaviour” and yet it is proposed to place the same obligation on them to make reports.

While it is recognised that the current s.366 imposes a mandatory obligation on all “staff members” to report sexual abuse of a student by an “employee of the school”, the mandatory obligation to report “sexual abuse by another person” is a much higher and broader obligation and will present many staff training challenges. It is noted that, in the medical profession, the mandatory obligation is placed on the professionals, namely doctors and registered nurses. The obligation is not placed on the medical reception staff or other hospital staff.

2. The absence of a definition of “sexual abuse” from the proposed legislation will present many challenges, and in our view creates a level of uncertainty which is dangerous and unacceptable for school staff. It is unclear when “sexual behaviour” becomes “sexual abuse”. Our experience is that people from different generations see this distinction very differently.

It is unclear to the Commission whether it is intended to capture:

- sexual relationships between “consenting” 15 year old students?
- the practice of “sexting” (in which a large percentage of the teenage student population are engaged)?
- sexual behaviour displayed by young students of the same or very similar age towards each other?

If so, has there been consultation with the Queensland Police Service (QPS) about this matter given the significant increase in the number of mandatory reports that will need to be made to QPS?

In unofficial discussions with Catholic education officers, individual officers at fairly senior levels of QPS have expressed general support for the ETLA Bill but they have also made it clear that the number of mandatory reports is a concern for them. They have also expressed concern about the way in which school staff will arrive at a decision to report “the likelihood of sexual abuse occurring in the future”; how QPS officers would investigate such a report; and the residual damage to the character of the subject of an allegation if the allegation proves groundless. The process for establishing the grounds on which to form a “reasonable suspicion” is also a matter for serious concern. It seems obvious that a QPS investigation of an allegation would not proceed on the basis of an intuitive judgement or a “feeling” but the investigating officers would need to first establish the grounds for the “reasonable suspicion”. In turn, school staff making a report would need to be trained in the process for establishing the grounds on which to form a “reasonable suspicion”. QCEC would firmly recommend that these issues be taken up in some detail with the Queensland Police Service.

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It is suggested that it would be helpful to consider a definition of “sexual abuse” such as that provided on the Queensland Department of Communities Child Safety

Website: viz

What is child sexual abuse?

Child sexual abuse occurs when an adult, more powerful child or adolescent uses his or her power to involve a child in sexual activity.

Sexual abuse can be physical, verbal or emotional and can include:

- kissing or holding a child in a sexual manner
- 'flashing' or exposing a sexual body part to a child
- making obscene phone calls or remarks to a child or young person
- sending obscene emails or text messages to a child or young person
- fondling a child or young person's body in a sexual manner
- persistent intrusion of a child's privacy
- penetration of the vagina or anus either by the penis, finger or any other object
- oral sex
- rape
- incest
- showing pornographic films, magazines or photographs to a child
- having a child pose or perform in a sexual manner
- forcing a child to watch a sexual act
- child prostitution

The key feature of the definition above is the reference to 'an imbalance of power' between those engaged in sexual activity.

It is noted that the QUT report which instigated these proposed amendments at page 22 in the glossary also contains a definition of child sexual abuse which refers to there being an “imbalance of power in the relationship” which may arise as a result of various factors including “age, or physical, psychological or intellectual superiority.”

QCEC is keenly aware that some legal practitioners take a different view from the one expressed above and argue that the lack of definition allows for greater

flexibility and ‘freedom to report’ when establishing the grounds for forming a suspicion or knowledge that sexual abuse has occurred or is likely to occur in the future.

QCEC contends that the sharply contrasting views around the need for a definition arises from the context in which a definition or lack thereof might be applied. It is the belief of QCEC that the absence of a definition best serves the prosecution in a court of law by minimising the chance of a guilty defendant being acquitted on a technicality. Educational practitioners need a clear definition to ensure that staff might be trained to accurately observe and assess behaviour to establish grounds for a possible report. The court deals with harm after the event. Educators seek to prevent harm from occurring or reoccurring.

Therefore, QCEC is strongly advocating for the inclusion of a definition of “sexual abuse” from the perspective of all school authorities (state and non-state) who will need to train staff so that they can manage risk in schools and comply with the reporting procedures required by the legislation. The level of uncertainty created by a lack of definition is dangerous and unacceptable for school staff because:

- (a) it is likely to delay / neglect reporting when actual harm has occurred or is likely to occur in the future;
- (b) it may lead to an increase in unnecessary reporting which has the potential to delay the investigation by QPS and other agencies because of increased caseloads; and
- (c) it may lead to an increase in reporting of unsustainable allegations, whether made in good faith or through some other motive and the cause of (sometimes irretrievable) damage to the reputations of innocent persons who are accused.



- (b) Amendments to allow directors of non-state school governing bodies to delegate their function to make and receive reports about sexual abuse under the EGPA.

**QCEC Advice to the Committee:**

QCEC welcomes the amendments proposed because they accurately reflect earlier discussions between QCEC representatives and DET officers based on strong representations from Catholic Education Archdiocese of Brisbane and QCEC seeking amendments to the current legislation.

The current provision is administratively difficult for some Catholic school authorities. The best example is the procedure which *Catholic Education Archdiocese of Brisbane* is obliged to implement. The governing body for schools within the authority of *Catholic Education Archdiocese of Brisbane* is the *Corporation of the Roman Catholic Archdiocese of Brisbane* which has a single person as director – the Catholic Archbishop of Brisbane.

In the situation where a report needs to be made to ‘the director of the school’s governing body’ such a report may be delayed if it is sent to the Archbishop because he may be difficult to contact because he is frequently away from his office and his office is lightly staffed.

The amendments in the Bill, if passed, will make it possible for the Archbishop to delegate this function to the Executive Director *Catholic Education Archdiocese of Brisbane* while still maintaining his ultimate responsibility for making reports.

It is noted that there will be a necessary flow-on effect to some compliance requirements for schools’ governing bodies as set out in the *Education (Accreditation of Non-State Schools) Act 2001*.

It is also noted that QCEC’s understanding of the amendments allowing a director / directors of a school’s governing body to *delegate their function to make and receive reports about sexual abuse under the EGPA* is that the delegation to ‘an appropriately qualified individual’ would be to a person in a governance position comparable to that of ‘director’ and, desirably, not part of the staff of a school, particularly the principal of the school.

QCEC understands that this view has been raised by other authorities.

- (c) **Amendments contained in Clause 11 (Sec 366) *Education and Training Legislation Amendment Bill 2011* - to promote timely reporting by requiring principals to report allegations of sexual abuse or a likelihood of sexual abuse directly to the police.**

### **QCEC Advice to the Committee:**

#### The Broad Concerns

The ETLA Bill proposes a further significant amendment which again arose out of a recommendation contained in the QUT report cited above.

This was the recommendation that *"The Queensland legislation should be amended to also require reports of suspected risk of sexual abuse that has not yet occurred."*

QCEC acknowledges the Government's desire to introduce such an amendment which would demonstrate the Government's commitment to rigorous procedures regarding the detection of sexual abuse. QCEC is very concerned however that despite the absence of a penalty for failing to comply with this proposed provision, the complexities around implementing such a legislative requirement leave the way open for a number of unintended consequences.

This position is not without foundation because, in discussions between QCEC representatives, Department of Education and Training (DET) officers and other stakeholders in 2010, there was initial, unanimous agreement by all parties that this recommendation should not go forward into legislation. QCEC is unsure why such a clear position of all stakeholders has been set aside.

Part of the justification for the QCEC position was the fact that the QUT report praised the existence of policy and procedure within the Catholic schooling sector and noted that it appeared to be effective in proactively creating safe schools and reactively dealing with reporting of incidents of harm and abuse currently not covered by legislation.

The presence of these policies and procedures in non-state schools is required both as a result of the requirement of the Commission for Children, Young People and Child Guardian that all schools have a risk management policy and strategy, and further the requirement on non-state schools under Regulation 10 of the *Education (Accreditation of Non-State Schools) Regulations*.

Therefore, QCEC suggests that another option to deal with this significant and important issue of *suspected risk of sexual abuse that has not yet occurred* would be to require schools and school authorities to ensure that their existing policy and procedures address the issue of grooming behaviour rather than introducing a mandatory reporting responsibility in legislation.

In discussions leading up to the introduction of the ETLA Bill, QCEC has raised concerns that the draft amending legislation appears to be driven by a need to achieve greater consistency with the level of reporting in other states.

In fact, to impose upon every "staff member" of non-state schools across Queensland the statutory obligation to report actual, suspected or likely sexual abuse is in our view unreasonably demanding. It is also inconsistent with:

- (a) the position adopted in many other States and Territories in Australia;
  - (b) the position in other professions where mandated reporting exists.
- Queensland Catholic Education Commission

The following summarises the situation across Australia with respect to the mandatory reporting of child sexual abuse in schools.

| State or Territory | Mandatory reporting legislation                           | Relevant provision  | Who is a mandated notifier?   |
|--------------------|---|---|---|
| New South Wales    | Children and Young Persons (Care and Protection) Act 1998 | Section 27(1)(a)<br><i>"... a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children..."</i>   | Teachers and other persons in <u>paid</u> employment delivering education services to children<br><br><u>Scope – not as wide as current and proposed position in Queensland</u> |
| Victoria           | Children, Youth and Families Act 2005                     | Section 182<br><i>Who is a mandatory reporter?</i><br><i>(1) The following persons are mandatory reporters for the purposes of this Act-</i><br>...<br><i>(c) a person who is registered as a teacher under the Education and Training Reform Act 2006 or has been granted permission to teach under that Act;</i><br><i>(d) the principal of a Government school or a non-Government school within the meaning of the Education and Training Reform Act 2006;</i><br>...<br><i>(g) on and from the relevant date, a person with a post-secondary qualification in youth, social or welfare work who works in the health, education or community or welfare services field and who is not referred to in paragraph (h);</i> | Registered teachers, principals or persons with post secondary qualifications in education<br><br><u>Scope – not as wide as current and proposed position in Queensland</u>     |

| State or Territory | Mandatory reporting legislation                     | Relevant provision   | Who is a mandated notifier?   |
|--------------------|---|--|---|
| South Australia    | Children's Protection Act 1993                      | Section 11(2)<br><i>This section applies to the following persons:</i><br>...<br>(h) <i>a teacher in an educational institution (including a kindergarten);</i><br>...<br>(j) <i>any other person who is an employee of, or volunteer in, a government or non-government organisation that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children, being a person who -</i><br>(i) <i>is engaged in the actual delivery of those services to children; or</i><br>(ii) <i>holds a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of, the provision of those services to children.</i> | Teachers, persons in school management and other persons (including volunteers) engaged in the actual delivery of education to children<br><br><b><u>Scope – not as wide as current and proposed position in Queensland</u></b> |
| Western Australia  | Children and Community Services Act 2004            | Section 124B<br>(1) <i>A person who –</i><br>(a) <i>is a doctor, nurse, midwife, police officer or teacher...</i>  | Teacher<br><br><b><u>Scope – not as wide as current and proposed position in Queensland</u></b>   |
| Tasmania           | Children, Young Persons and Their Families Act 1997 | Section 14(a)<br><i>"prescribed person" means –</i><br>...<br>(h) <i>a principal and a teacher in any educational institution (including a kindergarten); and</i><br>(k) <i>any other person who is employed or engaged as an employee for, of or in, or who is a volunteer in –</i><br>(i) <i>a Government Agency that provides health, welfare, education, child care or residential services wholly or partly for children; and</i><br>(ii) <i>an organisation that receives any funding from</i>   | A principal, teacher and any other person (including volunteers)<br><br><b><u>Scope - similar to Queensland although specifically includes volunteers</u></b>   |

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|  |  | the Crown for the provision of such services... |  |
|--|--|---|--|

| State or Territory | Mandatory reporting legislation          | Relevant provision   | Who is a mandated notifier?  |
|--------------------|--|--|--|
| Northern Territory | Care and Protection of Children Act 2007 | <p>Section 26</p> <p>(1) <i>A person is guilty of an offence if the person:</i></p> <p>(a) <i>believes, on reasonable grounds, any of the following:</i></p> <p>(i) <i>a child has suffered or is likely to suffer harm or exploitation;</i></p> <p>(ii) <i>a child aged less than 14 years has been or is likely to be a victim of a sexual offence;</i></p> <p>(iii) <i>a child has been or is likely to be a victim of an offence against section 128 of the Criminal Code;</i></p>                 | <p>Any person with reasonable grounds</p> <p><b><u>Scope – wider than current and proposed position in Queensland</u></b></p>  |
| ACT                | Children and Young People Act 2008       | <p>Section 356</p> <p><i>"mandated reporter"—each of the following people is a mandated reporter:</i></p> <p>...</p> <p>(f) <i>a teacher at a school;</i></p> <p>...</p> <p>(i) <i>a person employed to counsel children or young people at a school;</i></p> <p>(o) <i>a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.</i></p> <p><i>[T &amp; M note: there is no</i></p> | <p>Teacher, school counsellor, teacher's assistant or aide if paid employees</p> <p><b><u>Scope – not as wide as current and proposed position in Queensland</u></b></p> |

|  |  |   |  |
|--|--|---|--|
|  |  | <p><i>prescribed regulation]</i></p> <p><i>"teacher", at a school, includes a teacher's assistant or aide if the assistant or aide is in paid employment at the school.</i></p> |  |
|--|--|---|--|

In addition, members of QCEC have noted from their contact with interstate colleagues that the implementation of extended *mandatory reporting by staff* in other states has given rise to serious concerns about unintended negative consequences which are affecting the future wellbeing of some students, the morale of staff and greatly increased case loads for agencies receiving reports because of over-reporting and the increased incidence of false allegations.

In particular, QCEC strongly believes that the practice of implementing a requirement for *reports of suspected risk of sexual abuse that has not yet occurred* should be carefully researched before proceeding to enact the ETLA Bill.

Once again QCEC strongly recommends that the possibility of legislation requiring the development of policy and procedures similar to the requirement for non-state schools under Section 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001*, rather than a mandatory reporting responsibility in legislation, is an option worth exploring and this could be one focus of the research we propose.

### **Specific Concerns**

In relation to the processes of mandatory reporting by staff of likelihood of sexual abuse of a student under 18 years at a non-state school, QCEC believes that the Committee needs to look carefully at some of the possible specific consequences of introducing legislation to achieve such reporting. The attached document gives examples of scenarios that schools face on a regular basis (all taken from actual cases) and summarises the concerns that arise from a consideration of these practical examples.

## QCEC Submission

### *Education and Training Legislation Amendment Bill 2011*

#### **Attachment:**

#### **Specific issues in relation to the proposed amendments to s.366 and the proposed new s.366A, based on practical examples**

The reporting of likelihood of sexual abuse (s.366A) may arise when staff in schools becomes aware of situations which could be deemed to be indicators of the likelihood of sexual abuse happening in the future. Such situations can emerge from many sources: They include:

1. Student likely to be sexually abused by an employee of the organisation
2. Student likely to be sexually abused by someone outside the school i.e. from within the student's family or someone in the community
3. Student likely to be sexually abused by another student
4. Students' self-harming or sexualised behaviours could be indicators of an increased likelihood of being sexual abused in the future.

#### **Example Scenarios (based on actual cases)**

Committee members may like to consider if the following scenarios would require a mandatory report of sexual abuse of a student or the likelihood of a student being sexually abused in the future.

#### **Source 1. Likelihood of sexual abuse of a student by school staff**

1. Staff member is alleged to have made sexually explicit comments to a group of male adolescent students and they reported feeling uncomfortable. This discussion centred around comments about masturbation, erections and comments about students' physiques.

***Comment:** While this behaviour is clearly inappropriate, oversteps professional boundaries and requires a serious disciplinary response from the employer - is there enough information to justifiably suspect that sexual abuse of these boys or other students by this staff member is likely to happen in the future?*

2. Over a long period of time there have been various concerns that a teacher was blurring professional boundaries: For example:
  - He was alleged to be spending time at lunch break with younger primary students instead of being in the staff room with colleagues.
  - He had a 'special' group of students he spent time with.
  - At times it seemed he focussed on one particular student and her family and visited the family home often.

***Comment:** These incidents could arise over a number of years and it can take some time to identify any pattern. At what time and where along the continuum of these behaviours would it be expected that a mandatory report be made of a suspicion that sexual abuse is likely to happen in the future?*

3. Three male students in year 5 complained that their very experienced female teacher (aged 53) was rubbing them on their backs and shoulders and tapping them on the bottom to move them into the classrooms.

**Comment:** *What kind of touching would be assessed as sexual abuse that is likely to happen in the future?*

4. A male teacher was seen by a Year 11 student to pinch the top of another Year 11 female student's thigh on the outside of her clothes.

**Comment:** *From this information would it be reasonably suspected that this student has been or is likely to be sexually abused by the teacher?*

### **Source 2. Likely sexual abuse of a student from a person outside school.**

1. A fourteen year old male student who in the context of discussing other family issues with the guidance counsellor commented that he had a great relationship with his ballroom dance teacher:
  - The boy reported that he was contemplating going to live with his dance teacher because of conflict with his mother.
  - He said he really liked this dance teacher because he was approachable, easy to talk to, interested in helping him, and helped him talk through strategies to manage the conflict with this mother.
  - The student also said that the dance teacher had bought him \$100 credit for his phone.
  - The dance teacher had driven him home after his dance classes.
  - The student reported that this person was an important person in his life.
  - The dance teacher had two other young males in his household – who were not relatives – just young people who needed a place to stay.
  - The student's mother had no concerns when he used to stay for dinner with the dance teacher – the dance studio was in his house.

**Comment:** *This situation was reported to police who did not investigate.*

2. 10 year old female student states that she still showers with her father.
3. Yr. 3 students were asked to draw a picture of their families and one female student drew a picture of her father with a large penis.

**Comment:** *Does the information known by school staff in these situations constitute a reasonable suspicion that sexual abuse has occurred or is likely to happen in the future taking into consideration that many normal family interactions may include nudity and/or parents sleeping with children?*

### **Source 3. Student to student - Likely sexual abuse from a source unknown or another student**



1. Two six year old students were found in the school toilet with their pants down exploring each other's genitals.

**Comment:** *Most sexual play by small children can be developmentally appropriate – but some play can be inappropriate – school staff can find it difficult to know the difference without specialist advice.*

2. A 12 year old female student approached two other 12 year old female students and was talking very explicitly about sex – e.g.:

- do you know where your clitoris is?
- let me show you where your clitoris is?
- the girl took her pants down and invited the other girls to touch her?

**Comment:** *This was reported to both statutory agencies i.e. Child Safety Services and QPS but neither of them responded to investigate*

3. A 14 year old female and a 14 year old male were found by the groundsman engaging in oral sex in the bushes on the school grounds. There were no obvious imbalances in power in the relationship between these students who both appeared to be willingly engaged in the activity.

**Comment:** *In the first instance these young people are underage and cannot give legal consent to sexual activities - is this sexual abuse and/or a likelihood of sexual abuse happening in the future?*

4. A 15 year old female student informs the Guidance Counsellor that she is engaging in sexual activity with her 16 year old boyfriend who goes to the same school.

**Comment:** *The female student cannot legally give consent – is this sexual abuse and/or likelihood of sexual abuse happening in the future. Would it make any difference if the 16year old male had an intellectual disability?*

5. A 12 year old female student had a photo of herself on Facebook only in her underpants.

**Comment:** *There are many cyber incidents involving sexual content – sexting is one example. Does this imply likelihood of sexual abuse happening in the future – and of whom – the young person sending the image or the one receiving it?*

6. Two fourteen year old students in a relationship, one male and one female, agreed to exchange explicit photos of each other via mobile phone. He sent her a picture of his penis and she sent a picture of her exposed breasts. There was no information to suggest that these images had been distributed. No one had seen any photos but many students had heard about it.

*Comment: These young people are underage and cannot legally give consent to sexual activity - is this sexual abuse and/or likelihood of sexual abuse happening in the future?*

**Source 4 - Self-harm – self harming or sexualised behaviours which could indicate that a student may be at risk of being sexually abused in the future.**

1. A 14 year old girl is going out to parties and getting very drunk, acting flirtatiously, engaging in oral sex with a number of boys – parents are aware of this and unsure how to handle this behaviour.
2. A 10-year old girl dresses in a sexually provocative way and seeks out the company of 14 year old boys. She is a fountain of knowledge to other girls in her class about sexual activity, brings pornographic magazines to school, and 'talks dirty' to the boys.
3. A Yr. 7 boy told the Guidance Counsellor that he hangs out with older boys and he reports having anal sex with many girls because the girls can't get pregnant that way.

*Comment: These young people may be at risk of harm and could be at risk of sexual abuse happening in the future – do we report these issues, whether or not we have a parent acting protectively?*

**Some Examples of Responses from Queensland Police Service (QPS):**

QCEC and all Catholic school authorities are very supportive of the work of QPS officers and have a keen appreciation for the challenges they face when investigating allegations of sexual abuse and harm.

The following comments are not intended to be critical of QPS officers but rather they illustrate some of the 'real life' issues which need to be considered before the Bill becomes law.

The legislation proposes more mandatory reports to police. In fact, even before the legislation to widen the mandatory reporting requirements is implemented, it appears that QPS already give varying responses to cases where it is not a clear allegation that a criminal offence had occurred. For instance:

- In one case QPS did not respond in a reported case where there had been a current **clear low level sexual assault** of a female student by male students in the school grounds. It was clear that police were working in an area where their work load was very heavy and they understandably would have to prioritise the urgency of reports received.
- Police can also appear to be inconsistent in their responses in cyber issues – sometimes responding in some areas but not in other cases and districts, this inconsistency in response is often for cases with similar characteristics.
- The proposed legislation indicates that a report can be made to any police officer – not necessarily to specialist police (CPIU, Argos). Clarity may be required here about which QPS officers the legislation intends the reports to be made to as this will understandably have the capacity to increase their workloads even further.

**Summary:**



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- These scenarios demonstrate the difficulties staff may face in forming a reasonable suspicion of the likelihood of sexual abuse.
- The legislation mandates all school staff to report. Teachers are professionals with skills and knowledge about young people and their training would assist them in assessing the seriousness of the cases before them. This not the case of other staff members such as grounds persons, school secretaries, tuckshop staff etc.
- While it is assumed that the intent of this legislation is to capture “grooming” behaviours a consequence will be that it could capture many reports about a likelihood of sexual abuse happening in the future from all sources and not necessarily associated with grooming of children by adults.
- Experience shows that successful ‘grooming’ behaviour is based on a relationship of trust and respect having been established with the potential victim and his/her family, is purposely ambiguous and extends over a long period of time, often years. It is not easy to identify (except in hindsight) as it often presents as no more than the blurring of boundaries. At what point should a mandatory report be required?
- If reports are made to QPS and there is no intervention by them (as can generally be expected given the lack of evidentiary value of a report of a likelihood of future sexual abuse) schools then have to manage the fallout themselves. One probable effect will be that the law itself will become discredited in the eyes of those who work in schools. Such a development will do nothing to protect young people.