



13 September 2016

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE Q 4000
Email: lacsc@parliament.qld.gov.au

Dear Sir/Madam

**Re: Limitation of Actions (Institutional Child Sexual Abuse) and
Other Legislation Amendment Bill 2016
Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings)
Amendment Bill 2016**

We refer to the email dated 19 August 2016 seeking Submissions on the above legislation by 16 September 2016.

Protect All Children Today Inc. (PACT) is a non-profit community organisation established in 1986 as a service provider of court support as well as advocating for vulnerable children, young people and their families. PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in criminal court matters, either as victims of, or witnesses to, a crime. PACT recruits Child Witness Support Volunteers to provide child victims and witnesses with support and information about the Criminal Justice System. It is through our experience that we offer the following comments.

Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016

We are supportive of the policy objectives of the Bill outlined in the Explanatory Notes. PACT support the recommendation to create a more accessible civil litigation system for survivors of child sexual abuse where that abuse has occurred in an Institutional setting.

Limitation of Actions Act 1974 (LA Act) and Personal Injuries Proceedings Act 2002 (PIP Act)

The abolishment of the limitation periods will ensure that victims are afforded the opportunity to seek retribution and apply for compensation. In regard to personal injury claims, PACT is of the view that the effects of child sexual and physical abuse are often not evident until the child becomes an adult, forms relationships and has children of their own. It is for these reasons, that we commend the removal of any time barriers or restrictions to victims of child sexual assault. We further appreciate that the time periods can be extended in certain circumstances, to allow additional time for a person to commence proceedings.

Civil Proceedings Act 2011 (CP Act)

The introduction of a comprehensive statutory regime, similar to that in place in the Federal Court, to facilitate the effective conduct and management of representative proceedings (class actions) is supported. We believe this will afford victims the opportunity to seek justice for what they have endured in the past.

Vice Regal Patron: His Excellency the Honourable Paul de Jersey AC, Governor of Queensland

Legal Profession Action 2007 (LP Act)

Any steps that can be taken to streamline a victim's access to financial compensation should be adopted. Further, the simplification of trust account arrangements will enable improved access to compensation by former child victims.

QCAT Act and QCAT Regulation

Whilst we support this initiative in principle, we express concern over the expertise of JPs to hear minor civil disputes and recommend that this be achieved through an Expression of Interest and specialised training, to ensure the right people are screened and selected for this important role in QCAT proceedings.

Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016

We are supportive of the policy objectives and achievements of the Bill outlined in the Explanatory Notes.

Civil Liability Act 2003

We support the amendment of the Act to introduce the right to trial by Jury for civil actions for personal injury arising from child abuse.

Civil Proceedings Act 2011

We support the proposed amendment of the Act to prevent an institution from having proceedings stayed or delayed to prevent victims' access to compensation claims.

Further, we acknowledge the need to limit this provision to a Defendant who is an institution and to restrict this provision from applying to an institution who has not acted or omitted to causing delays of proceedings.

Limitation of Actions Act 1974

We strongly support the various amendments to the Act in relation to the removal of statutory time limits for personal injury actions arising from child abuse and the extenuating circumstances surrounding individual cases.

Personal Injuries Proceedings Act 2002 and Regulations 2014

PACT support the removal of procedural time limits for personal injury actions arising from child abuse and align these processes administratively to enhance ease of application.

Define Child Abuse in the above provisions as not restricted to an Institutional context and as including both sexual abuse and serious physical harm

PACT agree that when a child is sexually or violently physically assaulted on a recurring basis at the hands of someone in a position of trust and authority, they will suffer long-term effects of this abuse. As mentioned previously, the exact impacts of the trauma are often not known until the child has become an adult.

We commend the *Royal Commission into Institutional Responses to Child Sexual Abuse* for their efforts in identifying a range of recommendations to ensure that victims have access to adequate restorative justice mechanisms to assist them to recover and to make right, past wrongs.

We strongly believe institutions need to be made accountable for their years of misconduct and abuse of vulnerable children and that these victims be afforded the right to retribution and compensation. The reinstatement of Jury trials for this purpose, will assist in ensuring a fair trial.

Deficiencies in the Queensland Blue Card System

In relation to Child Protection Reforms including: employment screening, criminal history checks, mandatory reporting and sentencing provisions, we would like to take this opportunity to raise issues of concern in relation to the current Blue Card System in Queensland.

In September 2015 several PACT Child Witness Support Volunteers referred to their involvement providing support to young people who had been physically or sexually abused by their supervisors in a work setting.

The PACT Chief Executive Officer (CEO) emailed Blue Card Services with the below query:

Protect All Children Today Inc. (PACT) is a non-profit community agency that supports child victims and witnesses of crime, who are required to give evidence in criminal court matters.

This support is provided by carefully screened and trained Child Witness Support Volunteers who teach children about the court process and prepare them to give evidence. They accompany children when they meet with their Prosecutor and when they give their evidence. All PACT Volunteers must hold a current Blue Card.

At a Volunteer Conference last week, a number of the Volunteers expressed concern about recent sexual assault cases involving staff members from fast food outlets. We are wanting to advocate on behalf of vulnerable children suggesting that it should be a requirement for adults working in this area to hold a current Blue Card when supervising children and young people.

I contacted the Blue Card office and was instructed to provide an email that would be forwarded to the most appropriate person. We would appreciate the opportunity to further discuss this issue.

Thanks very much for your assistance in this important matter.

Response from Blue Card Services

Dear Jo

Thank you for your enquiry to Blue Card Services.

The blue card system is regulated by specific categories of employment or business which are outlined in the *Working with Children (Risk Management and Screening) Act 2000* (the Act). We confirm that an individual is not required to obtain a blue card if the individual is merely giving help or guidance to a child as part of the child's employment. Therefore, staff members of fast food outlets are currently not required to obtain blue cards. However, organisations are encouraged to implement child and youth risk management strategies which assist in identifying and minimising the risk of harm to children and young people.

Further, we can confirm that the Blue Card Services maintains a policy issues register to record matters for potential consideration as part of any future policy and legislative review. Accordingly, Blue Card Services will forward your suggestions to the team responsible for reviewing and actioning policy proposals within our Agency.

We hope this information is of assistance. If you require further information please telephone Blue Card Services on **1800 113 611** or **07 3211 6999** between **8am – 5pm on Monday to Thursday** and between **9am-5pm on Friday**. Alternatively, please access our website at www.bluecard.qld.gov.au for general information and application forms.

Yours sincerely

Blue Card Services
Operations Division
Public Safety Business Agency

PACT then wrote to the Premier and relevant Ministers outlining our concerns. However, a response has not been received from the Minister for Police and Minister for Corrective Services so a further letter was provided in August 2016.

Key Issues

Until the legislation is reviewed and amended young people will remain at risk of being abused and violated in the workplace by people in positions of trust and authority. These young people often do not possess the level of maturity to protect themselves adequately or to question the situation they are being put in, particularly when asked to do the closing shifts late at night.

We appreciate that organisations, such as many fast food and store chains, are encouraged to implement child and youth risk management strategies and to identify and minimise the risk of harm to children and young people. However, this is not enforced in any sense and does not otherwise apply to a large range of smaller employers; such as cafes, fish and chip shops, retail, petrol stations etc. PACT is aware of a number of matters that have involved physical and sexual abuse of young people by supervisors in these smaller types of workplaces.

This is an unnecessary and unacceptable risk and one that should be managed consistently with other areas recognised by the Blue Card requirements as exposing young children to vulnerability and risk of harm by persons in positions of authority. This matter needs to be rectified as a matter of priority.

We understand that in some other States, Blue Cards contain photo identification which makes them more meaningful and ensures they cannot be used by someone who hasn't undergone the necessary screening and Police checks. We believe this practice should be introduced into Queensland.

The relevant legislation needs to be reviewed and amended to ensure that any agency employing young people be required to have their staff obtain a Working With Children Blue Card.

Thank you for the opportunity to provide comment on this piece of legislation and trust that our input has been of value.

Yours sincerely



Alexandra Marks
Chairperson

Jo Bryant
Chief Executive Officer