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Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

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Dear Committee Secretary,

Queensland Cricket (QC) thanks the Legal Affairs and Community Safety Committee for the opportunity to provide a submission on the **Civil Liability and Other Legislation Amendment Bill 2018**.

QC understands the Bill includes amendments to the Civil Liability Act 2003 (CL Act) to:

- Introduce a reverse onus (applied prospectively) under which an institution must prove it took reasonable steps to prevent the sexual abuse of a child in its care by a person associated with the institution to avoid legal liability for the abuse (reverse onus amendments), and
- Establish a statutory framework for the nomination of a proper defendant by an unincorporated institution to meet any liability incurred by the institution (proper defendant amendments).

QC generally supports any legislation or other requirements designed to ensure the safety of children engaged in sporting activities but wishes to bring to the Committee's attention several matters for consideration in relation to the Bill.

Queensland Cricket's Commitment to Child Safety

While the onus rests on the clubs, QC clearly sees any issues within this area as reflecting on cricket more broadly and therefore takes very seriously our responsibility to assist clubs with these matters.

QC is committed to ensuring that every person involved in cricket is treated with respect and dignity, is safe and protected from abuse and that the environment is a consistent and nurturing one for all players and volunteers. We seek to prevent all forms of harassment, discrimination and abuse and promote positive values and behaviours. Cricket should not tolerate inappropriate or unlawful behaviour.





QC takes this opportunity to place on the record the steps our organisation has taken, and continues to take, to support our clubs and associations in their efforts to ensure that children who play cricket in the more than 400 community cricket clubs throughout Queensland are safe.

QC provides policy templates and resources to affiliated Cricket clubs throughout the State and advocates their implementation. This includes the *Looking After our Kids: Code of Behaviour for Affiliated Associations and Clubs*, supporting videos, posters, checklists and forms. Cricket Managers employed by QC also provide advice and assistance to ensure effective implementation in the club environment.

The suite of assistance is available at the following link - <https://www.cricketaustralia.com.au/about/safeguarding/safeguarding-kids>.

Impact on community cricket clubs – reverse onus

QC understands that should this Bill be passed, in the event of a claim brought against them, a community cricket club (as an institution) will be captured under the reverse onus provision being:

The reverse onus of proof for claims concerning institutional child sexual abuse to require the defendant institution to prove that it took 'all reasonable steps' to prevent the sexual abuse of a child in its care by a person associated with the institution to avoid legal liability for the abuse.

While we take this issue and our responsibility very seriously, we wish the Committee to note that the reverse onus of proof may result in an additional burden being placed on community cricket clubs, many of which are run by volunteers utilising basic administrative systems and resources.

Should a case be brought forward it will require significant time and resources to demonstrate the measures they have taken at their local club and is likely to be incredibly stressful for the office bearer of the day who would be expected to represent their club in a court of law.

This is a stark example of the increasing load and complexity faced by today's volunteers and not-for-profit organisations, particularly involving interaction with children, which acts as a deterrent to volunteering in a local sporting club.

Impact on community cricket clubs – proper defendant

We can see the value and reasons for this amendment. While the ultimate aim is one of prevention, QC wants to ensure that a person who has been abused at the hands of a wrong-doer has access to appropriate compensation for the harm done.

However, the unintended consequences is likely to be an unwillingness of people to volunteer at community level.





Specifically, QC is of the view that this amendment may affect people's willingness to volunteer in a community cricket club because, if holding an executive position, they take on all the risk for defending any future claims relating to incidents occurring in the past.

While QC sees the need for victims to be able to identify a proper defendant, it is likely to be difficult for current office holders to be able to provide documented evidence of the actions of previous office holders within their clubs due to the nature of their administrative systems.

QC remains focused on the correct balance between looking after the interest of the clubs and acting in accordance with QC values, which includes a commitment to child safety.

While we support the concept of local clubs being responsible for child safety and needing to have in place appropriate strategies, we ask the Committee to consider protection mechanisms for community sporting clubs to ensure ongoing sustainability, and that the focus of punishment remains squarely on those individuals who commit crimes against children.

Legislation should ensure that expectations placed on clubs are realistic given that individual office bearers within clubs most often do not receive financial reward for their efforts, and work with limited resources and systems. We also ask that current office bearers are not punished for the failures of their predecessors.

As the Queensland Parliament is well and truly aware, volunteerism is the backbone of community spirit and as the prevalence of volunteerism diminishes, so too does community spirit.

Blue Card considerations

Finally, related to these matters, QC also takes this opportunity to acknowledge the work that is currently underway by relevant State Government agencies to streamline the implementation of reforms to the Blue Card system. We have played an active role in the consultation process and look forward to continuing to work with Blue Card Services in developing a portal that will streamline processes for all involved.

Further to this, QC requests the Government consider whether the current requirements for a Blue Card are sufficient. The current system is focused on preventing repeat offences rather than enhancing awareness for all Blue Card holders and educating them on how to create a safe and inclusive environment. The Government may wish to consider compulsory online training courses for applicants to undertake at the time of completing their Blue Card application, which must be satisfactorily passed before their Blue Card is issued. This would be similar to the requirements of applicants seeking a Responsible Service of Alcohol certificate and would significantly enhance the Blue Card system.





Finally, under current legislation, a person cannot apply for a Blue Card if they do not have a need for one; for example, parents who are coaches of sporting teams in which their child is a member are not able to apply for a Blue Card even though they are actively volunteering in a capacity that would otherwise be captured by the current legislation. We feel that this is at odds with the purpose of the Blue Card system and currently prevents clubs from going “above and beyond”, a move that should be applauded rather than prevented by the legislation.

We thank the Committee for considering the impacts on community cricket clubs and invite you to contact me directly, should you wish to discuss any of the enclosed information.

Yours sincerely

A handwritten signature in black ink, appearing to read "Max Walters".

Max Walters OAM
CEO
Queensland Cricket

cc The Hon Mick de Brenni, Minister for Housing and Public Works, Minister for Digital Technology,
Minister for Sport

The Hon Hon Yvette D'Ath, Attorney-General and Minister for Justice

