



Civil Liability and Other Legislation Amendment Bill 2018



11 December 2018

About Queensland Independent Schools

Community confidence in the independent schooling sector remains strong with over 121,000 students enrolled in 207 independent schools across Queensland in 2018. These schools educate approximately 15 percent of the state's total school-age population and about 20 percent of all secondary students.

The strength of Queensland's independent schooling sector lies in the rich mix of education choices and opportunities local schools provide families. Independent schools are as diverse as the students and parents who make up their close-knit communities. Of Queensland's 207 independent schools: 183 educate children with disability; 109 cater for students for whom English is a second language or dialect; 184 enrol Indigenous students; 72 offer international education programs; 33 provide boarding services; and 17 cater specifically for students who have disengaged from mainstream education.

Common to all independent schools is their commitment to strong student outcomes, high standards of behaviour, and the welfare and well-being of students.

Over the past 10 years enrolments at Queensland independent schools have increased by 21 percent. This growth is a clear indication that parents value an independent education and are prepared to invest their after-tax incomes in their child's schooling.

Submission

Independent Schools Queensland (ISQ) acknowledges the opportunity to make this submission on the Draft Bill to amend the *Civil Liability Act 2003*. This submission follows ISQ participation in the Stakeholder Roundtable chaired by the Hon Yvette D'Ath MP Attorney-General and Minister for Justice on 5th November 2018.

ISQ also acknowledges the significant work arising from the Royal Commission into Institutional Child responses to Child Sexual Abuse and fully supports the efforts to ensure the safety of all children, in all situations and at all times.

With this in mind, ISQ raises the following items:

General

- The *Child Protection Act 1999*, *Education (General Provisions) Act 2006* and *Education (Accreditation of Non-State Schools) Act 2017*, *Education (Queensland College of Teachers) Act 2005* and their subsequent Regulations outline provisions for the reporting of, and written processes associated with, harm and/or abuse or likely abuse. The specific provisions of these statutes are generally focused on reporting rather than preventing harm or abuse.
- The proposed amendment is very broad in definitions of responsibility and accountability but will introduce increased expectations of preventative actions by institutions without defining what these actions should be. The Amendment will require supporting documentation of expected actions to assist schools in taking "all reasonable steps" to prevent abuse or harm from occurring.

33A Definitions (page 5)

The definition of institution is extremely broad. This may impact on schools if indeed there are activities offered at the school, utilising school facilities but not run directly by the school (eg. holiday cooking classes, after school care). ISQ seeks clarity on the liability for schools in these situations.

Division 2 – Duty of Institutions

33E Proof of whether duty was breached (pages 7 & 8)

- Use of the terminology “all reasonable steps” throughout the Draft is an extension through the addition of “all”. ISQ seeks clarity on:
 - Who will define what “all reasonable steps” actually are?
 - What safe guards will be established to protect schools when appropriately undertaking “all reasonable steps”?
 - How “all reasonable steps” will be determined for any particular time period (as many abuse cases are historic)?

Impact on volunteers (Blue Card)

Schools throughout Queensland actively utilise the services of volunteers, particularly the family members of students. This practice has many positive attributes with family engagement a significant benefit for students. Blue Card exemptions currently exist for adult family members volunteering in this situation. ISQ supports the continuation of this exemption.

However, consideration should be given to the sharing of information with a school if an adult family member of a current student has been given a “negative notice” with respect to a Blue Card. Whilst exempt volunteers should not be left unattended with students, the knowledge of a “negative notice” for a volunteer should improve a school’s ability to take “all reasonable steps” to prevent abuse.

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