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Robbie Katter MP

Member for Mount Isa



13 September 2017

Mr Duncan Pegg
Chair
Legal Affairs and Community Safety Committee
Via email

Dear Mr Pegg,

Re: written response to issues raised by submitters for the review of Working with Children Legislation (Indigenous Communities) Amendment Bill 2017

Background

On the 14th of June 2017, Robbie Katter, Member for Mount Isa, introduced the Working with Children (Indigenous Communities) Amendment Bill 2017.

The objectives of this Bill are to provide a new blue card framework that empowers Indigenous communities to make decisions which best serve their interests in relation to child protection and employment of community members.

The current Blue card system contains significant limitations in the way it applies to the circumstances of Indigenous communities and this is resulting in missed opportunities for social and economic development.

The Bill was referred to the Legal Affairs and Community Safety (LACSC) parliamentary committee on the 14th of June 2016. The LACSC requested a written response from the Member of Mount Isa on issues raised in submissions to the LACSC inquiry.

Submissions to the LACSC inquiry

Five submissions have been received by the committee from the following submitters,

1. Junkuri Laka Wellesley Islands Aboriginal Law, Justice and Governance Association Inc.
2. PeakCare Queensland, Inc.
3. Churches of Christ Care
4. Queensland Family and Child Commission
5. Coen Justice Group

Overall the submitters recognised and supported the sentiment of the Bill. Three of the five submitters were in support of the Bill, Junkuri Laka Wellesley Islands Aboriginal Law, Justice and



Governance Association Inc., Churches of Christ Care and Coen Justice Group. Importantly, these three submitters are currently providing on-the-ground services and have the best insight into the issues faced by Aboriginal and Torres Strait Islander communities.

Issues raised by submitters and responses

A number of issues have been raised by submitters which are addressed below. It should be noted that those submitters who are directly and negatively impacted by the current Blue Card system have provided commentary and suggestions to strengthen the operation of the proposed new Blue Card mechanism. Conversely, the Queensland Family and Child Commission (QFCC) is the only submission not in support of the objectives, drivers or intent of the Bill. The QFCC have provided no constructive commentary on the specific assessment mechanism proposed under the Bill. Rather the QFCC has pointed to a review of the Blue Card system it is currently undertaking as a suitable alternative to the Bill. Furthermore the QFCC has provided no details on the outcomes of their review whilst proposing it as an alternative to the Bill. This approach undermines the transparency and robustness of the Parliamentary and Committee process.

The QFCC's submission is in stark contrast to the submissions of those with the most direct and detailed understanding of the negative impacts the current Blue Card system is having on indigenous communities. It would be speculation to suggest a reason for this difference in position, however perhaps it is a reflection of the QFCC's lack of understanding of the needs and circumstances of indigenous communities, or a perceived inconveniences for the QFCC arising from implementation of the mechanism proposed under the Bill.

The following table provides responses to the issues raised by submitters.

Submitter	Issue	Response
Junkuri Laka Wellesley Islands Aboriginal Law, Justice and Governance Association Inc.	People are denied Blue Cards, who we know to be very suitable to work with children, and who are often the carers for many children in their family. We regularly observe the perplexing situation where a person who cares 24/7 for many of the children in his/her family environment, is not allowed to work with those same children in the institutionalized environment of the school or other social service providers. This excludes these individuals from suitable work, often the only work available to them.	Perverse outcomes of this nature have been observed by multiple stakeholders and reflect one of the key drivers behind the development of the Bill.
Junkuri Laka Wellesley Islands Aboriginal Law, Justice and	Almost all work available [in remote communities], especially for women, requires the possession of a Blue Card, and the Blue Card process thus provides a	Although it unquestionable that the intentions of the current Blue Card system are not to discriminate, as pointed out by the submitter, the application of the current system to

Governance Association Inc.	very real and significant hurdle to many who are seeking employment. Quite apart from the practical aspect of this hurdle, the result is also that people are in fact told that they are in some way morally lacking, or unsuitable. As these are of course always indigenous people, it can be argued that the system has a highly discriminatory effect as well.	the circumstances of remote indigenous communities is resulting in outcomes that appear to unfairly disadvantage indigenous residents.
Coen Justice Group	The difficulties of obtaining timely blue card approvals for relative foster carers has on occasion resulted in the removal of children from the community in spite of the fact that persons of good character were willing to act as foster carers for the child.	The timeliness of assessing Blue Card applications under the current Blue Card framework is a consistent issue raised by indigenous stakeholders. This is addressed through timeframes outlined in the Bill that require both the Blue Card office and the Community Justice Group to decide an application within eight weeks. However, over that period the Community Justice Group may issue an “interim restricted positive notice” which would enable the person to work over the period the application is being decided.
Coen Justice Group	The Coen Justice Group proposed the following suggestions, <ul style="list-style-type: none"> - That no Justice Group be required to act in this capacity unless they agree to do so. - That a local community based panel be asked if they are of the opinion the local Justice Group has the capacity. 	These suggestions warrant investigation and amendments to the Bill may be considered during consideration in detail.
Queensland Family and Child Commission (QFCC)	A tiered screening process is similar to the process proposed in the Bill for restricted positive notices—both processes would result in different clearance types being issued in Queensland. This does not promote national consistency in WWCC screening across Australia in line with the recommendations made by the Commonwealth Royal Commission	The comparison between the tiered process considered by the QFCC and the mechanism proposed in the Bill seems inappropriate. The objective of the Bill is to address a specific perverse outcome that exists under the current system, rather than undertake wholesale changes to the system itself. Prioritising “national consistency” above the needs of indigenous

	into Institutional Responses to Child Sexual Abuse (the Royal Commission) and stakeholders' views.	communities is a clear shortcoming in the QFCC's objection to the Bill.
Queensland Family and Child Commission (QFCC)	Achieving better outcomes for Aboriginal and Torres Strait Islander peoples requires change to be embedded through every stage of the blue card system. Aboriginal and Torres Strait Islander peoples need to be given opportunities to be involved in decision-making but also achieve consistency of decision-making.	As pointed out by other submitters, the current Blue Card system undermines the input of the communities most directly impacted by application decisions and this is a significant barrier to creating employment opportunities in those communities. As mentioned above the QFCC appears to prioritise the nature of the process over the social and economic outcomes of the indigenous communities involved.
Churches of Christ Care	In our experience, the blue card and criminal history check process can be a barrier when identifying Aboriginal and Torres Strait Islander kinship carers. This is partly due to limited community knowledge of the blue card system and the nature of offences that disqualify someone. So when a family member is needed to look after children, they might not volunteer because they believe they will be unsuccessful in obtaining a blue card due to a past offence.	The "barrier" issue identified by Churches of Christ Care is one of the key objectives of the Bill. This is achieved by providing the community with greater discretion over who is appropriate to work with Children in their community.
Churches of Christ Care	In terms of reviewing these decisions and ensuring a transparent process, we support a six to 12 monthly review of legislative changes, focusing on impacts for Aboriginal and Torres Strait Islander children and communities.	The suggestion of a review process appears prudent and should be seriously considered by the committee.
PeakCare	Factors that PeakCare urges the Legal Affairs and Community Safety Committee to be mindful of when considering the Bill: <ul style="list-style-type: none"> - its timing in respect of current reviews of working with children check regimes in Queensland and across Australia; 	In regards to the timing issues, the current reviews and proposed amendments of child protection regimes do not appear (based on the public information available) to address the issues raised in the explanatory notes and by other submitters. Furthermore, addressing these issues should be pursued as a

	<ul style="list-style-type: none"> - its timing in respect of proposed amendments to the Child Protection Act 1999 (the Act) introduced into Parliament on 9 August 2017; - the incongruence and 'silliness' of the notion of individuals being deemed suitable to work or volunteer with children in their own community, but not with children outside that geographic area; and - that the challenges, barriers and layers of ways in which the blue card system works against Aboriginal and Torres Strait Islander peoples exists across Queensland. 	<p>matter of urgency and not be held up by other independent processes. A review of the new regime post implementation could cover any initiatives stemming from the review of working with children checks or the proposed amendments to the child protection act.</p> <p>In responding to the comment around the 'silliness' of community specific Blue Cards, it is important to remember that each community will have different circumstances and standards to apply to a particular Blue Card applicant. Therefore it is important that the each individual communities views are respected which has led to the form of the new Blue Card mechanism.</p>
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Thank you for the opportunity to provide these responses to the committee. I trust they provide sufficient detail to assist in the committee's deliberations.

If any further information is required please do not hesitate to contact me.

Sincerely,



Robbie Katter
Member for Mount Isa