



LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:

Mr PS Russo MP—Chair
Mrs LJ Gerber MP
Ms SL Bolton MP
Ms JM Bush MP
Mr JE Hunt MP
Mr JM Krause MP

Visiting Member:

Mr RI Katter MP

Staff present:

Ms K O'Sullivan—Committee Secretary
Ms M Telford—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE WORKING WITH CHILDREN (INDIGENOUS COMMUNITIES) AMENDMENT BILL 2021

TRANSCRIPT OF PROCEEDINGS

MONDAY, 10 OCTOBER 2022

Brisbane

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The committee met at 9.00 am.

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the Working with Children (Indigenous Communities) Amendment Bill 2021. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share. With me here today are: Laura Gerber MP, the member for Currumbin and deputy chair; Sandy Bolton MP, the member for Noosa; Jonty Bush MP, the member for Cooper; Jason Hunt MP, the member for Caloundra; and Jon Krause MP, the member for Scenic Rim.

Robbie Katter MP introduced the bill into the Queensland parliament on 1 September 2021 and it was referred to the committee for detailed consideration. This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask people if they would be kind enough to turn their mobiles phones off or to silent mode.

BOURKE, Mr Gregory, Director, Strategic Policy and Legal Services, Blue Card Services, Department of Justice and Attorney-General

DOUMANY, Ms Nicola, Acting Deputy Director-General, Justice Services, Blue Card Services, Department of Justice and Attorney-General

FRASER, Ms Fiona, Acting Executive Director, Community Justice Services, Blue Card Services, Department of Justice and Attorney-General

CHAIR: Welcome. Thank you for joining us here this morning. I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Ms Doumany: Firstly, I begin today by acknowledging the traditional owners and custodians of the lands on which we meet—in particular the Jagera and Turrbal people—and pay my respects to elders past, present and emerging. I extend that respect to Aboriginal and Torres Strait Islander peoples here today. In the spirit of reconciliation, I acknowledge the traditional custodians of country throughout Australia and their connections to land, sea and community. Thank you for the opportunity to address the committee about the operation of the blue card system. With me are Fiona Fraser, acting executive director, and Greg Bourke, director of strategic policy.

In 2017, following an extensive system review, the Queensland Family and Child Commission produced its report titled *Keeping Queensland's children more than safe: review of the blue card system*. In its report the QFCC recognised that at every stage of the blue card process Aboriginal and Torres Strait Islander peoples experience some form of disadvantage. The report noted that achieving better outcomes for Aboriginal and Torres Strait Islander peoples would require reforms to how First Nations applicants are supported while asserting the need to remain vigilant in keeping Aboriginal and Torres Strait Islander children more than safe. In particular, the QFCC recommended that the Department of Justice and Attorney-General develop and implement a specific strategy and action plan to provide more support for Aboriginal and Torres Strait Islander peoples and to build cultural capability in the blue card system. To put it simply, they called on us as an agency to do better.

We have embraced the QFCC's findings and recommendations, implementing a range of strategies to improve engagement and outcomes for First Nations applicants, organisations and community; establishing a dedicated team of professionals, including identified liaison officers, to help Brisbane

First Nations applicants with the application and assessment process and to provide a cultural link into the decision-making process, regularly travelling to regional and remote and discrete communities to assist First Nations applicants, card holders and organisations face to face; providing regular cultural capability training for all staff and targeted trauma informed training for relevant staff; developing educational resources and podcasts for First Nations communities and individuals and providing free tailored workshops in person and online; providing information about legal and other services that may assist First Nations applicants; and prioritising calls from remote communities and increasing attendance at community events, giving people the opportunity to learn more about the blue card system eligibility and how to apply.

In 2021 the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence launched *Safe children and strong communities: a strategy and action plan for Aboriginal and Torres Strait Islander peoples and organisations accessing the blue card system*. The strategy and action plan was made possible through the participation and contributions of more than 200 Aboriginal and Torres Strait Islander people and organisations. The strategies and actions identified in the plan range across five focus areas: building cultural capability in the blue card system; working with communities at a local level to identify options for service delivery; ensuring processes are culturally appropriate, simplified and connected; greater coordination of aligned service delivery and engagement with Aboriginal and Torres Strait Islander peoples, communities and organisations across Queensland government agencies; and establishing an ongoing governance framework to oversight the implementation of the strategy and action plan. This group includes representatives from key non-government Aboriginal and Torres Strait Islander peak bodies and government agencies that play a significant role in Queensland's child protection system. I currently chair this group with QFCC commissioner Natalie Lewis.

Work has commenced on several Safe Children and Strong Communities actions, including: increasing the number of identified roles in all Blue Card Services teams—in 2022, eight additional First Nations staff have been recruited and we are currently recruiting for four additional positions; undertaking consultation in remote communities including Kowanyama, Mornington Island and the Torres Strait islands to help us better understand the current and ongoing needs of First Nations stakeholders in those communities; connecting with other government agencies, including those responsible for child safety, Aboriginal and Torres Strait Islander partnerships, Births, Deaths and Marriages and local government, to facilitate more cohesive and collaborative approaches to service delivery; and including a flyer in all invitations to provide submission letters and adverse decisions detailing First Nations crisis support services.

In parallel, Blue Card Services is also currently working in close consultation with the oversight group to develop a detailed plan for implementation of the remaining actions in the strategy. We can see some improved outcomes arising from the initiatives implemented by Blue Card Services. While some of these statistics were outlined in the department's written response, I want to draw the committee's attention to some notable positive trends. The percentage of Aboriginal and Torres Strait Islander peoples issued with a blue card continues to increase, climbing to 94 per cent in 2021-22 from 86 per cent in 2019-20. There has been a corresponding reduction in negative notices. They have dropped from 1.4 per cent in 2018-19 to 0.88 per cent in 2021-22. As a result of the work undertaken by Blue Card Services in the 34 identified remote communities, clearance rates have also continued to increase there. In 2021-22 the clearance rate was 91 per cent—up from 86 per cent in 2019-20. There was a corresponding reduction in negative notices, from three per cent in 2018-19 to 1.5 per cent in 2021-22.

We know that the job is by no means done. There is much more to do and Blue Card Services will continue to partner with key stakeholders to ensure the delivery of meaningful change that further enhances protections for Queensland's children. Blue Card Services will use the implementation of the strategy and action plan I referred to earlier as the vehicle to maintain the momentum in responding to the barriers experienced by First Nations applicants and to continue its efforts to improve both accessibility and outcomes. Thank you for the opportunity to address you. We are very happy to take any questions.

Mrs GERBER: Thank you very much for providing the written submission in response to the very lengthy questions we had in relation to the operation of Blue Card Services. I would like to hear from the department on two fronts: firstly, in relation to the applications that end up being withdrawn by Aboriginal and Torres Strait Islander people after they have made the original application with Blue Card Services when they have been asked by Blue Card Services for a submission; and, secondly, the time it is taking to process applications that are in the system.

I will firstly ask my question in relation to the time it is taking. When we were speaking with remote and Indigenous communities, the length of processing time was a major concern. From the data that has been provided I cannot ascertain how long it is taking the department to process applicants for a blue card that have relevant information that the department is looking at before being able to assess whether or not they can have a blue card. Are you able to give an indication of the amount of time it is taking in relation to relevant information?

Ms Fraser: If I could clarify, I think you are asking about where someone's assessable information would be of a nature where we might then be inviting a submission from the person?

Mrs GERBER: That is correct, or any relevant information. My understanding of the terminology used by the department in determining whether or not they are going to ask for further information is: if there is relevant information that the department considers requires some further input by the applicant then you go back to the applicant and seek that further input before giving a negative notice. It is the length of time it is taking for that whole process that I am after more information on.

Ms Fraser: When Blue Card Services receives the application, it undertakes a number of checks in order to see what assessable information the person may have. If a person has assessable information it then goes to the Blue Card Services assessment team, who look at the nature of the information. As you have indicated, in some instances it will be considered relatively simple and minor and can be decided. Usually that would be a person who is going to get a blue card based on the relatively simple information.

In other instances the information may suggest that there is a level of risk that the information poses and then the department will consider a more complex assessment. The act itself also has some bearing here because it depends on the nature of the offence. If the person's assessable information contains convictions for an offence that is classified as serious—the act has definitions around 'serious' or 'disqualifying'—the act then defines what needs to happen from there. In this instance we are more talking about where someone does not have any disqualifying offences whereby, essentially, if they are convicted of that then they are not able to progress through the application process. Where they have serious offences or non-serious offences but the information about the offences indicates that there is something that is of concern that is relevant to child related work, Blue Card Services will invite a submission from the person.

Depending on the information, the length of time can differ because it depends on what other information they might want to gather. At a minimum there is usually, in addition to the criminal history, police brief information and court transcripts if they exist—and potentially if it is child protection information they may look at that. There is a variety of sources where they may have to get information. Once they have gathered information from all of those bodies, it then goes to the individual to say, 'We would like you to make a submission' or, essentially, 'provide us your side of the story in response to the question.' The length of time can differ, but complex assessments do take longer than any other kind of application.

Mrs GERBER: Is there a ballpark figure for that? Can you give me an average time?

Ms Fraser: The target that Blue Card Services works towards is to process 90 per cent of those matters within four months. Looking at the data that was provided in the response to the committee—there are a number of stats in here—in relation to that, the average time to process applications with complex information was approximately 51 business days if it was submitted online, or 138 business days if it was made in paper. That would be the average where we are talking about those more complex matters, and there would be applications outside of that average as well.

Mrs GERBER: Are we able to look at applications that perhaps did not have that complex information? Is analysis done of the total average time taken for those applicants? What we heard in relation to the remote communities was that they are being held up: they do not have serious offending or disqualifying offences but for whatever reason it has been flagged that the department needs to look at it a bit further. The evidence we heard is that it is taking an inordinate amount of time for that consideration process. That is just what I am trying to ascertain.

Ms Doumany: Those matters can take quite a long time and there are probably a number of factors for that, including the sheer volume of matters that the system is looking at. The department has received funding for an additional five officers to assist with backlogs of matters this financial year to reduce those. The agency is working hard at looking at ways to streamline services and streamline those matters as well. I think the department and Blue Card Services are very aware of the length of time that some of those matters can take.

Mrs GERBER: I understand that you work very hard. It is not a criticism of that; I am just trying to get to the bottom of some of the evidence that we heard. The second part of my question related to the applications being withdrawn. I can see from the data you have provided that in the last financial year there were 420 Aboriginal and Torres Strait Islander people who applied for a blue card. For about half of those the department determined that further assessment was required and sought further information from the Aboriginal and Torres Strait Islander applicant. Of that, just under half then withdrew their application and did not provide the information. When you are talking about your 94 per cent clearance rate, is that including the Aboriginal and Torres Strait Islander people who withdrew their application? Is that considered a clearance rate? Does the 94 per cent exclude the Aboriginal and Torres Strait Islander people who simply withdraw their application because they did not provide a submission?

Ms Fraser: We could probably confirm this, but my understanding is that the clearance rate would be related to who was issued with a blue card. That would be my understanding. I think we can confirm that.

Ms Doumany: We will confirm that to make sure.

Mrs GERBER: In relation to the withdrawal of applications, the evidence we heard is that it is too hard and that, at that point in time, it is perceived by the Aboriginal and Torres Strait Islander applicant that they are not going to get a blue card and they just disengage with the process. What more is being done to help that? It is a pretty large percentage—over half do not end up engaging in the process to be able to get their blue card. Talk us through what is being done to help Aboriginal and Torres Strait Islander applicants at that stage of the process.

Ms Doumany: I will try not to repeat some of the strategies we are already doing. Practically, there are some key strategies we are implementing, particularly for remote communities. Firstly, we have our dedicated team to prioritise applications and to provide support for submissions. We would like to travel to community in person more than we have been, but we make sure that we travel pretty extensively. When our identified officers and liaison officers are in community, they will work to find applicants and work hard to get their story. Part of what we really want to encourage from applicants is to get their story, either over the phone or face to face. We do not insist on written submissions.

My understanding is that the team works hard at trying to find people. They will follow up with telephone, email or texts to try to find people to encourage them to tell their story and give a submission and also perhaps to suggest other people they could talk to. The reason, often, it is important for Blue Card Services to withdraw those applications is that we do not want to issue a negative notice to them.

Mrs GERBER: One of the solutions proposed by the bill is that community justice groups be utilised at that stage of the process to give a recommendation to assist Blue Card in processing the applications. I am really interested in Blue Card's perspective and the department's perspective on what the bill proposes in terms of community justice groups—whether or not you think that would work, the problems and issues you see with it. Talk us through that, please.

Ms Doumany: One of the biggest issues for me is that we need to talk to the community justice groups. Community justice groups in a sense are independent. We fund them to provide specific services but we cannot talk on their behalf. I probably would use the analogy of recent additional funding that went to those groups for enhanced services for domestic and family violence supports. The way in which that was rolled out was in co-design with each community justice group. My answer would be that there is probably potential for us—and we often connect with members of community justice groups when Blue Card is in community. However, we need to design with them the services that they believe are appropriate for them to deliver and fund those accordingly. I do not think we can necessarily speak on their behalf of how the bill would work in practice.

Mrs GERBER: I am after whether or not you see it would work for Blue Card? Obviously it proposes that community justice groups be in a position to compel Blue Card to approve an application. I am interested in the department's perspective on that.

Ms Doumany: I do not think that it would be appropriate for the department to make comments on the policy objectives of the bill or on how the bill would work. For me, that is a matter for government. I feel a bit concerned about being able to give you that answer.

Mr Bourke: I would add that pretty much an identical version of the bill was introduced in the last term. The Education, Employment and Small Business Committee's report does highlight a range of issues with the operation of the bill.

Mrs GERBER: Are those still current issues?

Mr Bourke: The bill is essentially the same apart from a change in a bit of terminology. It is essentially in identical form. The issues flagged in that earlier report remain valid and still exist with the operation of the bill.

Mrs GERBER: Thank you.

Ms BOLTON: Good morning, everyone. In terms of the information you provided about what is being done, especially through the strategy and the Indigenous liaison officers, when we travelled to Mount Isa, Yarrabah and Palm Island there seemed to be a lack of knowledge as well not only about the process but what was a disqualifying offence or a serious offence. Some would not apply. Others would apply but when they were asked for information were not putting in their submissions with the information. You said that justice groups do get some funding. If the department is currently only able once a year—I think that is what you said—to get out to those communities as part of sharing the information and increasing that knowledge, what do you believe can be done and how can it be done so that that knowledge grows? What about the access issues which are a real problem in those regions?

Ms Doumany: I think that that is part of the implementation of the Safe children and strong communities: strategy and action plan. Part of our strategy and action plan is to think locally about what will work on the ground. It might be a bit different in each community, although it might have very similar elements as well. There is probably a range of work that we can do. We have to do that in consultation with those communities to look at who are the key people who may be able to support applicants and promote how the system works and does not work. Part of that is what we need to do through the Safe children and strong communities: strategy and action plan. We have a project manager we have brought on board and a small team who are working through that.

Ms BOLTON: Would we be able to get a timeline as to when this will be rolled out? We heard a lot of stories about people who are severely impacted in those communities not being able to work because of either delays or the issues that are being confronted. Is there a time frame?

Ms Doumany: We can provide you with an implementation plan which will give you a high-level time frame. It is a five-year strategy and action plan. We understand that it will take some time to do it well. The plan goes to 2025. There are individual strategies and actions within that plan that obviously will take less time to do.

Ms Fraser: I will add in relation to that that one of the pieces of work that the Safe children strong communities team has already commenced is going out to visit communities to specifically work through some of the communication aspects that you were talking about, about what some of the key messages are and then doing some mapping around where in particular in each community are the knowledge areas that we need to share more and how could that message be delivered most effectively. Is that looking in traditional languages? Is that working with local key people who are influencers within the community to get those messages out there?

Blue Card Services has historically done and continues to have a number of information resources which are targeted at trying to reduce some of the messages around the blue card system that might be deterring people from applying, such as: trying to indicate to people that criminal history alone will not necessarily mean that a person cannot get a blue card et cetera. It is kind of working to build on that and make sure that we are continuing to provide relevant information in a way that works best for people in community so that people are not deterred where they do not need to be but also where we can share a bit more information to demystify, for example, the submissions process but also make it, because we are conscious that the process can be quite challenging as well. It is about trying to do that in a way that is culturally appropriate and safe. There are lots of ongoing pieces of work.

Ms BOLTON: In addition to that information on the time frame—because in the response we were not able to get a specific breakdown on the types of offences and the refusals that were not disqualifying offences or serious offences—would we be able to access that, please?

Ms Doumany: I think that might be an issue with the actual database in terms of our ability to break those matters down by offence types. That is why it is a relatively high level. It would require some sort of significant manual intervention to break it down by offence type. In the system we do not capture the way in which the information comes from the police and offence type by data.

Ms BOLTON: So we do not have why the refusal was given?

Ms Doumany: I do not think we could break it down more than the simple, the more complex and the serious offence. The name of the offence itself I think is an issue for the system.

Ms BOLTON: That was one of the issues that was brought up, as well as those who were being refused for historical offences. It happened a long time ago. It was a serious offence, but in the eyes of those who want to employ them, especially if there is not children involved, there is a question as to why they are being refused.

Ms Doumany: Fiona, is there anything further?

Ms Fraser: No. I think it is a limitation of the database in the way that it captures metadata at that specific offence level.

CHAIR: One of the issues that came up in communities was people's lack of understanding of why they were refused. We were faced with a difficult proposition. We heard evidence of two persons who were involved in an assault on each other that happened a long time ago. They wanted to work in a childcare centre on the island and they were refused because of that offence, even though it was historical. It seems to be a very important aspect of what is happening in community for us to understand.

We heard that bringing alcohol into community—in some communities that is an offence—was a disqualifying offence. The difficulty the community faces is that this happened many years ago. On top of that, we heard that to participate in a foster-care arrangement you need a blue card and everyone in the house needs a blue card. In these communities, overcrowding is a huge issue. What worried me is that there did not seem to be any mechanism to address it.

As you pointed out, this is not the first time that this type of information has come to the department. I am concerned that there does not seem to be a direct interference, for want of a better word, to make the process better for these communities. For example, the mayor of Palm Island gave evidence that the two busiest places on the island are the cemetery and the airport, because people can work on the mainland in construction without a blue card but cannot work on Palm Island in construction without a blue card. There was a construction site outside the door of the place we were conducting the hearings. The mayor asked us if we could identify anyone other than a white person working on that site and my understanding is that there were not any.

Ms Doumany: I will pick up on a couple of issues. You asked a question in relation to historical offending or offences that, on the face of it, you would not expect to result in a negative notice. It is really hard to speak on behalf of specific matters and hypotheticals other than to say that I think a key part of the strategies being developed at the moment is to provide a better cultural lens into the information that decision-makers have in front of them so that they understand the context better, resulting in better outcomes.

The other strategy in that space is to look at ways in which we can better support people who are applying in the kinship care space. We want to look at the experience of those applicants and look at improvements. I go back to my opening statement. The department thinks there is more to be done in that area and is quite committed to developing better ways of working in relation to offending to make sure we have the best outcome for children, applicants and community.

In relation to the impact on employment opportunities, depending where and what a construction site is there for, a person may not need a blue card. We have seen a tendency for employers to overcomply with the system, because sometimes it is difficult to know. Obviously if construction is happening at a school or a childcare centre and there are children present, there are different issues. Often we see that people are being required to hold blue cards in circumstances where it might not be necessary. We encourage employers to call us and to call Blue Card Services to understand when and where they are not required. Fiona, did you have anything further?

Ms Fraser: As Nicola was saying in relation to overcompliance, that is work that Blue Card Services can and will do. They will engage with organisations to give clarity on when cards are and are not required. They give advice to organisations about potential implications if they are unnecessarily asking people to get blue cards, such as unnecessarily holding people back from employment opportunities. There is that aspect.

In relation to some of the earlier points about the assessment process and how we get that information to inform the assessment so that people have a clear understanding of what they are being asked to do by Blue Card Services and understanding why they have received the outcome that they have, Blue Card Services has a dedicated team who, particularly for applications from First Nations applicants, will work to ensure they have applied a cultural lens in considering the information for decision to see if there are cultural context aspects that have been missed in the information that has been gathered.

A reasons document is provided to everybody. If someone is issued with a negative notice, they receive a document, which we acknowledge can be lengthy, outlining exactly why the person was issued with a negative notice and giving that information.

Without going into hypotheticals about particular offending types, when Blue Card Services receive all of the assessable information—that can be collected from a variety of sources, as we said—they look at the information and consider all of the factors such as how long ago it was, how serious it was, what penalty was imposed and whether it suggests there are any particular risks that may be relevant to child related employment. Then they will look at the other information, which is the really key part of the submissions process. That is, if it is historical offending, what are the key steps that

person has put in place? What programs have they undertaken, what supports do they have, what is their position within community and what are the references that support that? It is a fairly holistic, comprehensive assessment which can look at all different kinds of information. It depends on the individual circumstances.

CHAIR: You referred to a document that goes to people who receive a negative notice. Can a copy of that document be provided to the committee?

Ms Fraser: We certainly would be able to give you a sample of what it looks like.

CHAIR: To be clear, a sample.

Ms Fraser: That would show the summary of the type information that the person gets.

CHAIR: I understand that it may be problematic to give me an individual's. A sample is what I was asking for, thank you.

Ms BUSH: Before I ask my questions, I probably should put on the record that I worked within the Department of Justice and Attorney-General before taking on my parliamentary role and I have had professional associations with those sitting opposite. I have not worked in Blue Card Services and I do not believe that anything I have said would impact on me being able to ask any questions.

Thank you for your response. I think there is a lot working really well in Blue Card, but in our inquiry we have obviously been teasing out some of the concerns, so I will speak to some of those concerns. It has been touched on already. One of the issues that came up a lot in our public hearings was the idea of net widening around disqualifying offences, serious offences and other relevant information. It seemed to be that once something was flagged on somebody's application anything was available to the assessor.

Some submitters have suggested amending section 221(2)(b) to tighten that up. Queensland's legislation is the toughest in the country which talks to the safety, wellbeing and best interests of children as opposed to, for example, that the chief executive must be satisfied that the case has a real and not remote chance of threatening the safety, interests or wellbeing of the child. It is really honing in on the likelihood that this person is going to offend against the child and perhaps amending that part of the legislation might solve some of these issues. I am interested in your views on that.

Mr Bourke: Obviously it is a policy call for government, but you are right in that Queensland operates alone with the best interests test, which is quite a broad encompassing term that enables a range of factors to be considered, whereas other jurisdictions across the country operate more with that risk of harm or that quantification of a real or appreciable risk.

There are recommendations in the QFCC report which go to the decision-making framework. As part of the government's response to a report of the Community Support and Services Committee into the Child Protection Reform and Other Legislation Amendment Bill, government did note that it was reviewing the blue card decision-making framework to ensure it is robust and fit for purpose. It is a 20-year-old test that has significant jurisprudence and QCAT decisions that support its operation. It requires an assessment of risk and protective factors. QCAT know it and the decision-makers know it, so any tweaking of the test, while it looks like one subsection, has quite a significant ripple effect for the decision-making framework. That is definitely a piece of work we are looking at—to determine whether it is fit for purpose and what is the appropriate threshold, noting that most people's assessable information would go through section 221.

In our written response we drew attention to a recent Victorian Ombudsman report. It is really important to be able to have regard to any type of relevant information, including child protection information, disciplinary information and domestic violence information. It augments the process to provide for that holistic assessment. I think the Victorian Ombudsman has made recommendations that Victoria should look to Queensland's legislative regime, with that capacity to act upon anything, but that best interests test is something that would be looked at part of a review of the decision-making process.

Ms BUSH: You are right in terms of supplementary information and protective factors. We were hearing that people were getting held up and that they were not able to really collate that and bring that together, so they were withdrawing or simply opting out entirely. Is the reform you are talking about around the QFCC's recommendation 41 about reviewing the decision-making framework? I think you have given this to us before, but where is that up to?

Mr Bourke: It is ongoing. Obviously there is a range of factors to look at that through a particular lens of its impacts for First Nations applicants and there are other initiatives in Safe Children and Strong Communities about complex case review committees, which is another recommendation of the QFCC, Brisbane

and how that might enrich the process to provide greater direct cultural input and cultural advice into the decision-making process. It is all part of the staged implementation of the QFCC's recommendations. They were large in quantity—

Ms BUSH: Yes, they were.

Mr Bourke:—and reforming the blue card system can be a bit of a beast, so we are still working through that.

Ms BUSH: Does that review include reviewing what is a disqualifying offence and what is a serious offence and whether that is still fit for purpose? Is that part of it?

Mr Bourke: That would feature as part of it. I would note that the government, I think in the previous term, included 17 additional offences in the disqualifying offence list, and I think there is a breakdown of the disqualifying offences in our written response that would have meant withdrawals. There is also a set of national standards that jurisdictions have agreed to and are working towards implementing. That would particularly require us to look at the list of serious offences. In fact, that really is a balancing act between not overregulating that list of serious offences by adding more that are potentially unjustified, so it would definitely be part of the mix. I think the disqualifying offence framework is now consistent with the royal commission and is largely consistent with those national standards. It is probably more the serious offences that require a closer look.

Ms BUSH: I am certainly not suggesting that we should be weakening anything that keeps our children safe, but a continued theme in the hearings was that it might be a serious offence—and absolutely that is warranted—but that serious offence might have occurred 20 years ago and arguably that person, even if they had time served, would have served time and been released yet they are still not able to get employment despite a 20-year history of really good behaviour.

Mr Bourke: When it is a conviction for a serious offence, you are looking at the test under section 225, which is that essentially it has to be an exceptional case in which it would not harm the best interests of children for the chief executive to issue a clearance. Section 226 of the act lists the factors, and when the offence was committed or is alleged to have been committed is a factor that we are required to look at. That contemplates that historical bit. The central factor is probably the nature of the offence and its relevance to employment or carrying on a business that involves or may involve children, so it is looking at that mix as to whether the offending would actually impact your capacity to be in child related employment or run your own child related business. Those factors kind of speak to those issues that you have heard about from your various hearings, but I guess each case is a case-by-case proposition though.

Ms BUSH: Absolutely.

Mrs GERBER: I wanted to touch on kinship care, if I might please. We heard a tragic story of a young girl who allegedly committed suicide as a result of being taken out of kinship care because the other children in that kinship care were required to have a blue card and essentially for whatever reason it was not elaborated on as to why they did not get the blue card. I want to understand what the department is doing in those situations where there is a kinship care arrangement where the children in that household—and I will ask the Family and Child Commission the same question as well—reach 18 years of age and they are required to have a blue card. We heard stories of children in kinship care on the cusp of being removed as a result of that family circumstance and the inability to get a blue card.

Ms Doumany: Fiona, did you want to talk about the procedural and operational aspect?

Ms Fraser: Yes. I guess I can comment on when a blue card may be required in those circumstances. Essentially—I think we referenced it a bit earlier—if they are in a household where kinship care is being provided the kinship carer themselves requires a card, as do adults who reside in that home and potentially regular visitors, depending on the type of contact they have. That is assessed on a case-by-case basis by the Department of Children, Youth Justice and Multicultural Affairs. They make the determination as to whether or not the person fits the definition of an adult household member, and it is defined under the Child Protection Act. Essentially, where there is a child who is living in the home who is transitioning to becoming 18 years old, basically they do have to apply for a blue card as they become 18. There are provisions within the act that basically say that as long as they submit the application before they turn 18 they can continue living in the house while that application is being considered and then at the point that a decision is made if a negative notice were issued, for example, then I guess considerations would have to be made because the person would not be able to continue residing in the home and that would be essentially a process with Child Safety around the placement of that child. There is a piece of work that the departments are about to do in terms of a bit of a holistic review of those matters for kinship care to try and work out if there are opportunities to look

at improved communications between the departments and make sure we have a good understanding of households where there might be a disruption coming because of a change in circumstances of an adult household member, but essentially that is at its beginning stages at this point.

Mr KRAUSE: So if you have someone living in the household who is about to turn 18, they have to apply for a blue card and then it is possible they might get a negative notice, as that process proceeds, which would obviously affect their ability to stay in that house. That would all be premised on events or history predating their turning 18 but the department does not have a view or any sort of scope to intervene in that kinship care arrangement before the person turns 18—the person who is living in the house I am talking about—even though those events would be the same whether it is before they turn 18 or after they turn 18; is that right?

Ms Fraser: Blue Card Services does not monitor the household arrangements. Essentially, we would not have any information about children under the age of 18 who live in that home so I cannot comment on what information would be known or otherwise.

Mr KRAUSE: No.

Ms Fraser: Essentially, the blue card comes into play—

Mr KRAUSE: When someone turns 18.

Ms Fraser: Yes, when someone turns 18 and that is—

Mr KRAUSE: But the dangers or alleged dangers would exist even before the person turns 18.

Ms Fraser: That is potentially true, but I guess the blue card act does make distinctions between blue cards not being required at certain ages.

Mr KRAUSE: I get you. Mr Chair, if I may say, the noise from the construction work on site here is a little distracting. I am putting that on the record.

CHAIR: Yes, and I will not tell you my discussions about it prior to the meeting commencing. Sorry.

Ms BUSH: It seems, again from our hearings, that there is a lot of misinformation out there, particularly with some of the major employers in that they are using it as a really easy risk management strategy when they do not necessarily need to have blue cards but they are using it as a matter of policy. I know that the department is doing some work on that. Can you give us an update on that education piece—how that is going and the impact you think that might make?

Ms Doumany: We do try to make sure we have education and products out there that speak to when a blue card is needed and when it is not. As I said, sometimes the best thing we can do is probably that one-to-one, where we can sit down and talk to the employer and take them through the types of roles they might have in their agency that may or may not require a blue card. We do not have the power to stop an employer from perhaps wanting a blue card as part of their own policies.

Mr Bourke: It is a tricky balance, yes. I think organisations probably do default to it, and I think that one-on-one support is probably the best avenue we have. Once a person makes an application, that is the doorway open to them giving their consent and providing for the access to the criminal history information. Our act details when you must have one and then there are offences associated where people work in regulated employment without one. Obviously there are elements of overcompliance that we attempt to address.

Ms BUSH: There is no way someone can make a blue card application for work without an employer sponsoring them, is there?

Mr Bourke: No. The legislation changed when we introduced no-card no-start, so you can apply on your own. It is sort of the job-ready component. To minimise the impacts of no-card no-start, you could be undertaking some form of training knowing that you are going to end up in child related work and you could apply for your blue card then so you are job-ready—ready to hit the ground running. We have kind of broken that employer link. That was a feature of the act, but it was removed in 2020 to facilitate online applications and the no-card no-start requirement.

CHAIR: That brings to an end this part of the hearing. I understand there were perhaps a few things taken on notice: the confirmation in relation to clearance, time lines for the strategy and also the sample. Is it possible to have that to the secretariat by close of business on 13 October?

Ms Doumany: Absolutely, yes.

CHAIR: Thank you.

CONNORS, Ms Kate, Deputy Director-General, Strategy, Department of Children, Youth Justice and Multicultural Affairs (Child Safety)

MISSEN, Ms Helen, Acting Executive Director, Strategic Policy and Legislation, Department of Children, Youth Justice and Multicultural Affairs (Child Safety)

CHAIR: Good morning. Thank you for being here. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you. Before you begin, the committee has granted leave for Mr Robbie Katter MP, the member for Traeger, to ask questions at the hearing today, and I welcome Robbie to the hearing. I invite you to make an opening statement of about five minutes and then we will have questions.

Ms Connors: Terrific; thank you very much, Chair. Good morning to the committee. I begin today by acknowledging the traditional custodians of the land on which we are meeting, the Turrbal and the Jagera people, and pay my respects to elders past, present and emerging. I also acknowledge the significant work of the committee in its engagement with Aboriginal and Torres Strait Islander communities in its consideration of this bill. We have provided a written response to the specific questions that you raised and we are happy to elaborate on any of that material that would assist in your inquiry. I would also like to acknowledge the committee hearings that have occurred to date and the submissions received.

I acknowledge our key partners, including the Create Foundation, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak and PeakCare, for their contributions to this inquiry. We have noted that many of the issues raised so far that impact on kinship care are not only for the carer but also for the adult members of the household, including siblings. We have noted some of the difficulties you have heard that have been expressed for young people accessing blue cards after leaving care. We also note the concerns raised for young people who have been involved with the youth justice system. There are significant implications in the bill for Aboriginal and Torres Strait Islander children and families, who are over-represented in the child protection and youth justice systems. We note that Aboriginal and Torres Strait Islander families are more likely to be kinship carers for family members.

To be granted a foster carer or kinship carer certificate, a person must be assessed by the chief executive to be a suitable person and all members of the applicant's household must be suitable persons to associate on a daily basis with children. Each applicant and adult household member must have working with children authority. The applicant must also be able to meet the standards of care in the statement of care and be able to help in appropriate ways towards achieving plans for the protection of the child. Kinship carers must also be kin to the child to whom the approval relates.

To be a suitable foster or kinship carer, the person must: not pose a risk to the child's safety; be willing and able to protect a child from harm; understand and commit to the principles of administering the act; and have completed any training reasonably required by the chief executive to ensure the person can properly care for the child. A person is suitable for associating on a daily basis with children or a particular child if the person does not pose a risk to children or the child's safety. Household members include all persons who have significant in-home contact with a child, including those who have a familial or intimate relationship with any person in the home. The person does not have to permanently reside in the home to be considered a household member. In assessing suitability, the chief executive may also consider the person's traffic history, domestic violence history, child protection history, employment history, their physical or mental health, and any other matter relevant to decide whether they are a suitable person.

A foster or kinship carer certificate currently expires two years from the date of issue. The chief executive may suspend or cancel a certificate of approval if the holder of the certificate or an adult household member does not have a working with children authority. When a person does not already hold a working with children authority when they apply to be an approved foster or kinship carer, they have to concurrently make a working with children application. The chief executive may provisionally approve a person to care for a child while that application to become a foster or kinship carer is being assessed.

In relation to provisional assessments, a person is considered suitable to be provisionally approved as a carer of the child if they do not pose a risk to the child's safety and are able and willing to protect the child from harm. Part of the suitability for the chief executive's assessment of a person for a provisional approval involves obtaining and considering criminal history information about the person and adult members of their household. The department's screening of the criminal history of potential provisionally approved carers and their adult household members aims to manage risk to

children who are in need of urgent placement while an assessment of their foster or kinship care application occurs. Any provisionally approved carer must also be able to meet the standards of care in the statement of standards.

Young people might also require blue cards for a number of reasons as they transition from care, including for education, employment or post-care accommodation. When a young person intends to continue residing in a foster or kinship carer's home after they turn 18 and other children or young people in care also reside in that home, the young person needs to obtain a blue card. This includes kinship arrangements where both the adult sibling and the child's sibling or siblings are residing in the home.

Any young person turning 18 who plans to continue to reside in the household can apply for a blue card when they are 17 years and nine months. Under the Child Protection Act, the young person can remain in the home of the care environment if a blue card application has been made and a decision is pending. Residential care services are also funded to support a young person in placement up to their 18th birthday. It is rare for young people to remain in residential care once they turn 18, but this arrangement may be there for a limited time.

The department also supports young people who are transitioning from care with blue card applications. We are committed to providing additional support to young people leaving care up to 21 years so they can be better supported in their transition to adulthood. From 2023-24, carers will continue to receive allowances for young people aged 19 to 20 years who remain in their foster or kinship care placements, while young people aged 18 to 20 years leaving non-family-based care will receive personal and financial support to live independently. We will also be funding culturally appropriate non-government caseworker support and financial support for young people who are leaving non-family-based care.

We thought we would mention a couple of issues for Youth Justice clients. In our Transition 2 Success program—which is an alternative education and occupational training program for young people at risk or in the youth justice system—we often partner with local businesses, TAFE and community organisations to support young people to gain qualifications. When they are required to have a blue card for those purposes, their youth worker can assist them by providing information and support on their application.

As mentioned by our colleagues from the Department of Justice and Attorney-General in their evidence, we are working together with them on their Safe Children and Strong Communities strategy. We participate in the strategy's implementation oversight group along with other key agencies such as the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships and the Department of Education. This strategy and action plan is about empowering First Nations communities and organisations by providing a more supportive system through each step of the blue card process. We are very committed to this work and we actively support Blue Card Services as they work through the strategy and action plan.

There are a couple of other reforms happening in Queensland and nationally that might be relevant. These reforms relate to the whole-of-government Supporting Families Changing Futures program, which flows from the recommendations of the Queensland Family and Child Commission's review of the blue card and foster care systems and our responses to the Royal Commission into Institutional Responses to Child Sexual Abuse. They aim to keep children and young people safe and supported to reach their full potential. We know that we need to apply all the lessons learned from those reviews and inquiries.

The 2017 Queensland Family and Child Commission's report *Keeping Queensland's children more than safe: review of the blue card system* showed that the Queensland working with children check is one of the strongest in Australia. Additionally, the Child Protection Reform and Other Legislation Amendment Act 2022, which received assent on 20 May this year, made further amendments to the Working with Children (Risk Management and Screening) Act to increase the ability of the working with children check process to keep children safe. These amendments were part of a step towards achieving greater national transparency on working with children checks and demonstrate Queensland's commitment to responding to the recommendations of the royal commission. The amendments also aim to improve the exchange of interstate information and impose blue card screening requirements on any person performing a risk assessed role for a licensed care service. Thank you for your time, and we are very happy to answer any questions that committee members might have.

CHAIR: Thank you.

Mrs GERBER: With the committee's indulgence, before we start I want to acknowledge that today is national Firefighters Remembrance Day. At the 10th hour on the 10th day of the 10th month, we pause to remember those firefighters who have made the ultimate sacrifice in their line of duty. I would like to thank the committee for allowing that pause.

Ms Connors: My apologies to the committee for speaking through that pause.

Mrs GERBER: Thank you, committee. My question is in relation to kinship care, and I will pose the same question I posed to the Attorney-General's department. We heard the tragic story of a young girl who committed suicide allegedly after being taken out of kinship care. In those kinship care arrangements, the children were coming of age of 18 and were not able to get a blue card. I want to better understand what the department is doing specifically in relation to those families with kinship care arrangements where the children are turning 18. There is a need for a blue card and you know that is coming. I want to hear from the department what is happening in that space to help those families get the blue card so children are not removed from care if it is not necessary.

Ms Connors: The way the system works is that the services we fund to support foster and kinship care arrangements should be aware as early as possible about the ages of the children in the house, and they support those older children from when they are of an eligible age to apply for a blue card. In relation to the very tragic circumstances—and we acknowledge the absolute tragedy of circumstances like that—they should be working in the case planning with us in the department if there are young people in that house who will soon be adults and will likely have a disqualifying or a serious offence. We can then do the appropriate case planning around how that household might be constituted, given the rules around blue cards and who is able to reside in that house if they do not have a blue card as an adult. We are concerned that that work happens as early as possible and as sensitively as possible so we can do the best case planning possible to make sure that the children in the household are safe, that we comply with the legislation and that all care is given so there is the best outcome for all of the children in that household.

Mrs GERBER: Can we go back to the question the member for Scenic Rim asked. For those children in that household who end up getting a negative notice or not getting a blue card, presumably the risk to the household was there prior to the child turning 18. What is being done in those circumstances in relation to the kinship care arrangement?

Ms Connors: This goes to the nature of the different regimes from Blue Card and then what we would consider a risk to the safety of the child under the Child Protection Act. If those children or young people had committed offences that caused us to believe they were a risk at the time to other children in the house—so the nature of the offences—we would be taking action then because under our act we are always looking at the risk to the safety of that child. Under the blue card regime they may be serious offences that we would not consider are serious offences or disqualifying offences. Through a child protection lens at that time, we might not consider they mean the young person cannot live in the house with other siblings because it is a different nature of the risk.

Mrs GERBER: It feels a bit like a double-up, then. Child protection services has already put that lens over the family and determined that the environment is okay for kinship care, and then Blue Card comes in and puts another lens over it and says that, based on their subjective opinion, it is not. What can be done so the departments work together more cohesively so that we do not see tragic outcomes like we heard at the public hearings a couple of weeks ago?

Ms Missen: One of the things we are doing—and our colleagues from JAG referred to it—is: when we hear stories of adverse outcomes for people, like the one you have described, Blue Card Services and our department are undertaking a piece of work where we are engaging in file reviews of those matters to look for patterns within the system that might be contributing to those circumstances. We identify whether they are a one-off and there is something unique to that circumstance that did not relate to the system or whether there is something in the way the system is operating that is resulting in outcomes that are not consistent with the policy intent.

We have commenced one piece of work around that with Commissioner Lewis to look at the transition from provisional approved carers to receiving a negative notice or withdrawing from the system and what is happening for families there, and then looking at other emerging issues around that transition period and what happens in those households. They require a review of the cases, which is basically reading and seeing what the two frameworks are that Kate alluded to and how those two frameworks are coming together to result in different decisions.

Ms BOLTON: We heard earlier that we could not obtain a breakdown of the types of offences as to what led to a negative notice because that subset of data is not available. You have just spoken about working with the department on a review. If we cannot get a subset of that data, does that mean you are going case by case through every refusal?

Ms Missen: Yes. Our project is to do a case read of every matter where there was a refusal to determine how the decision-making frameworks were applied using staff from both departments. The confidentiality provisions of the working with children act do not allow people outside the employment of working with children or Blue Card Services to have access to the information. We are using staff from both agencies to come up with a way that we can compare the cases in a de-identified way to get a sense of what is actually happening.

Ms Connors: That is for kinship care.

Ms Missen: At the moment, that is for kinship care. I guess the purpose of this project is to try to identify what are the processes that we could use in other matters that arose that would allow us to be compliant with the legislation but actually get a sense of what is happening on those matters.

CHAIR: You said that there is an issue in the legislation in relation to, obviously, the sharing of information. Did I hear that correctly?

Ms Missen: It is not the sharing of information for the purposes of assessment. The working with children check act has very strict confidentiality requirements, because of the nature of the information that Blue Card Services receive, about who can see information held on a working with children check file.

CHAIR: So you are saying that one department cannot talk to the other department because of the legislation?

Ms Missen: The departments can talk to each other for the purposes of assessing a person's blue card eligibility and for the purpose of assessing a person's kinship carer approval.

CHAIR: What is the difference between that communication taking place and then the next step, which is reviewing what is going on? Why are the departments saying that is a different process?

Ms Missen: When the government collects personal information from people it is collected for a particular purpose and it can only be used for those purposes. Using the information outside of that purpose in an identified format would require us to go back to all of those individuals and ask for their consent for their information to be used for a purpose other than that for which it was collected. That is why we are using research provisions in the Child Protection Act—

CHAIR: A solution?

Ms Missen: We are coming up with a solution that will let us work through all the files from both agencies and join the information together. We are coming up with a solution.

CHAIR: It seems cumbersome.

Ms Missen: It is not simple, but it will give us the outcome we need.

Ms BOLTON: In relation to your response regarding foster care and kinship service providers and residential care providers being responsible for assisting carers and adult household members with their blue card applications, given the difficulties we have heard throughout the hearings, what is your recommendation or what are your thoughts on how this can be improved? We have already heard so much, but do you see anything that would make a real difference?

Ms Connors: One of the things we often hear is that people do not want to seek a blue card approval because they assume they will not get it or they do not have a clear knowledge of what the disqualifying and serious offences are. We sometimes hear that to some degree it even includes staff in agencies or a resi saying, 'Yeah, that's right; you wouldn't get it because of this,' without really knowing whether that would be true or not.

DJAG is doing some work around better education, having more staff on information lines and making it much clearer for people to understand whether they should be applying or not. Busting some of the myths that are around about blue cards and whether you need one or not would be very helpful. We are certainly making sure our staff are well trained in relation to the advice they give to potential kinship carers, making sure we understand the process and that people are supported when they need to give further information. I am sure you have heard that sometimes the process of being asked for further information is distressing for people or it can make them feel like they do not want to continue with the application. Making sure that Blue Card Services, the department and our agencies have people who can support Aboriginal and Torres Strait Islander people in particular through the process of making sure all of the relevant information is before Blue Card Services before they make a decision and making sure the process is streamlined, easy and supported would be really helpful.

Ms BOLTON: Do you have any commentary on how you believe the blue card application process could be quicker?

Ms Missen: I am not sure I have enough of an understanding of how DJAG processes information as they receive it or the time within which they receive it to comment.

Ms Connors: I think we would rather leave that for them to comment on.

Mr KATTER: Hypothetically, if a family member is not really invested in getting a blue card then they have given up on getting work a long time ago, but if they are trying to access a kinship carer how do you see that playing out? I think I can pre-empt part of your answer, but I have a supplementary question.

Ms Missen: I think that goes to Kate's point. Committee members have heard—and we have heard—about the difficulty people have accessing the process, whether that is on the basis of understanding what is required, understanding what is a disqualifying offence or a serious offence, or the consequence or embarrassment about their own criminal history. I think Kate's previous point was about the approach of making that process as easy and supported as possible.

Mr KATTER: The most common conversation I have with your department in Mount Isa is, 'Rob, find us some staff. My biggest problem is trying to get staff out here.' How do you suppose we will ever adequately service that tension without encountering the nightmarish stories we hear if you cannot even get staff out there who can plough through that work? We are talking about timing here. I think there is a growing reluctance to engage in the process. How do we address that strategically? We are still here talking about this problem.

Ms Connors: It is undoubtedly, as you have alluded to, a challenge for us to recruit and retain staff.

Mr KATTER: Particularly in remote areas.

Ms Connors: In our remote areas in particular. You are right to say that much of this work would be improved when you have consistency of staff and consistency of relationships and all of those things that would mean we would have greater community trust with the department and all of those places. As a department we are really looking at our recruitment and retention strategies and some of the ways that we can maintain and support staff in regional and remote areas. It is a huge issue for the human services sector, as you know, and not one that only we face. You are right: consistency of staffing would assist, because a lot of this work is also about trust between the department and community and all of those things so that people feel free to come and talk about their information, about their lives, and we can make good assessments about how we provide them with advice and support about things like blue cards.

Mr KATTER: One of the principles of this bill is that meaningful work is the way out of dysfunctional family arrangements for a lot of people, which would directly impact your work. This has been supported by all of the mayors and just about every contributor at the hearings we have been to in those communities. Would you see it as strategically getting ahead of the game and beneficial to you if those people could get work? At the moment they are not. I would argue the system is clearly failing. Would it not plug into contributing to better outcomes for you and Child Safety by getting parents into meaningful work?

Ms Missen: Yes. We know that the drivers of disadvantage are a major contributing factor to the reason children come into care. Any opportunity we have to make it easier and more supported for people to be employment-ready is a benefit to the system, not only for us at the end of the system—that is, when children are not being cared for—but also in terms of prevention. That is why one of the things we are doing is establishing teams in each of the regions for the purpose of helping people go through the process. That is a role we can play in providing a supportive environment to help people go through the process of obtaining blue cards where they are needed.

Mr KATTER: You would acknowledge there are some obvious problems with that, given that we are at this hearing listening to people complain about this issue.

Ms Missen: We would acknowledge there are challenges to the system and they arise from, it would seem, some structural issues. We have heard too about information and misinformation people have and whether or not they have the information they need. I think one of the committee members asked our DJAG colleagues a question about that earlier.

Ms BUSH: I have three questions. The first question relates to what my colleagues have touched on, which are some of the barriers around kinship care—not for the carer but for all of the other adult residents of the household. Sections 133(1)(d) and 135(1)(b)(iv) of the Child Protection Act seem to be the relevant sections. When I look at the section in its entirety, there is a lot that has to be proven for someone to be given a licence to be a kinship carer. Is it not as simple as removing sections 133(1)(d)

and 135(1)(b)(iv) to remove that obligation, given there are all these other protections in place and given that every adult in my household with my children does not have a blue card? I recognise it is a much different arrangement, but it is a real barrier for people.

Ms Missen: I would reflect on our colleague Greg's comment before; that is, often the removal of provisions in the legislation seems like a simple solution but it often has other unintended consequences. The committee heard about the intersection between Blue Card Services and child protection services and how the two acts work together. Mrs Gerber mentioned some concerns about that. I think looking holistically at the system can only be a good thing.

Ms Connors: The department has a very strong focus on kinship care at the moment. We certainly see that as a crucial part of reform in the child protection system. We are doing a lot of work. Traditionally the parameters around kinship care have been very similar to foster care. They have been in the specifications of services we get agencies to provide. They do not look very different to foster care. We absolutely acknowledge that kinship care is very different to foster care: it is your family. We are doing a number of pieces of work around what kinship care and kinship care supports look like which acknowledge the difference, because it is someone's own family whom they are caring for. That includes working with Aboriginal and Torres Strait Islander Child Protection Peak, a program called Family Caring for Family. That is about a significant change to the way we support kinship carers and an acknowledgment that it is a very different set of circumstances to a trained foster carer who is not caring for a child in their own family.

Ms BUSH: It is certainly at odds with other things the department is doing around extending the age of care to 21, recognising that young people need that care. If you have a kinship carer with multiple kids, one of whom has a disqualifying offence technically, at 18 they will be chuffed off so they can continue to care.

Ms Connors: DJAG was just talking about their work reviewing parts of the blue card act. Thinking about where those thresholds are and our views around supportive kinship care, we are working well with them. I think there is a good understanding between the departments about how we might look to any future work in this area.

Ms BUSH: My second question relates to disqualifying offences. I saw your response to question 1. Under the working with children act, can they consider charges under the Youth Justice Act as a disqualifying offence? I am just wondering how a child under 18—where we are the corporate parent—ends up with a disqualifying offence?

Ms Missen: As the member for Traeger said, many of the young people involved in youth justice services and child protection services have incredibly complex family backgrounds. Not all children from complex family backgrounds engage in disqualifying offences but unfortunately some do. Trauma from complexity plays out in many different ways for many different children, so I am not sure there is a simple answer to your question.

Ms BUSH: The trouble with a disqualifying offence is that they can never appeal that and they can never have that removed, so there are some issues there. Touching on those in resi care, if my child kicks a hole in the wall I will deal with that as a parent; if a child in resi care does the same, is the obligation on the service provider to report that to police—or if they assault someone or if there is an argument in the home, what is their obligation? It goes to criminalisation of young people in resi care.

Ms Connors: Definitely. There has been a lot of work between us, residential care providers and the police, like a memorandum of understanding about when police should be called to residential care. I think we are all aware of the potential for overcriminalisation of young people in residential care. You are absolutely right: where a young person has teenage behaviour, if they are in a home with their own parents they will not necessarily be called. We have done a lot of work about how residential care providers can de-escalate without calling police, and the police are certainly keen to avoid call-outs, and they are very aware of the issue of overcriminalisation of young people in residential care. We have seen fewer call-outs. Since we have had that in place we have seen a reduction in call-outs, which is a good thing. All of our residential care providers do training which is called Hope & Healing which is learning about trauma, reaction and responses to trauma, the behaviours of young people and ways to de-escalate in a way that is safe for the young person, for the workers and for other residents in the house.

Ms BUSH: Subject to the chair's approval, it might be interesting for us to see the stats on whether there has been a drop in those reports and police interventions, if you could take that on notice. Chair, is that a possibility?

CHAIR: Yes.

Ms BUSH: My third question goes to the member for Traeger's question around employment out in the regions. I wondered if the department had considered or had spoken to DJAG, for example, about pooling resources and applying an FTE out in the regions. For example, on Palm Island—and you know this—there are some great people out there who are going to live on that island their whole entire life. They are not going anywhere. They are a permanent person who would be great to work across different state portfolios to be there to answer questions and to be that daily presence. Is that something the department has explored or could explore?

Ms Connors: I do not know that we have explored it, but we could explore it.

Ms BUSH: That is my professional view. It just struck me that in the regions you have a really great cohort of people there that could absolutely help.

Mrs GERBER: My question is in relation to looking at whether or not the support that is being provided to applicants for a blue card in kinship care could be given by the department and then contrasting that with the solution that is proposed by this bill. This bill proposes that community justice groups be utilised in that process. I am interested if the department can give us a view on that. I am not sure whether you can, but I am interested in whatever you can give us in relation to what the bill proposes around community justice groups, and in particular that they have the ability or power to compel.

Ms Connors: I think we would have to give a similar answer to DJAG. I think very much that would be something that, should it be taken up, there be some work in co-design with the community justice groups, but I think we would have to say that is a matter for government policy on which I cannot comment.

Ms Missen: I probably could add as well, though, that the Child Protection Act does allow the chief executive to delegate statutory child protection functions to an Aboriginal or Torres Strait Islander chief executive of an Aboriginal or Torres Strait Islander organisation where there are functions within the Child Protection Act. That is existing legislation. It is currently utilised in two locations with a view to extending statewide over the next 10 years, taking into account issues like availability of staff in regions and willingness of Aboriginal and Torres Strait Islander organisations to take on those services. For the functions in the Child Protection Act, there are possibilities there.

Mr HUNT: One of the community justice groups—and I will deliberately not say which one—was speaking specifically about adult offenders and their immediate post-release surrounds, and I was wondering if it applies to adolescent offenders as well. What they were saying is to the effect that the lack of a blue card is affecting post-release rehabilitation and reintegration. The wording I have jotted down here is 'genuinely stopping opportunities to start again'. Do you have any thoughts on whether or not that is accurate? It certainly came through with one community justice group in particular, but it was touched on by the other three that we spoke to.

Ms Missen: Children do not require blue cards.

Mr HUNT: No, but their post-release accommodation, their post-release opportunities and that sort of thing, because of the requirements around that. I was wondering whether or not the same issues that we have identified more broadly around blue card are having an impact on youth justice reintegration.

Ms Connors: There are much smaller numbers. I am not aware of it, but I presume the issue is people perhaps not being able to live at home again and the issues around that, particularly in communities where it is very difficult to obtain other housing or places to stay.

Mr HUNT: Post-release accommodation is a massive issue with adult offenders. Does it have the same impact and do these issues play out with juvenile offenders?

Ms Connors: I cannot say I am aware to the same extent. There may be individual cases, but I am not aware of it being as big an issue as it is for—

Mr HUNT: Not so much for the juvenile offender, but the processes that wrap around them post release?

Ms Connors: We have 72-hour release plans and then other release plans, but I am not aware of that being raised as an issue.

Ms Missen: If a child who was in foster care or out-of-home care was being released to an out-of-home care placement, the same rules would apply to that young person being placed in that placement as they would to anybody else, including in a kinship care placement. I am not sure if I am understanding your question properly.

Mr HUNT: You are onto it.

Ms Missen: If a young person was released from custody to a kinship care placement and the young person was on a guardianship order to the chief executive, the adults in that kinship care placement or home would be required to have a blue card, yes. Potentially the same issues would apply there. Is it a specific issue that we are unable to take young children home from custody? We would have to follow that up as a question because I am not sure that we would know.

Mr HUNT: That would be great, thank you.

Mr KRAUSE: Do you have a view on how much more beneficial it is for children who are needing to be placed in care to be placed in the kinship care arrangement as opposed to either a foster care arrangement or a residential placement away from their community altogether? Do you have any data about outcomes down the road? If you do not, could you just give us your view, please, given this is your field of expertise?

Ms Connors: There certainly is significant evidence about the benefits for children and young people in living with family. We could supply to the committee some research around that if you were interested. Children remaining connected to family and community culture is undoubtedly a better outcome for them if they are unable to live with their parents.

Mr KRAUSE: That answers the question. If you have any research that you could send to us, that would be appreciated.

Ms Connors: We can certainly send it to you.

Ms BOLTON: With respect to data, has there been any collation regarding kinship care arrangements that have been impacted by negative notices? What numbers are we talking about yearly? Are those broken down into whether it related to the actual carer themselves or a member of the household or broken down into whether it was to do with a serious offence or historical?

Ms Missen: I am not sure how far down it is broken, but certainly there is annual publication of data. Commissioner Lewis might even have it to hand. There is annual publication of data of the number of kinship care arrangements where there is a refusal of a blue card. It is published annually. We could obtain that for the committee.

Ms BOLTON: If we could get that, that would be great.

Ms Connors: I am not sure whether we would have breakdowns of that before—

Ms Missen: I do not imagine we would have it by reasons in terms of disqualifying versus serious because that would go to the Blue Card Services' ability to extract information, but we will have a look.

Ms BOLTON: Wonderful, thank you.

CHAIR: There being no further questions, this session is now ended. We have a number of matters on notice and I ask that answers to those be given to the secretariat by 5 pm on Thursday, 13 October. Do you need me to outline what they were?

Ms Connors: It might be good to have a shared view, thank you, Chair.

CHAIR: The number of children in care—is that clear enough?

Ms Missen: I can repeat back what I heard. I have written down that we will give you the numbers of referrals to the Queensland Police Service out of residential care and any reduction with a view to looking at trends; data about the number of refusals of kinship carers; and any research we have about the benefits of kinship care over foster or residential care. They are the three things I wrote down.

CHAIR: Thank you. You seem to have them covered.

LEWIS, Ms Natalie, Commissioner, Queensland Family and Child Commission

CHAIR: Good morning. Thank you for being here. I invite you to make an opening statement and then the committee will have some questions for you.

Ms Lewis: Good morning, all. I want to acknowledge that we are meeting on the lands of the Jagera and Turrbal people and pay my respects to elders past and present. I want to firstly address the objectives of the bill: to provide a blue card framework that empowers Indigenous communities to make decisions to serve their interests in relation to child protection and employment.

The QFCC acknowledges that there are significant barriers to Aboriginal and Torres Strait Islander peoples' participation in the blue card system and that the existing processes can be obstructive and produce adverse impacts for individuals and the communities to which they belong. The QFCC is supportive of and committed to working towards solutions that achieve the intent and objectives of the bill. From my professional observations, I do have concerns about issues in the exercise of discretion in the absence of local cultural, historical and social contexts to inform decision-making. The absence of such may be considered to affect procedural fairness and the quality of the decisions made. Decisions should be well and fully informed. Criminal history is a critical consideration but not the only relevant information to establish suitability. Subjective assessment of criminal history leads to accounts of events that are subject to an inherent cultural bias in many communities and one-dimensional decision-making is far less likely to achieve a balanced and equitable outcome.

With regard to the contribution of the community justice groups, I look at that more broadly around local cultural authority and other recognised entities such as councils and local decision-making bodies, perhaps in the future under the Local Thriving Communities initiatives. All of those together should not be underestimated in terms of the potential for improved decision-making processes and the quality of outcomes in the best interests of children and young people. I recognise that numerous stakeholders have raised concerns about the community justice groups being the sole option for progressing the proposed reforms. There are potentially other options available, as I mentioned. The determination about the most appropriate option in every community must be negotiated at community level.

In 2017, following a request from the Premier, the QFCC released the *Keeping Queensland's children more than safe* review of the blue card system. The review made 81 recommendations to strengthen the blue card system. Full implementation of these recommendations would go some way to addressing the concerns raised by the bill. It is prudent to recognise that it has been five years since the recommendations were tabled. I have been in my role at the QFCC for two years and I respect the significant body of work undertaken by the QFCC in conducting the review and the work of multiple departments to progress the implementation of those recommendations. However, I think when we become aware of emergent or consequential issues or movement in the policy settings or priorities, the availability of new evidence, a shift in our thinking or a very clear and compelling awareness that there have been unintended consequences for particular groups of people, we need to be willing to adapt, we need to be willing to reflect and we need to be willing to change course if that is necessary. That is my position with regard to a number of the recommendations that have been made.

In the QFCC submission we focused on particular recommendations made in the blue card review that may assist in addressing a number of the issues addressed by the bill. It is my observation that these recommendations are currently viewed and progressed as recommendations in isolation, but there is merit in considering them as a package of administrative, procedural and practice reforms. In combination, they may potentially ameliorate the impacts upon Aboriginal and Torres Strait Islander people because of unintended but now clearly realised consequences of previous legislative reform. There is an opportunity to reflect and there is an opportunity to reconsider and to course-correct.

The bill proposes a new blue card framework that would allow community justice groups to make decisions regarding an Aboriginal or Torres Strait Islander's ability to work within their community. It addresses the two major concerns around there being no mechanism to allow the local community to have input into the issuing of blue cards for employment purposes and no mechanism that recognises behavioural improvement and the positive impact that the employment of an individual may have on a community. I am absolutely in agreement with the member with regard to the potential to shift the dynamics within families and contribute to the overall wellbeing of children by being able to disrupt those cycles of intergenerational unemployment. To bring stability and a reliable source of income into the home absolutely has a positive impact in terms of risk.

I will briefly address the recommendations that I think are probably most relevant for consideration by the committee with regard to those two issues. The first was the new decision-making framework that has been referenced this morning. Recommendation 41 proposed the introduction of a

new decision-making framework that refocuses the assessment considerations, the legislative test and a review of the list of serious offences. The QFCC has observed that Aboriginal and Torres Strait Islander community-specific information is under-utilised during the assessment process. Community-specific information provides context to previous offending behaviour and increases the understanding of life in community outside of metropolitan areas.

It is our view that the assessment framework must include the requirement to obtain community-specific information for applicants residing in regional or remote communities and that the risk is assessed fully in the context of all relevant information, not just the information considered by Blue Card Services, including the existence of broader safeguards and the risk management capability of a community as opposed to the outcome of criminal history checks in isolation. An important consideration in the broader policy environment is the forthcoming implementation of the national child-safe principles in Queensland. This will help organisations to maintain safe environments for children without an over-reliance on working with children checks.

Recommendation 43 proposed the appointment of a multidisciplinary panel of advisers, including an Aboriginal or Torres Strait Islander person, and the establishment of a complex case review committee with Aboriginal and Torres Strait Islander representation. It is my view that this is a minimalist approach. We should build upon this recommendation and, rather than focusing on generalist representatives to provide cultural advice or raise awareness of cultural issues, we should focus on engaging the requisite cultural authority with specific local expertise and the lived experience of Aboriginal and Torres Strait Islander people in leadership roles within their own communities. This, in fact, is the approach that we are trying to progress under the Safe Children and Strong Communities implementation group. As was mentioned before, we have encountered some difficulties in terms of information sharing. Maybe to assist in our ability to monitor and evaluate the effectiveness of reforms, a future amendment to the working with children checks to enable information sharing for the purposes of genuine research would be welcomed and certainly improve functional oversight.

The final recommendation that I want to talk about is delegated decision-making. Recommendation 54 proposed the use of an authorised officer to exercise enforcement powers with respect to monitoring and compliance resulting from the maintenance of child-safe environment requirements. This would require a legislative amendment and would effectively create a system of delegated authority to exercise some of the functions of the chief executive under the Working with Children (Risk Management and Screening) Act. The QFCC is open to the possibility of reconsidering the scope of the recommendation, at the direction of government, to include delegating authority to suitably regulated bodies—for example, community justice groups or local councils—to undertake the assessment and approval of blue cards in certain circumstances as foreshadowed in this bill.

The concept of delegated decision-making powers is not unique to this context. The delegation of functions and powers to a prescribed delegate in relation to Aboriginal and Torres Strait Islander children in need of protection or likely to be in need of protection has been a mechanism of the Child Protection Act since 2018. Under that act, the chief executive may delegate any and all functions and powers to an Aboriginal or Torres Strait Islander person who is a chief executive officer of an Aboriginal or Torres Strait Islander entity, holds a positive notice or exemption card and is appropriately qualified and suitable to perform the function or exercise the power in relation to that child.

The QFCC is particularly interested in the potential for a similar approach to delegated authority within the blue card system. There is a clear policy intent to increase the proportion of children being placed in kinship care, which is known to have benefits for children who may otherwise reside in foster care or residential care. If a similar delegated authority mechanism were incorporated into the Working with Children (Risk Management and Screening) Act, the authorised officer or entity could also have the opportunity to make decisions in relation to blue card applications. The delegated authority mechanism must have cultural authority for the delegation to be effective and to protect Aboriginal and Torres Strait Islander children.

Incorporating cultural authority into decisions affecting our children could be achieved progressively. It does not all have to happen overnight, as we have observed in the child protection space. That is, while delegated authority has been in the Child Protection Act since 2018, there has been an incremental approach taken in order to make sure that we have done sufficient consultation with the organisations that are taking on those authorities and also to consult with individual communities about the most suitable entities to take on those types of functions. That would then be followed by a balanced negotiation on the resources and supports required to enable the transition of responsibility and risk. The process could commence with an administrative agreement for relevant representatives to provide advice to the decision-maker in the first instance. This could then progress to a shared decision-making framework and ultimately, with legislative amendment, proceed to delegated authority for independent decision-making.

Finally, amendments of this nature that would be an enabling provision for delegated authority under the act may be considered by the committee as an appropriate mechanism to achieve the intent of this bill that is modelled on an existing and tested approach and avoiding the potential perception of the introduction of a different standard for a particular group. This type of provision would also lend itself to application beyond remote communities. I will wrap it up there because I know I am very short on time.

Mr KRAUSE: Thank you, Ms Lewis, for your contribution and your submission. It is a very powerful one. It is a call to action to reform. In particular, when you use the words ‘clearly realised unintended consequences of past reforms’ you confirm so much of what we have heard in this whole inquiry so thank you very much for that. I want to take you to your submission just now and, in particular, the recommendations from the Keeping Queensland’s Children More Than Safe review. You referred to three unimplemented recommendations: 41, 43 and 54. Can you refresh my memory: how many days did you say it has been since that report was handed down?

Ms Lewis: The report was completed in 2017.

Mr KRAUSE: Yes, and some of them remain unimplemented now.

Ms Lewis: Yes. There was a period before acceptance of the recommendations.

Mr KRAUSE: I thought you referred to a particular number of days at the beginning of your contribution. That is okay. You mentioned those three recommendations. Are there any other recommendations that you would point to? I know that you were hurrying a little at the end. Are there any other recommendations to deal with this issue that you think need to be implemented posthaste?

Ms Lewis: Like I said, there are 81 recommendations and they all focus on different parts of the blue card system. There are a number of recommendations that have been gaining momentum over the past 18 months, probably as a direct result of the release of the strategy. I now co-chair the oversight implementation group for that strategy. I can certainly say that there have been significant efforts by the department to work with communities to try to address some of the misinformation and to try to support people and provide additional support points for people to engage with the blue card process. I think that is very important to do. While we can bring people to the door, what we now have to do is assure them that the process is fair, that it is equitable, that it actually understands risk in the context of the communities in which they live and give people an opportunity to actually demonstrate the types of strengths and protections that exist within that community setting. If we do not pay very quick and urgent attention to reforming that process, what is the point of bringing people into the system to subject to them to a disappointing and unchanged process?

I certainly would never be advocating for a reduction in the standard of safety that Aboriginal and Torres Strait Islander children are absolutely entitled to. However, while we can all sit here and recognise that keeping children safe and creating safe environments for children is far more than just the blue card system, what we have done is positioned the blue card system to be the final say or really, when it comes down to it, the only thing that matters.

Regardless of the types of changes that have occurred in a community where the families and communities are absolutely firmly committed to protecting their children, a negative outcome in relation to a blue card, particularly when it is not in relation to a disqualifying offence, I think is actually heartbreaking and I think that is where we have an opportunity. That is the space where discretion is exercised and that is the space where the advice and guidance of Aboriginal and Torres Strait Islander people who are most invested in safe outcomes for their children have their voices heard loud and clear and I think that is the opportunity we are presented with.

Mr KRAUSE: You noted that it was 2017 when that report came down. Coincidentally, that was the first time that this issue was dealt with by this parliament through a private member’s bill. I was actually a part of that inquiry as well. The issue of delegated decision-making was recommendation 54. Can you give us any insight—although you sort of just did then—into why, in your view, that has not been implemented so far, given that it touches on or even would cover the issue being raised by this private member’s bill?

Ms Lewis: I think the priority has previously been on trying to make the process of assessment culturally safe. I think there is a really big difference between people providing advice around Aboriginal and Torres Strait Islander general cultural issues in the context of a blue card decision and people with vested interest in the safety and wellbeing and the ability for their community members to participate in the economy and get a job. There is a really different contribution that can be made when people with real lived experience of the norms, the strengths and the challenges in the community are positioned with authority to provide directive advice about what needs to happen that is truly in the best

interests of children, young people and adults in that community. I think the focus on slight amendments to the blue card assessment process has really proven that we need to go further, and that is why in our reconsideration of that particular recommendation we have sought to increase the scope to consider the delegation of an authority, not just for monitoring compliance with blue card but potentially for participation in the assessment and approval process of blue cards.

Mr KRAUSE: It is about listening and engaging more with the real experience in the communities rather than others who have a broader look at things at a policy level?

Ms Lewis: Yes, absolutely.

Mr KRAUSE: And actually taking heed of what they say.

Ms Lewis: It is about people like me not occupying the space and thinking I have the authority to speak on behalf of the community. It is about me creating space for people from community to hold those positions and to have that say about the things that most profoundly affect their community.

Ms BOLTON: I am just trying to get my head around creating space. For example, we heard during hearings about justice groups and the roles they can play. There is obviously support and there were also concerns around that. When you talk about delegated authority, a delegated authority could be a justice group. It would obviously require resourcing to be able to do that. Is that to make a directional advice to Blue Card Services? Currently some give references for applicants. Is that how it would look, as in they would then give that advice to not only give that cultural aspect but also speed up the process?

Ms Lewis: It is a transfer of power and authority around making those critical decisions. I think when we look at the experience in the Child Protection Act, the ability to delegate any and all powers and functions exists but no-one is racing in trying to take on the full responsibility and risk of administering the child protection system. I think if we took an approach where that enabling provision existed within the legislation, it is then really important to engage with every community to identify what body is trusted and most appropriate to potentially take on a range of functions in terms of assessment or approvals of a blue card.

At the moment you are right: a lot of community justice groups are approached to provide a reference or a statement, but at the moment there is really no formal mechanism to give weight to those particular recommendations or references that can be given. This is slightly different in that we are actually saying there is an opportunity to position them as the decision-makers around suitability when it comes to working with children checks. I think the work in identifying who is the most appropriate entity is a matter for communities. The discussion or the negotiation around what are the types of resources that are appropriate to be negotiated to take on those types of risks and responsibilities is a really important part of the process. A lot of the reason for the amount of time it has taken to implement the child protection provisions was really that we did not want to hand over all of the risk and responsibility without the resources, because the first bad decision would see an overreaction in the opposite direction and the removal of that shared decision-making or that independent authority for communities. It is really important, I think, to make sure the infrastructure—the support—is able to be articulated by the community and that is given in order for that to be successful.

Ms BOLTON: Given the urgency in the communities and what we have been hearing—and you noted at the beginning of your overview how long things take; a strategy was developed five years ago and we are just seeing those rolled out—but also unintended consequences but the ability to adapt if there is a need to, what you have in your recommendations obviously would take a long time as well. What would be that mechanism that adapts? What would be the path, if it was to roll out and it was implemented, to be able to adapt?

Ms Lewis: I think an interim measure we could explore—and I say this noting that I have not tested it with the lawyers in Blue Card just yet; there may be problems with it. As part of the current process, an applicant is able to submit what is called an authority to liaise or an authority to share information. At the time of applying, they can actually nominate somebody who then can receive information from Blue Card about the status of the application and whether any information is required, if they are seeking additional references or something. There is currently that capacity. I would have to come back to you with data, if there is data collected, on how often that is used.

If we think about that as part of an administrative process that is to support and advocate for the applicant, that information sharing is one-way, so it allows Blue Card to provide information to this person who has been given authority by the applicant to receive the information. If we were to consider whether or not we could make that a two-way exchange of information, where it actually positions an entity like the community justice group to provide independent information to Blue Card Services for Brisbane

consideration in their determination of suitability of that particular applicant, that may be an avenue to open up a more direct flow of information. It certainly does not go anywhere near close enough to having a binding recommendation, but I think it would enable us to test the veracity and the usefulness of an open exchange of information for the purposes of informing a decision.

Mr KATTER: I discern from that that you are not supportive of the bill—the fact that you are landing on the local justice groups, which clearly I have seen as a risk. You are a bit vague on that. You say that collectively we need to use that. I have been working on this for nine years. A lot of tragedy has occurred because we have not purpose-fit the blue cards. Can you zero in on that a bit more? We have to be inclusive of everyone. That sounds good, but in practicality what does that mean, given that we spoke earlier about everyone finding it hard to get anyone competent working effectively in this space now? Keeping it in practical terms, what does that mean?

Ms Lewis: If I could clarify, when you were talking about being inclusive of everyone, did you mean—

Mr KATTER: You were saying the councils, which is obviously a thought process I have been through as well. Why do you ignore the councils? To me you have to land on someone, because timing is just as important, from my point of view—maybe not ‘just as’. Timing is a really strong element of this as well—getting not just the decision-making right but also the timing of it, because so many people are walking away from the process because of the timing.

Ms Lewis: I think it is about having the capacity within the legislation to do that work and to transition the authority of decision-making. The process of identifying which is the best mechanism for each community is just to allow for the different preferences and the different status of development or maturity of different entities within organisations. For some communities—and I have been trying to keep up with all of the hearings—it is quite clear-cut: there is fairly firm agreement that a community justice group would be appropriate in that particular context. That next process is just understanding what is the difference in the role they do now and what we are asking them to do tomorrow and how they then need to be supported. It is really just to think about it. Rather than limiting amendments to a particular entity such as the community justice groups, it would be about using a more general term around a prescribed entity. That then allows the flexibility in each of the communities to land somewhere different.

Mr KATTER: That is a good answer. I am still trying to work it out. It seems to me that you would say what this bill is trying to achieve you would like to see happen but you would just like to tweak the way you would delegate that authority, but you would still like to see the authority go back to the local community?

Ms Lewis: Yes. I absolutely think there is merit in that. I think that is one of the only ways that, at least in my own imagination at this point in time, I can see that we would be able to place the appropriate cultural authority into that decision-making; otherwise, we are playing with the edges. I think what we really have an opportunity to do—and in the broader policy context too, if we are talking about commitments to self-determination, we are talking about treaty, we are talking about resetting the relationship with Aboriginal and Torres Strait Islander people, we need to trust that Aboriginal communities want the best for their children and that there is not an inherent presented risk by virtue of being an Aboriginal or Torres Strait Islander person, particularly one who lives in a remote community. If we are talking about looking at sharing authority and sharing spaces in a whole range of social policy areas, I think this one has a very significant impact on the future viability of our communities and on the safety of our children and I think it warrants urgent attention.

Mr KATTER: I have one last quick question, and it is a trick question.

Ms Lewis: Fabulous; thank you.

Mr KATTER: It is not really directed at you. It is often a criticism of this bill that we should not have two standards in a community, but then we have alcohol management plans. Would you be against alcohol management plans or not, because they link back into this same space, I believe? I think they serve a role. My point, and maybe it is a rhetorical question, is that sometimes we have to look at these things differently and, even though I believe intrinsically we should be treating everything the same, this to me is an anomaly where we need to purpose-fit it for those communities.

Ms Lewis: I take your point—as opposed to the way it is described within the act to achieve that purpose. That is why I talk about looking at a mechanism that already exists, that has already gone through the criticism of establishing a second standard—of standing up to that test and being implemented in law. That is why my suggestion is to focus perhaps on delegated authority more generally as opposed to how it is described within the legislation. Like I said, that was the first criticism
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of introducing delegated authority in the Child Protection Act. That means that an Aboriginal community controlled organisation can activate all powers and functions of that act—all decisions—and carry that risk. I think that was fairly contentious at the time. What we have seen in the implementation that has occurred is that those community organisations are absolutely making decisions that are in the best interests of children, and that reform has been achieved without compromising the safety of Aboriginal and Torres Strait Islander children. With a working example and an existing piece of legislation that is related, being that the focus is around the protection of children, I felt that perhaps that is a clearer path to the outcome.

Ms BUSH: So that I am clear, with the five-year passage of time since the report was authored, QFCC still stands by all 81 recommendations; however, in relation to this bill you would be looking to see recommendations 41, 43 and 54 prioritised? That would make a substantial difference in terms of the issues we are hearing about with the amendments, as you have said, to 43?

Ms Lewis: Yes.

Ms BUSH: Can I ask you about 47 with the internal review? Do you still see merit in the department having an internal review so it does not necessarily need to go to QCAT in the first instance?

Ms Lewis: I think we need to test that. I think there are other aspects of the system where we have to ensure some quality first before moving towards that internal review function.

CHAIR: Thank you for your attendance here today. There were no questions taken on notice. We will now adjourn for a short break.

Proceedings suspended from 11.17 am to 11.25 am.

MARTIN, Ms Meg, Human Rights Lead, Queensland Council of Social Service

CHAIR: Good morning and thank you for being here. I invite you to make an opening statement, after which committee members will have some questions for you.

Ms Martin: I would like to start by acknowledging the traditional owners of the land on which we meet, the Jagera and Turrbal people, and acknowledge elders past, present and emerging. I would also like to thank the committee for the opportunity to provide further information on the proposed bill. QCOSS, the Queensland Council of Social Service, is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity and wellbeing for every person in every community.

QCOSS supports the objective of the Working with Children (Indigenous Communities) Amendment Bill 2021 introduced by the member for Traeger, Mr Robbie Katter, to improve the blue card framework to better serve the interests of Indigenous communities. While the bill's focus is on employment outcomes, we believe that this is an opportunity for consideration of a larger reform agenda. Many of the barriers that exist for Aboriginal and Torres Strait Islander people in accessing a blue card for work also exist for seeking to become kinship or foster carers in the child protection system. Figures released in August 2022 showed that there was a 21.7 per cent increase in the number of Indigenous children in residential care between 2019-20 and 2020-21 and that the number of Aboriginal and Torres Strait Islander children in out-of-home care grew by 7.6 per cent in the same period.

The intent and purpose of the blue card system, as I am sure everyone is aware, is threefold: to promote and protect the rights, interests and wellbeing of children and young people through a risk management strategy; screening of employed people to ensure that the welfare and best interests of children are paramount; and that every child is entitled to be cared for in a way that protects a child from harm and promotes the child's wellbeing. Decision-making associated with the blue card system needs to be applied in a human rights respecting framework that builds on the work that has already been enacted into addressing the systemic racism against Aboriginal and Torres Strait Islander people, including Closing the Gap and the Aboriginal and Torres Strait Islander child placement principles. It is QCOSS's view that the proposed legislative amendment should be considered as part of that larger regulatory reform and review of the blue card system.

QCOSS acknowledges that there have been investments into resourcing such as the Indigenous liaison officers within Blue Card Services to support applicants and employers with lodging blue card applications. While these changes may streamline application processes, they do not address remaining barriers including long wait times and delays in applications and review processes, those associated with the discretionary decision-making within Blue Card Services such as consideration of negative notices in exceptional cases or the impact of the no-card no-start policy.

The blue card system has not been robustly reviewed since the enactment of the Human Rights Act in 2019. This is particularly relevant when considering discretionary decision-making. A fulsome review of the blue card system will allow the legislative considerations to address a number of those barriers and provide for clarity to the discretionary decision-making, both within Blue Card Services and on reviews to QCAT; the long wait times for applications, reviews and appeals; and the lack of support and representation for applicants affected by adverse decisions so that they know what to do in order to mitigate risk, if appropriate, and to navigate what is a complex legal system.

With regard to the Human Rights Act, QCOSS notes that the statement of compatibility supplied with the bill identified several human rights that would be impacted by the proposed amendments and we acknowledge the intent of the Working with Children (Risk Management and Screening) Act as identified previously. It is mainly to reduce risk and protect children from harm.

Under the Human Rights Act, a public entity must give proper consideration to human rights when making a discretionary decision such as those that occur within the act. While the welfare and best interests of a child are paramount, this must be balanced when limiting the competing rights of an individual and should only be imposed to the extent that the limitation is justifiable and reasonable. There is inconsistent data on the volume of negative notices for blue card reviews through the QCAT system. Reports that I have been able to access vary from between 14 and 28 reported judgements from the 2020-21 financial year, so it is uncertain the volume of reviews being sought on negative notices for exceptional cases decisions. We would note that the volume of reviews is not a clear indication either of the number of negative notices made.

There will be barriers to applicants seeking to review, including those time limitations, the complexity in the process going through QCAT and the requirements needed to meet the review thresholds, the lack of funded advocacy and support for people as well and representation for people

to navigate this process and system. Human rights that are currently impacted through the blue card decision-making process and will be impacted through the bill include equality before the law; freedom of thought, conscience or religion or belief; freedom of expression; protection of families; cultural rights, both generally and cultural rights of Aboriginal and Torres Strait Islander people; a right to a fair hearing; and the right not to be tried or punished more than once, noting that a negative notice is not a person being charged or tried again but the impact is to further a person's punishment after their sentence.

The ramifications of a negative blue card notice can be significant. For some it will mean that they are ineligible to work, including in their local communities when this is often the only employment available. For families that are issued with a negative blue card notice—and this is often for historical offences that are not considered serious offences under the legislation—this can and does mean that Aboriginal and Torres Strait Islander children who are placed in care or residential facilities are not being placed with kin or family. Human rights should only be limited to the extent that they are reasonably justifiable in a free and democratic society based on human dignity, equality and freedom.

In our November 2021 submission we noted the Northern Territory's working with children check, also known as the ochre card. We have since received further information that may be of interest to the committee. While there are a number of similarities in Queensland's blue card system and the Northern Territory's ochre card system, there are a number of key differences that I would like to draw to the committee's attention. These include that applications for ochre cards are made through their Screening Assessment for Employment—Northern Territory, or SAFE NT. This is a portal through the Northern Territory's Police, Fire and Emergency Services. It is a direct-line referral process.

The Northern Territory ochre card still provides for a provisional notice that can be made upon assessment. It is a temporary approval and the purpose is to enable people to start employment without delay following an initial assessment. If granted, the employing organisation takes on responsibility to ensure the person is supervised and understands child-safe practices. The provisional notice does not relate to all areas of employment of course. We do not have a provisional allowance in Queensland because of the no-card no-start policy, so this means that applicants cannot work until they first have their positive blue card notice.

Decision-making on whether to issue a positive or negative ochre card sits with the Northern Territory screening authority as opposed to an individual within Blue Card Services. The screening authority has a number of requirements under its regulations as well. That is, people are appointed in the authority for up to five years and can be reappointed as well; they meet as regularly as needed and must have two members constituting a quorum, with all participants voting; questions can arise and are decided by members present for voting; and the authority can delegate any of its functions only if satisfied that a person has the relevant qualifications and/or experience within that decision-making framework.

QCOS supports, as I said earlier, the objectives of the bill, but we would recommend that a more fulsome review of the blue card system be undertaken to look at some genuine reform in this area. This includes consideration of the application of the Human Rights Act including around education, training and support around advocacy; consultation and engagement with Aboriginal and Torres Strait Islander communities to support a co-designed model—and this should include both urban and regional and remote communities; and consideration of the establishment of a reference group or authority similar to the Northern Territory model for issuing blue cards or negative notices. If this was to be considered, the authority could be comprised of appropriately qualified or experienced decision-makers that have due regard to a person's life and recommendations from community groups. This should include representation from Aboriginal and Torres Strait Islander communities. The authority should be able to invite relevant people or entities to provide information and assistance in decision-making and to delegate if necessary and appropriate. The authority should also be able to seek timely and relevant input from communities as to a person's history and character.

We also recommend formally addressing appropriate processing and wait times, including those associated with reviews and appeals; consideration of amending the no-card no-start policy, and this could include the enactment of a provisional notice to support working in community where appropriate; and appropriate resourcing and support to implement change and address the current inequalities that impact not only blue card applicants but also their families. We welcome the committee's consideration of this matter.

Mrs GERBER: Thank you very much for your oral submission. I want to talk a bit more about kinship care. In particular, my question is around the way the bill has designed community justice groups as the solution. I am interested in your view on that. If I might give it a bit more context, we heard from the Department of Children, Youth Justice and Multicultural Affairs that the department already puts a lens over kinship care to determine whether or not that household is a safe household

for a child to be placed into kinship care with the family and then if the children in that household then reach the age of 18 Blue Card puts another lens over it and perhaps determines that there is a negative notice or there is another lens put over that and it is a doubling-up for essentially assessments for that one family. We heard about the benefits of kinship care for kids.

In terms of what the bill is proposing as a solution, being community justice groups having the input and the force—the terminology is that they can compel—what is your view on that? Is that the solution? You were present while Commissioner Lewis gave her evidence around recommendation 41. Do you think perhaps that is the way to go, in line with what Commissioner Lewis has said?

Ms Martin: I am aware of the work that has been done around delegated authority in the child protection space and the positive outcomes that are being reported around that, so it seems to be a solution that is working when resources and appropriate support are put in place around that decision-making framework. There are multiple lenses that are placed on families when we look at risk to children and that is perhaps something that needs to be considered—that is, what is the risk we are trying to ameliorate here and for what purpose? Is it a doubling-up, as you identified, which it does appear to be, particularly if a department has made a decision around appropriateness around kinship? If we are looking at risk and safety of children, what is that risk? Particularly around the discretionary nature of decision-making that is outside the serious or other type offences when families are being restricted over historical offences that are unrelated to children, it raises a serious question. The bill itself in its current iteration would need to go further with regard to the kinship care aspect of that.

Ms BOLTON: In your opening statement you spoke about the differences between the blue card and ochre card in the Northern Territory. Do you believe that there are components of that that could be inserted into the current system—for example, that delegated authority that would be to the justice groups, as we spoke about before?

Ms Martin: I think there are definitely elements that can be considered with what we are currently working with. The information that we have received—and I am well aware that the committee has seen this—is that some of those wait times could be taking up to a year or longer than that just to have your application for a blue card considered. For some families, particularly when looking at the kinship, that is that one barrier to having families together in a supported environment and an appropriate environment that has already been assessed by a department as appropriate for that child. Looking at that delegated authority, again, it would need to be appropriately transitioned and if we are looking at community justice groups that they are appropriately resourced around how to make these affected decisions. They would be functional entities under the Human Rights Act as well, so supporting those organisations to know how to make decisions in that human rights context as well by applying the Human Rights Act looking at, yes, the primary interests of children but also the decision-making that goes around with the Human Rights Act when it applies to other people as well.

Ms BOLTON: Would it not be just as effective for them to make recommendations in the decision-making process—that is, feeding in rather than making the decision themselves?

Ms Martin: It may be, but I do note the information that was provided by the QFCC about the decision-making within appropriate communities in that it can sometimes be that lens of: it is a decision being made in Brisbane if it applies in Aurukun when there is that limited knowledge of the community. In terms of how the model is set up, it either needs to be allowing that ability for some binding decision-making or some binding recommendation within those community groups as well and not simply a token gesture.

Ms BOLTON: When you researched the ochre card, was there an average time frame for the application process?

Ms Martin: The information that was reported to me was that it is a fairly quick time frame. Most of them are done within days. If there are those negative notices they do take more time, but I have not heard reports of the time frames that are occurring within Queensland occurring in the Northern Territory.

Mr KATTER: Thanks very much for your contribution, Meg. I am very interested in the ochre card. One of the reports I heard from Alf Lacey, a previous mayor of Palm Island who was big on this same issue of reforming the blue card, was that, whatever it is, this is a better system to work in when he was working up there getting people into employment. At the risk of mimicking the member for Noosa's questions, you would see some really valuable links with incorporating that ochre card into the blue card system here in Queensland?

Ms Martin: There do appear to be some efficiencies that we could potentially utilise within our own system, definitely.

Mr KATTER: I do not have any other questions. You have summed it up well, Meg. Thanks.

Ms BUSH: Thank you, Meg, for your submission. A lot of the questions that I had have been picked up, but I just wanted to come back to your submission, which makes a range of comments. I just want to be clear—and I am not trying to be cute, but there are no recommendations in your submission, are there? Your submission is more commentary on the bill and what it aims to achieve and making some ideas around what we could be looking at but does not really make any recommendations; is that right?

Ms Martin: I would say that is a correct assessment.

Ms BUSH: That is okay. I just wanted to make sure that I was not missing something. You definitely pick up on the discretionary decision-making stuff and the exceptional cases stuff. I do not know if you were in the room, but one way of addressing that would be to amend the relevant section of the act to tighten it up to take it away from best interests or interests and wellbeing to setting the standard to align to that of other jurisdictions to say that there must be a real risk of harm to a child. Does QCOSS have a view on that at all?

Ms Martin: I think legislative amendments would definitely assist the process. Reading QCAT reviews—I will acknowledge that not every review that goes through QCAT is published. Within their annual report there were I think about 600 administrative appeals or administrative reviews, which is where the blue card reviews fall within QCAT, in the 2020-21 financial year. As I said, in terms of how many are actually processed, there are discrepancies in the information available. There does appear to be a lens of best interests of children and therefore any risk is considered too much, particularly when you look at some of the offences that are being considered. We are, to be very clear, not talking about the offences that are already in the legislation as excluded offences. We are talking about the discretionary lens that is applied and the risks we are trying to ameliorate for children.

Ms BUSH: You might have commented already, so I am sorry if I have missed it. We heard from Natalie earlier around her desire to see recommendation 41, which is around that decision-making framework, expedited. Do you have any views on that?

Ms Martin: Expedition would definitely be appropriate. I am well aware, for instance, with QCAT as well, that they have lengthy delays and time frames. I know that internal reviews have been flagged as a possibility as well. With any process that is needed to streamline this—and I think the QFCC also identified this—even with an internal review, you need the process clarified in the first place. With the discretionary nature, yes, there are some things you cannot set in stone, but as an applicant there needs to be clarity around what a person needs to be applying for and what they need to be providing in order to support risk mitigation if there is a concern there.

Ms BUSH: Your CEO's concluding comment in the submission—and you have mentioned it—is around looking at broader consultation but through a human rights analysis, particularly now that the HRA is in place. My understanding is that state departments were required to review all of their policies to make sure they are now in alignment with the Human Rights Act. Would that not meet that requirement to do that analysis? I might have completely misunderstood.

Ms Martin: I am aware that state governments—most or I think all now—have reviewed their policy in line with it. I am unsure exactly of the extent for Blue Card Services in their application of the Human Rights Act in decision-making. Looking at the QCAT reviews—which is what is publishable and what you can access—and seeing the discretion that is applied there, when a human rights lens is applied there will often be the comment, 'I have considered the Human Rights Act.' There needs to be a genuine, considered application of the Human Rights Act in the discretionary decision-making.

CHAIR: There being no further questions, I thank you for your attendance. That is no reflection on you, Meg. You have obviously covered it.

HOLMES, Ms Neroli, Deputy Commissioner, Queensland Human Rights Commission

LEONG, Ms Rebekah, Principal Lawyer, Queensland Human Rights Commission

CHAIR: Good morning and thank you for being here. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions.

Ms Holmes: Thank you for having us this morning. I acknowledge the traditional owners of the land on which we meet today and pay our respects to elders past, present and emerging.

It is clear from the evidence provided by communities to this committee that the human rights impact of the current blue card regime on Aboriginal and Torres Strait Islander people, particularly small remote communities, is significant and detrimental. Not only are there individual and family impacts; it also creates barriers to local employment, meaning a greater reliance on a fly-in fly-out temporary workforce or else a lack of services. This makes it harder for communities to achieve self-determination, Closing the Gap priorities and substantive equality for Aboriginal and Torres Strait Islander people.

The commission recognises the important screening role Blue Card plays in the framework for keeping children safe. There is, I think, universal agreement that people who have been convicted of certain offences should not be working with or be authorised to care for children. However, being issued with a blue card is no guarantee of safety. It is only able to assess the person by what is on their record. A person with no criminal history may nevertheless not be appropriate to work with children, yet they are issued with a blue card.

What can be done to improve outcomes for Aboriginal and Torres Strait Islander people without compromising the safety of children? Firstly, on the evidence from community it seems that delay in getting applications processed, even though those applications might ultimately be successful, is the biggest problem. Secondly, there is also a need to build understanding and trust in the system that positive outcomes are possible and worth the effort. Thirdly and finally, there is the decision-making process itself and the need to consider information from the community who knows the person in that process.

A formal role in legislation for community justice groups or similar groups in blue card processes might help to address all three of these issues. At the same time, there has to be flexibility in that role to account for differences in communities and the different way community justice groups are used and constituted. Community justice groups provide a convenient existing structure on which to build but might not be a suitable mechanism for all communities.

We also support formalisation of the role in legislation so that changes come with sufficient funding and upskilling to take on this important workload. However, we recognise that community justice groups cannot stand alone to fix the barriers faced by First Nations applicants to blue card. Other changes need to include legislated time limits on making blue card decisions; reviewing the no-card no-start law, particularly where there has already been vetting of the individual and support by an employer, government department or community justice group; providing on-the-ground advocacy and support for applicants; and, finally, better data collection and publication of blue card applications and outcomes so that issues can be identified and improvements evaluated. We would be happy to assist the committee further.

Ms BOLTON: In your submission you suggest further reform—and you have just mentioned that—and a more nuanced approach. Previously I have asked a similar question: do you believe that the community justice groups or equivalent can feed in to the current system—at the moment we have heard that justice groups feed in with references—in a more formalised approach so that a culturally appropriate lens is applied so it is considered within that process? Do you believe that that would at least be a step in the right direction or do you believe that it has to be legislative change?

Ms Holmes: I defer to Rebekah on that.

Ms Leong: I think legislative change would help bolster the weight that is given to community views about a particular applicant. I also take on board the QFCC's comments that ideally we do want to hand that decision-making and that authority to the community. I think that is a really important role to ensure that these processes are trusted, that the community see themselves as controlling the process. There is a safeguard in that too. As we have already heard, communities want the best for their children. It might not be appropriate for all communities, but if the end goal is that decision-making authority can be delegated to appropriate organisations within the community then that is appropriate.

The reference checks are obviously a step in the right direction. I do not know how accessible those reference checks will be to people when community justice groups, I imagine, have a lot of requests or are overrun with requests, might not have the resources, might not have the skills or might not have had access to the training they need to give really authoritative recommendations. Having something legislated I think will help support the skills that are needed.

Ms BOLTON: Conflicts of interest have been raised at our hearings. It could cause dissent in communities if you are held responsible for that type of determination. What are your thoughts on that?

Ms Leong: I think that is going to be an issue with any decision-making that is delegated. If there are strong enough mechanisms and safeguards around it, it is not insurmountable. I think the committee has heard some evidence from communities about having external people involved in that decision-making process. There should be review processes as well around that, in the same way that we have review processes for blue card decision-making. If a community justice group or like group makes a decision then it seems appropriate that that would be subject to similar review processes.

Mr KATTER: I take on board your comments. I quite agree that having a blue card is seen as a safeguard or purports to be a safeguard but it is not necessarily in a lot of circumstances. Following that rationale, do you think there is an argument that the blue card may have done more harm than good in some of these communities insofar as it has kept parents away from meaningful work? Has it enhanced or perhaps increased that cycle of dysfunction and disruption in the family unit and household that often leads to those negative outcomes with the kids?

Ms Holmes: I think structural discrimination that sometimes occurs in systems that are designed for non-Aboriginal communities or non-Torres Strait Islander communities can have unintended consequences and impacts that have a bigger reverberating impact on vulnerable communities than they would on communities that are not vulnerable. Without having a close look at the data and a close examination of all the evidence, we would not be able to say that categorically. I think we do know that structures that are set up that do not necessarily have the measures in place to really look at cultural issues and traditional ways of doing things sometimes can have a very big knock-on effect that does impact on those Closing the Gap targets. On a higher level I think, yes, we would agree with what you are saying there, but we would need to see the evidence for that.

Mr KATTER: Would you accept that there is always inherent risk with any system you are applying in these scenarios? When they say a local justice group, is that too much pressure? As the QFCC said before, if we made a judgement call on who is the best entity then that is still a judgement call. That presents risk as well. There is always going to be risk there, isn't there?

Ms Holmes: I think there is no perfect system. It does not matter which way you go. This system that is operating now certainly is not working perfectly. If you change it, it may address some issues but it may have imperfections in other ways. I think it is always a matter of constantly re-evaluating what is going on, having the greater data to see what trends are happening, and making sure that whatever is designed is properly evaluated. I think we have all been around long enough to know that there is no absolute perfect system for anything that human beings do.

Ms Leong: On a related issue, I think questions have come up about whether we are applying a different standard by implementing this sort of change in decision-making. I think it is a misunderstanding or a misconception to think there is a lower standard being applied if we adopt these sorts of changes.

We are not suggesting that people who should not be given a blue card should necessarily be given a blue card in these circumstances. What we are saying is that by incorporating community justice groups or like groups in the decision-making process or hearing their views or even them being the decision-maker, you are perhaps getting to the correct decision, a decision that protects children's rights, more rapidly perhaps. We are ensuring that relevant information is being considered in the process of that decision-making and we are also improving trust in the system from people on the ground so they are actually accessing these services.

I wanted to make the point from a human rights perspective that treating people differently is not necessarily discrimination. Sometimes we have to treat people differently in order to achieve substantive equality. The Human Rights Act, under section 15 and specifically subsection (5), states that measures taken for the purpose of assisting or advancing persons or groups who are disadvantaged because of discrimination does not constitute discrimination. I just wanted to make that point.

Mr KATTER: Excellent answers, thank you.

Ms BUSH: Your submission is really comprehensive. I do not really have a lot of questions. This is probably similar to my question to QCOSS. Have you engaged with the department in a review of its existing legislation and policy and decision-making frameworks to see if they uphold the objectives of the Human Rights Act? Are you aware of it doing that work?

Ms Holmes: As you said in your question to the previous witness, every department was supposed to do that. We have obviously had a strong interest in blue card and have been watching from the sidelines but have not directly had a huge engagement with the department to review the whole policy or to evaluate whether from our perspective it is compliant with human rights in every regard. Obviously it is an issue—one of many—that we have a strong interest in.

Ms BUSH: Thank you, and thank you for your submission.

Mr KRAUSE: Thank you for your submission. Noting your earlier comments and comments from the Queensland Family and Child Commissioner, Ms Lewis, about clearly realised unintended consequences of past reforms—from a human rights perspective, your job and the Human Rights Act can often involve assessing competing human rights—is it your view that where we are at the moment requires a rebalancing and a reconsideration of where that balance between competing rights lies in respect of the aims of the blue card system and the aims and aspirations of some communities in Queensland? I know that that is a bit of a lawyer's question, but this is what government looks at when it comes to human rights issues.

Ms Holmes: There may well be competing rights in how you evaluate whether someone gets employment or someone has the responsibility of continuing to care for a child. As Ms Leong said in her previous answer, we think in the end it does not matter who is doing the balancing; ultimately, if it is done in a human rights compliant way, we will get to the same answer. We do not want to drop standards for looking after children.

Mr KRAUSE: I am not suggesting that. From a systemic point of view, is there a rebalancing required in the way it is working at the moment?

Ms Holmes: I think we would concede that the current act is possibly not working as well as it could to work with vulnerable communities and communities that have different approaches to how things operate from the mainstream. I think the special measures is an appropriate rebalancing to take into account the things that have already been discussed by other witnesses to make sure there is a nuanced, discretionary approach that brings the decision-making into alignment with the needs of the community that is having the decisions made about it.

Mr HUNT: Following the member for Scenic Rim's question, I really want to afford you another two or three minutes to expand slightly. You talked about looking at the no-card no-start policy and detailed that that was problematic. Can you expand a little on how exactly that is problematic—aside from the obvious—and where that becomes more and more problematic in the communities?

Ms Leong: This is based on my reading of the evidence you have already taken from communities in that the length of time to process any application, even if ultimately the application will be successful, is taking many months if not years. If you end up getting a negative notice and having to appeal that decision, obviously that adds time to it as well. There is an extended period of time before you can get a blue card.

I understand that for a lot of applications there is already somebody who—for example the department of child safety—has vetted a family and sees that family as appropriate but they still need a blue card under legislation. I refer to that safeguarding of having the department of child safety already doing an assessment, preliminary or whatever, to put forward that family as being appropriate to care for the child, or you would have a community justice group, particularly in small communities where I imagine everyone knows everyone, that can say, 'I agree that we know this person, we are seeing them, we understand their criminal history and yet we still think they should be given this opportunity to have a blue card so they can commence work.' In those situations there is enough safeguarding to issue an interim blue card so that a full process can take place but in the meantime we are not losing opportunities for employment or for appropriate child care with kin and within community. That is why we think perhaps it is appropriate.

I understand that the no-card no-start policy commenced in around 2018—some years ago now. Perhaps it is time for a review. I note that the Royal Commission into Institutional Responses to Child Sexual Abuse also supported the issuing of interim cards where there are appropriate safeguards in place.

Mr HUNT: So the multilayering becomes an impediment rather than a safeguard?

Ms Holmes: It can do.

Ms BOLTON: In this whole picture we have heard the terms ‘overreach’, ‘overcompliance’ and ‘net widening of serious offences’. What do you see they have contributed in terms of the issues we have been made aware of versus having that cultural input? Is it a large impact or do you think that is more minor to the bigger problem?

Ms Leong: I am not sure that we have the data to be able to answer that question. I take on board the evidence that people are confused about when a blue card is needed and confused about what offences are going to mean they can or cannot get a blue card. That is problematic.

Ms Holmes: From our understanding there are sometimes instances where there is a little bit of creep, where employers are looking for blue cards when it is not necessarily a mandatory requirement. We do think it is a little bit concerning that possibly more people are wanting a blue card for whatever reason when it may not necessarily be required. I think that is problematic.

Ms BOLTON: We also heard about negative notices being given not for a disqualifying offence but based on a serious offence that may have been 20 years ago. Within that process of net widening, where the offences grow, it is not so much about keeping the child safe anymore; it becomes very subjective.

Ms Holmes: Yes, it can be a problem.

CHAIR: Thank you for coming along. Thank you for your presentation and evidence that you have given today.

Ms Holmes: Thank you, committee.

CALLOPE, Ms Gladys, Volunteer, Normanton Justice Group (via videoconference)

CALLOPE, Mr Henry, Volunteer, Normanton Justice Group (via videoconference)

DAWES, Mr Andrew, Coordinator, Normanton Justice Group (via videoconference)

DOUGLAS, Ms Maureen, Volunteer, Normanton Justice Group (via videoconference)

CHAIR: Welcome. Would you like to make an opening statement?

Mr Dawes: Our submission to the committee outlines what we think are some of the important issues facing Normanton. Effectively, we do not see a value in repeating what we have said in our submission. If you would like to go straight to some questions you might have in relation to specifics that involve Indigenous people in Normanton and our work with them in attempting to navigate blue card, we think that would be most beneficial to you and us.

CHAIR: Thank you, Andrew.

Mrs GERBER: Throughout this process of looking at the bill we have heard evidence around utilising community justice groups in a way that gives power back to communities in relation to blue card assessments. I am interested in how your community justice group is formed, how you choose your members and the process of your community justice group in making decisions in the best interests of your community. Are you able to talk us through those aspects?

Mr Dawes: Maybe I can give you an overview of that. I answer to an Indigenous board, which has an annual general meeting and is incorporated. We are directly controlled by the Department of Justice and Attorney-General. We also have a de facto Indigenous elders council, for want of a better word, that revolves around bingo and coming in here and talking all of the time.

The members of the Indigenous guiding board are self-picked, as most of these things are. The Indigenous ladies and men I work with will do various jobs around the community because that is what they are inclined to do. They volunteer for other organisations as well as our own. Anybody can apply to be on our board, but there is a committee that reviews all of the people who put forward their names in relation to the position because we want to run our Justice Group by actions and doing. If you have had a very difficult life in relation to the law, you are probably not going to get on the justice group because the community will know that is not what the Justice Group is about. We are independent and we act as we would have other people act in the community.

What we tend to do is have people who either have had a checked career and then turned their lives around or have never been down that path. They are the sorts of people who get voted into the Justice Group. That can be fraught because we are not a discrete community like the islands or other places. We have various tribal groups here. We have Tagalaka people, we have Kurtijar, we have all sorts. Maureen Douglas is a Tagalaka lady. This is their traditional country but they are the elders who come and support the Justice Group.

CHAIR: Andrew, could you come a bit closer to the microphone because we are having a bit of trouble hearing you.

Mr Dawes: Certainly. We had some issues at court today as well with the technology. It can be quite fraught. We lead by example in the Justice Group of what we want people to be and achieve, and that is what we try to do in the community. Maureen, would you agree with that?

Ms Douglas: I agree. I feel like it is all about us compromising our western society law with the Indigenous and Torres Strait law as well so that we can come together and pull together to try to get something going in the legal system that benefits everyone. It mainly seems it is all the white law now and it does not matter what the Indigenous people do in the law system. There has to be both sides of each story. We have to understand that.

I feel that is a big bridge that we have to get over. It is mainly orientated for the western society law, the white law, so if you bring your cultural ideas across they do not want to hear about that. I do not know how we are going to get it, but I think we should compromise so we can come together as a whole system. The majority of people in jails now are Aboriginal and Torres Strait Islander people. A lot of our youths are going down that same track. It is very hard to get programs out here in the remote areas to help our people. Henry and Gladys might want to say something.

Ms Callope: I feel the same as what Maureen is saying. We go there. I knocked it back a few times to go to court, but then I thought no. Henry and I decided to go along together. I see what Andrew needs too. He needs help and I see what he meant. We are helping our people. Like Maureen said, they are local Aboriginal and Torres Strait Islander people. That is what my husband is. He is from the island. I am just from up at Croydon where Maureen comes from.

Ms Douglas: A couple of weeks ago we had a cup of tea with the magistrate who flew into Mount Isa.

Ms Callope: She was very nice.

Ms Douglas: She is a very nice lady. She put it to Gladys, Henry and me, and on the cultural side of things we did not have the authority to say yes or no. It has to come from the traditional people from this area. Gladys and I are from up the road. We are from Croydon and we did not have the authority to say yes to the magistrate on the spot because the traditional people who are from here were not there at that time when she wanted an answer. We did not have that because we are not from here.

Mr Dawes: Effectively, the ladies are illustrating that they are Tagalaka people from Croydon. With the pastoralisation of this area, they were forced to come to Normanton by the various powers that be. Even though they have been here for 60, 70, 100 years, they are still not regarded as the traditional owners here. There are a lot of issues that surround that. That is why they are not doing a welcome to country or things like that because we do not have any traditional owners here to speak for the country and we would not want to be put in that position. That is just a bit about that.

Ms BOLTON: How does the Justice Group assist with those who are doing blue card applications? For example, when they make submissions, do you help them, or do you write them references, or do you help them when they are submitting?

Mr Dawes: Yes. We do all sorts of things in relation to that. People are told that if they apply they will be arrested, or that they cannot apply, and things like that. We have helped numerous people in relation to blue card things and some of the issues we face there are put down. There is historic offending, we go to QCAT, we go to the minister, we do all sorts of different things in that regard. We do all of that. We help them with their applications because out here it is the tyranny of distance and the way that our community is. Very few people have access to a computer at home. They use our computers and our organisation as a jumping off point for that. In relation to blue cards, it can be quite daunting for Indigenous people, I would imagine, dealing with the historic things that go on.

Ms BOLTON: To follow on from other hearings, we have had trouble collecting any data regarding refusals. From your dealings with people and helping them with blue cards, do you have any data of how many have been refused and the reasons why?

Mr Dawes: We have files in relation to that. I could certainly go back and access some of that and give you broad figures in relation to how many we would do a year. Without having my hand to that at the moment, I would say that roughly it would be between 15 and 20 a year.

Ms BOLTON: Who would be refused?

Mr Dawes: That have been refused or have had issues surrounding their refusal for historic offending. I would say, as we said in our submission, that every single one of those is in relation to non-specific offending. It might be for domestic violence, an assault or something like that, but it is not directly related to children at all.

Ms BOLTON: If it is possible, could we get a further breakdown, including the reasons they received a negative notice? If you were able to supply that, we would really appreciate that.

Mr Dawes: Certainly.

CHAIR: Andrew, if that is too big a task, all you have to do is reach out to the secretariat. Just do as much as you can.

Mr Dawes: During the time we have all been here working together, we have started to computerise all of our things. We will just do a couple of key word searches through our database and hopefully that will start to give us some idea about that. I would say 15 to 20 per year, and that is not counting people who are alleged to have undertaken an offence, have gone to court and on the day have lost their blue card before that even happens because due to their thing the police have removed the blue card. The blue card agency has got involved, the police are involved, and then you go through the court process, the mention, the hearing, it is set down, and it is vetoed but you still do not have a blue card so you have to go back and get your blue card if your role was helping at a school or things like that.

Ms Douglas: I have experience where I have applied for a blue card and things that happened in my life 15 or 20 years ago are still being held against me so I cannot get a blue card. I have historic things they are still holding against me from 15 or 20 years back. Is there a timespan when you can apply for a blue card?

Ms BOLTON: Andrew, I would really appreciate that.

Mr Dawes: It is lovely to have a talk and it is lovely to speak to somebody who might be able to do something. I met Mr Katter briefly at Micks Cafe in Karumba. It is another obstacle for Indigenous people. I understand why there is a blue card system. I understand that and I get that it is for the safeguarding of children and their wellbeing. However, as we said, there seems to have been a pivot or something has happened for people who do not offend against children, as with Maureen. The issue we are facing with Maureen is that their offending may be historic but it is still offences.

CHAIR: Maureen, do you mind if I ask this question. When was the last time you applied for your blue card?

Ms Douglas: About two years ago when I was working with Centacare with children. I had offences when I was younger, about 15 or 20 years ago, and they are still holding that history against me. That is why I could not get a blue card.

CHAIR: Were you able to access legal advice to appeal the decision?

Ms Douglas: No. It just went back to the welfare officer who was trying to help me to access the blue card and we got no response back.

Mr Dawes: So now we are taking that on again. We will be supporting Maureen in her next application. There is nothing there that is an exclusionary offence in relation to anything Maureen might have done, but it is just too much of an issue for somebody to spend all of that time. It is only me who works full time in this office. Everybody else volunteers.

Ms Douglas: That is some of the issues we have out here being remote. You have not got the resources to follow it up. You have to go to Mount Isa or to Cairns. We do not have that resource here in the remote area.

CHAIR: Andrew, hypothetically, would you be able to employ an additional person in your office?

Mr Dawes: I would love to be able to do that. Our funding is not fantastic, but certainly one of the obstacles that we continually face is that I have a blue card and because we deal with Childrens Court matters we deal with children on a day-to-day basis here so it is a prerequisite that my board and obviously the organisation needs. Children will come to Maureen's house at night and other elderly peoples' houses at night who don't have any blue card because there is no overnight care here for children when they are on the street. We have been attempting for probably the better part of four or five years to get an overnight safe house for children in our community. For whatever reason it has not worked. The children will self-place and they are self-placing now with some of the more trusted elders in the community.

CHAIR: In relation to that safe house, I know it is a bit outside the terms of what we are looking at, but is there a house that could be utilised in the community as a safe house?

Mr Dawes: There is one that has been vacant next door to us for seven years that has been owned by a federal department that they are going to sell now.

CHAIR: When you say sell, who will they sell it to?

Mr Dawes: I think it is just going on the open market. The department of Social Services. It used to be the Centrelink house. It abuts our block. There is only one way into it. It has been vacant for seven years. Myself and the board have been applying to get it for the last five to six.

CHAIR: Who do you apply to to get it?

Mr Dawes: The Commonwealth departments, the Department of Aboriginal Affairs, Linda Burnley, the Department of Social Security, the ministers, secretaries. I have spoken to them on my phone. We have spoken to the regional manager.

CHAIR: Sorry to interrupt. We have six minutes approximately to go. I have been hogging the show. Is there anyone else who has any questions for any of the witnesses? Robbie?

Mr KATTER: Good day, everyone. I have heard stories like Maureen's, probably scores of them or maybe even hundreds of them, over the last 10 years. This is why we have this bill before us. It is my bill trying to get some reform. There is a lot of talk about more resources, saying, 'Maureen, what if you had more resources?' I feel it is more than resources, it actually needs change in the system because it is not just a matter of better education or people trying to access it. What would your view on that be?

Ms Douglas: My view is full stop. They have to stop saying it is the parents' fault. They have taken the parents' authority away from them a long time ago. There is a lot of youth. We have children here breaking in and stealing cars. You go and see the parents and they say, 'We can't do anything, sister, because if we do the police will lock us up.' How do they expect the parents to come across when there is nothing there. They have taken their authority away a long time ago. I feel that is why a lot of our kids are getting into trouble. They look for places when their parents come down on them, the police chase them. We haven't got anywhere for our children. That is a part of creating a safe place for them. Somewhere they can trust to go to. They haven't got that. Most of the kids out here, you probably know, your old dad probably knows, he's been out in this area a lot, your old father, it is just all down to drugs and grog and that is their life. They do not see any other outlet in life for them. That is all the young ones look at. It is just normal. How are you going to change them when you are trying to help them when you have got nothing here? I don't know.

Mr Dawes: I think, Robbie, that it would be wonderful if the bill was to get up because there are lot of people who have not lived perfect lives, and I am certainly one of them, and I would hate to be continually punished for something that I had done a long time ago and I'm in touch with the community, like Maureen, who has difficulty getting a blue card but the kids go to her because they like her and they feel safe there at her house at night. Effectively we have already got that system going, but if the justice groups were given the power in relation to the blue card authorities to sit together and make a decision on people, I am sure our organisation would be more than willing to have a look at that and to assist you in doing that, to say that this person, even though they might have some offending that may have precluded that, is not that same person now and would be valuable in this position and there are certainly other people that they would come across and say, 'That person is not ideal and we would not want to give them a blue card or see that happen.'

I think what works for Brisbane does not work for here and I think that goes for a lot of things in relation to remote communities. It seems fine, but when you get out to remote and regional communities it does not work. As we said in our submission, there are a lot of jobs here that rely on health care, school work, that people are precluded from because of historic and non-specific offences.

CHAIR: The system has just dropped out. Can Maureen repeat what she just said for the committee.

Mr Dawes: Maureen said there was a lot of shame in relation to some people's previous offending.

Ms Douglas: Once a year, Robbie, you might come over this way from Mount Isa and go talk to them. They are not going to open up to you straight up. They are ashamed. They won't talk. They need people the likes of us to interact with them, compromise with them so that we can bring something together. I don't know, I may be wrong, Rob, but that is how I see it. There is a lot of shame there within the Aboriginal people themselves. Some of us will open our mouth up and then a lot of them put their head down, they do not want to talk.

Mr KATTER: I often have that problem. They will not speak to me.

Ms Callope: We wasn't allowed to talk. I am one of them.

Mr Dawes: A lot of people were not allowed to talk and it is very difficult for them now. We are all dealing now with that history. It is unfair.

Ms Callope: As far as our children, we haven't got anywhere for them.

CHAIR: I am sorry to be a nuisance, Andrew, but when you are back there we cannot hear you and we want you to be heard today.

Mr Dawes: It is not about me, all I do is facilitate what the justice group wants me to do. I have completed my law degree and hopefully I am going to be admitted in December as a lawyer.

CHAIR: Congratulations.

Mr Dawes: I am just here to help Indigenous people try to get their point across. I think Robbie's bill is onto something. We can get this. We can still keep our kids safe, but we can also engage the community here and they feel involved in it and it is not some sort of arbitrary decision made away from them where they have no recourse. They can come and talk to the justice group. Murriss and white fellas coming together to figure it out. There is a way forward there together. That is what we have to work on because it is still affecting Indigenous people.

CHAIR: Thank you for persevering with us and thank you for the information. It has been very helpful to the committee.

GREENWOOD, Ms Kate, Senior Policy Officer, Aboriginal and Torres Strait Islander Legal Service Queensland Ltd

SHARMA, Ms Pree, Prevention, Early Intervention and Community Legal Education Officer, Aboriginal and Torres Strait Islander Legal Service Queensland Ltd

CHAIR: I now welcome representatives from Aboriginal and Torres Strait Islander Legal Service Queensland. Good afternoon and thank you for being here. Thank you for your contribution. I am sure you are familiar with the process. I invite you to make an opening statement after which the committee will have some questions.

Ms Greenwood: Thank you, Chair, and thank you, committee. I wish to start by acknowledging the traditional owners past and present and to acknowledge any Aboriginal and Torres Strait Islander peoples present in the room or listening in the link. We welcome the opportunities that this bill represents in identifying a different way that blue card discretionary decision-making can be made and in particular the emphasis on a different assessment process so as to identify a less restrictive and more reasonable way to achieve the purposes of the working with children legislation.

There is a particular impact on communities, as the committee has already heard, but in particular this arises because of the intersection of overrepresentation in the child safety system and overrepresentation in both the youth and adult criminal justice system. Those two lots of overrepresentation bring around complexity and delay in the blue card assessment system which is not experienced so much in the broader community. Again to be clear like other speakers, we are not talking about the disqualifying offences, we are talking about the assessment of risk from other offences and other factors which are meant to signify risk.

It is hard to identify a bigger legal issue in the communities. Previously—Pree has just freshly stepped into this role—as a community legal education officer I would be going into communities and saying, ‘Give me your top three legal issues’, and blue card across the board is always listed as No. 1. It has a significant impact on communities.

It has a big impact on communities for a number of reasons. One is having access to jobs. The other is being able to assume the role of kinship carer, and that is mainly because the system is too slow. It is also too slow for the jobs. If I had to rank them I would put kinship care as the much bigger, more urgent issue which needs to be addressed.

Within the communities there are low numbers of cardholders. Blue card was a problem in communities before no-card no-start, but the implementation of no-card no-start has had a much more severe impact. Within communities there are employment demands for a blue card which are often quite unnecessary. For example, I was told that somebody applying for the job of holding the paddle-pop sign at roadworks was told he had to have a blue card to get that job. That has moved too far away from what are meant to be child based services.

As the committee heard from the previous speakers, within the community there is that impact of additional shame and distress in communities where there is already a lot of stress on community members dealing with various issues. There is also a big impact on kinship care across the state. The system is too slow. The other aspect of it is if you have a mother with mid to late teenagers or early adult children, any child—any kidult basically—has to have a blue card if she is going to be looking after a child under child safety orders. Then if the kidult plays up with kids out in the community and gets a charge, it then leaves a choice: one of them can stay in the household and the other one cannot. That is a hidden problem which really is not being addressed. I will pause to note that parents can have kids up to the age of 25 on their Medicare cards. Why not have a similar cut-off for the kidults? The other big impact in the kinship care area is there is a loss of the right of the child to have connection to kin, culture and country.

In relation to the particular participant groups who are caught, as was mentioned earlier, the settled adults in their 40s who have some history from their 20s, again, within the context of communities there are overcrowded communities. Often young men are getting involved in fights or being assaulted by other people and are still being charged with a commit public nuisance. Even though they are well settled and well respected in the community, are raising kids of their own and utterly trusted, they have difficulties getting a blue card. Children, now young adults, exiting the child safety system particularly are caught. There are timing issues that act particularly unfairly. In communities where job offers do not stay open very long, the delays in getting a blue card mean there is a loss of employment in circumstances where opportunities for employment are very limited and where removal of children is happening too fast for suitable family members to get a blue card.

I do want to acknowledge the enormous effort that Blue Card Services have put in. They have consulted extensively. Over the last three years they have utterly transformed their particular Indigenous assessment group. The reality is there is a gap between need and demand and capacity to respond. There are also limitations, as the committee just heard, on cultural authority, even for adults, for example. The Normanton community who within their own particular groups holds cultural authority does not hold cultural authority in other groups. As the QFCC commissioner noted, cultural authority is a very important aspect to this. With the exception of who the decision-makers should be, we would utterly concur with almost everything the QFCC said.

What is different in our submission is the question of how do you address the issues that have been raised, for example, in the earlier consultations, and there have been acknowledgements of issues to do with confidentiality, conflicts of interest and whether there are even enough people to take on the decision-making process. Since I have moved into the Closing the Gap role, I have become far more aware of the delegated decision-making authority, which is happening in the child protection space with QATSICPP. There may be very useful lessons to be learnt from that delegated decision-making model. Before I was aware of that, I was suggesting a hybrid system. My former background is international tribunals. Where it was not possible to have entirely one system or the other, a hybrid model has been shown to be quite effective so you perhaps have both one member of the blue card Indigenous assessment unit and other local members who actually do have cultural authority.

In terms of conflict of interest, the community justice groups—and I have worked closely with community justice group members in my previous roles in ATSILS as a criminal defence lawyer—are often involved in making submissions to the magistrate both on applications for bail and in the exercise of the sentencing discretion by the magistrate. Often the community justice group may have had a great deal of involvement with that person in the past, so they may not be the ideal person. The other thing that can often create a conflict is within family groups within communities if a particular community justice group member belongs to a particular family, it may not be appropriate for them to be providing input into a blue card decision. For that reason in our submission I was putting forward a slightly broader group looking pan the gulf or pan the cape communities that there might be a suitable mix of people who can be involved. Another idea I saw in another submission was that the applicant should be able to choose a community advocate, someone who could speak on their behalf. That may be another way of filling the gaps in the assessment process to properly understand this person and their role in the community. That was a very long opening statement.

Mrs GERBER: Thank you for your opening statement and for your appearance today. Do ATSILS help Aboriginal and Torres Strait Islander applicants in appealing a decision with blue card? Do you have any funding to do that?

Ms Greenwood: We do help in the appeals. I should say the blue card system has grown quite substantially. It started from disqualifying offences and a fairly small group of people providing child related services. Both the offences and other factors to be taken into account have expanded. Both the types of occupations and roles have expanded. I believe this is still true: even volunteer country firefighters must now have a blue card.

Mrs GERBER: Yes.

Ms Greenwood: If you now look at the sheer number of people across the state who now need a blue card, it is a huge number. ATSILS does provide assistance. It is beyond our capacity to help people when they first apply, although there will be exceptions to that but they are rare. That is mainly because of the capacity problem. We tend to get involved at the appeal and review stage.

Mrs GERBER: Once the decision has already been made by the department?

Ms Greenwood: Yes. Obviously for people with complex backgrounds that is not ideal. Ideally, you would start at the beginning with a complex case and take them all the way through. Yes, we do. Again, there is timing and capacity. There is only one lawyer looking after all civil law matters across the cape. The gulf is serviced by Mount Isa, but I think we have had a recent personnel change there. Again, there are gaps.

Mrs GERBER: Could you give us an indication of cases there? How many cases might you see annually, or how many inquiries might you receive so we can work out what the demand is?

Ms Greenwood: That may be hard.

Mrs GERBER: There is confidentiality. I understand.

Ms Greenwood: There is what is called our discrete assistance, but it is not going to be a true reflection of the true demand. There probably needs to be a community-by-community request. The other issue that comes into play which adds problems is there is a chronic lack of identity documents

in the gulf and the cape communities. There is only a certain type of ID that is accepted for a blue card application. Blue card invited me along with them when they went to Aurukun in May. Births, deaths and marriages were supposed to be there. They could not be there at that particular time, but the department of main roads was there. There was this constant zigzagging, solving several logistical problems that stood in the way of someone applying for a blue card. Those problems for others will remain in place until the travelling roadshow comes back again. I can just tell you anecdotally that you could take a number and multiply it by 10, 20 or 30; it is a big number.

Ms BOLTON: In the previous session the Normanton Justice Group mentioned that when they went to court they could not make representation because the traditional owners were not actually at court and they were not from that part of the country. How would it work with justice groups if they were then either giving direction or making determinations around blue cards? Would there be a similar issue?

Ms Greenwood: The cultural authority—and different groups do it different ways—is the question that the QFCC commissioner was addressing at some stage. I do know, for example, in Townsville there are members of the community justice group who need time to establish some cultural authority with, say, youthful offenders before they can meaningfully participate in their role. Different groups will have different demands. The impression I got there was that if you are simply from the wrong group, you will not have the cultural authority to speak on behalf of that particular person. You are going to find different practices in different areas. If you ask communities to sit down and work out a solution, they could probably find it. It is just a question of identifying who would be senior enough for them to comment in a meaningful fashion.

Ms BOLTON: You mentioned difficulty with identifying documents. When we were on Palm Island we discussed blue-carding people when they are coming out of school. Would that be a way of addressing multiple problems before leaving school?

Ms Greenwood: My colleague Annabelle Craft, who was based up in Bamaga in the new peninsula area and looking after the Torres Strait—in fact, she won a reconciliation award for this—created a project so that all grade 11s and grade 12s could obtain a learner driver's licence. In doing that she uncovered the underlying lack of identity issue and then up in the Torres Strait that additional layer of traditional adoption. It was a project that worked extremely well. It involved ATSILS and various government departments all acting in partnership with each other. It was an extremely successful project and it would be wonderful to replicate that across the state.

Ms BOLTON: So it is still not running?

Ms Greenwood: Unfortunately, she went off to have a baby. The ideal would be to copy and paste that idea across communities. It was fairly unusual with her; she was co-located with the community and so tightly involved with them. It is a little bit harder for the rest.

Mr HUNT: Some of the submitters raised the issue of the requirement to plead guilty before accessing the Murri Court. Could you expand on that from your experience? Does it a cascading effect further down the line?

Ms Greenwood: It could well. Hopefully nobody does plead guilty to access Murri Court before there has been a proper assessment of whether or not that plea is appropriate, but I could give a couple of instances where the client says they want to plead guilty and that is that. Murri Court is more about a sentencing process. Where an Aboriginal or Torres Strait Islander on a plea of guilty is otherwise facing a jail sentence and it is clearly identified that there are cultural and other factors impacting on the offending, that could be addressed by going through Murri Court process.

Essentially, the Murri Court process is the equivalent of a much longer probation order, and the offender is required to interact with men's groups or women's groups as the case may be. There is an assessment made by the elders and others as to whether this person needs to access drug and alcohol assistance or counselling and whether there are other underlying issues such as homelessness which is interacting with all the other factors that led to the circumstances of offending.

Yes, unless you plead guilty, you cannot access the Murri Court process. For quite a while this service has advocated for stronger diversionary processes, because there are times when it should be obvious that court is not the obvious or appropriate solution. When somebody is on their 33rd 'commit public nuisance' because they are an alcoholic living in a community where they cannot properly access appropriate rehabilitation services, there has to be a different solution. Locking them up in the short term just makes them more unwell and more dislocated when they get back out again, and you end up with this repetitive cycle.

Ms BUSH: Your submission talks to the issues in Blue Card but, to pull back, the issue which is well established is the over-representation of First Nations people in the criminal justice system. ATSILS is funded to provide specialised legal services to First Nations people, so in many ways you are the last line of defence. I am keen to understand a bit more about ATSILS. In your last annual report, how many FTEs are there, where are they located and how do you assess the performance of your lawyers? Are they assessed on clearance rates, or guilty/not guilty outcomes? How confident are you that they are doing the work to ensure every representation is working to keep them from being incarcerated?

Ms Greenwood: The short answer is that we try our hardest. Can I say as part of this over-representation issue, there is over-representation from charging onwards. The Justice Policy Partnership and Closing the Gap have prioritised over-representation in the youth justice system and over-representation in the adult justice system. There is an unhealthy interaction between over-representation in the child safety system, which we also did work in. These are all interacting with each other and the numbers are expanding and expanding and expanding and expanding. The short answer is that we do our level best. The long answer is that the current system is unsustainable. It is going to break us; it is going to break any number of other systems involved along the way. That is why I take very seriously the Closing the Gap and the JPP process, because unless we take the steam out of that system it is just going to get worse.

CHAIR: That concludes this hearing. I thank everyone who has participated today and all those who helped organised this hearing. I thank our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 1.07 pm.