



Submission to the

Legal Affairs and Safety Committee

**Working with Children (Indigenous  
Communities) Amendment Bill 2021**

22 November 2021

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## INTRODUCTION

PeakCare Queensland Incorporated (PeakCare) welcomes the opportunity to provide information in response to the *Queensland Parliament's Legal Affairs and Safety Committee's* invitation calling for submissions in response to the *Working with Children (Indigenous Communities) Amendment Bill 2021*.

## ABOUT PEAKCARE

PeakCare is a not-for-profit peak body for child and family services in Queensland, providing an independent and impartial voice representing and promoting matters of interest to the non-government sector.

Across Queensland, PeakCare has more than 50 member organisations which include small, medium and large, local and state-wide non-government organisations which provide prevention and early intervention, generic, targeted, and intensive family support to children, young people, adults and families. Member organisations also provide child protection services, foster and kinship care and residential care services for children and young people and their families who are at risk of entry to, or who are in the statutory child protection system.

A network of registered supporters also subscribe to PeakCare. Supporters include individuals with an interest in child protection and related services, and who are supportive of PeakCare's policy platform around the rights and entitlements of children, young people and their families to safety, wellbeing and equitable access to life opportunities.

## ABOUT PEAKCARE'S SUBMISSION

PeakCare has made numerous submissions on working with children check (WWCC) regimes to government reviews, and state and national inquiries. The concerns raised in these previous submissions include:

- that arbitrary checks and positive notices create a sense of complacency that holders are safe to work with children and young people
- that the working with children check process is not consistently perceived as just one mechanism in a multi-layered strategy to create and maintain child-safe environments
- the ongoing inconsistency of WWCC regimes across Australian jurisdictions
- the disproportionate representation of Aboriginal and Torres Strait Islander young people and adults in youth and adult justice, and child protection systems
- the lack of transparency and accountability in the interpretation and assessment of relevant criminal and other history in the determination of applications
- the check being a singular response across diverse child-related workplaces and worker roles and responsibilities, which means that contextual or other factors relating to the applicant, the position, and community are not contextualised.

Consistent with the view held by the majority of government and non-government stakeholders with whom we have consulted about WWCC regimes, PeakCare holds a view that appropriately designed and effectively administered WWCC regimes can deliver undeniable benefits for the safeguarding of children and young people. It is also our view that these checks should only be considered one part of a comprehensive range of strategies to make organisations child safe, and without these additional strategies, these checks alone do not necessarily make organisations 'safe for children'. At worst, they can be 'over-relied upon' as a 'guarantee' of a person's suitability to care for or work with children that may lead to a reduction in the vigilance of organisations in taking other factors into account when making these assessments. Conversely, they can also 'rule out' persons from making valuable contributions to the safety and well-being of children when other factors are not properly considered and taken into account.

PeakCare is supportive of the intent underpinning the proposed amendments and supports the notion of greater local community participation and recognition of Aboriginal and Torres Strait Islander cultural authority in decision making about their children, families and community. We concur with much of the sentiment expressed by Mr Katter MP in the Bill's Explanatory Notes, in particular and consistent with our previous submissions:

- the notion that a "one size fits all" approach is not working effectively, particularly for Aboriginal and Torres Strait Islander peoples in remote or discrete communities
- the principle that individuals can and do change their behaviour and WWCC systems need to appropriately account for this
- acknowledging that circumstances are different in remote communities in terms of how community functions, responsibilities of community members, cultural authority within community, and employment prospects, and
- that the current regime does not allow community to have input into decision making processes about an applicant's suitability to work with children.

While acknowledging a key driver of the proposed bill is also about improving the prosperity and employment opportunities for people within Aboriginal and Torres Strait Islander communities, PeakCare does not consider, this proposal, in isolation to broader strategies and better community supports, will be able to effectively deliver on this aim. This includes PeakCare's concern that the proposed bill does not adequately address the ongoing 'Blue Card' barriers for Aboriginal and Torres Strait Islander people across all Queensland communities who wish to become kinship or foster carers, which is critical to ensuring Queensland's Aboriginal and Torres Strait Islander children-in-care are able to maintain a connection to their family, community, country and culture.

In considering the above, and while PeakCare is broadly supportive of the proposed Bill's intent, we have outlined below two considerations for the Committee's attention. These considerations remain consistent with our previous submission to the Legal Affairs and Community Safety Committee on 18 August 2017 in relation to the Committee's consideration of the Working with Children Legislation (Indigenous Communities) Amendment Bill 2017.

## PEAKCARE'S RESPONSE TO THE PROPOSED BILL

### **The notion of a 'restricted positive notice'**

While PeakCare acknowledges the real and ongoing barriers and limitations of the Blue Card system which the Working with Children (Indigenous Communities) Amendment Bill 2021 seeks to mitigate, we consider the proposed changes could create confusion, both for individuals and for decision-makers, when holders move in or out of the community for which they have been granted a 'restricted positive notice'.

In terms of child protection related employment, under the *Child Protection Act 1999* (Qld), foster and kinship carers, residential care workers and others associated with a licensed care service must hold a positive notice as well as meet other requirements around suitability. In addition, noting regulated time thresholds, 'adult household members' in foster and kinship carer homes must hold a positive notice.

For a range of reasons, and often to do with seeking medical treatment that cannot be provided in community, 'sorry business' responsibilities, or because of contact with the statutory child protection system, people travel between community and towns and cities, for example, to and from Cape and Gulf communities and Cairns and Townsville, Cherbourg and Brisbane, or Woorabinda and Rockhampton. It follows that there are many scenarios where the person may need to seek employment or to stay for an extended period with family who are approved carers for a child in care and would therefore require an (unconditional) positive notice.

While addressing some of the problems associated with the Blue Card system, it is likely that a 'restricted positive notice', in the absence of broader changes to the Blue Card system, could create more confusion than it seeks to address.

### **The barriers and challenges with Queensland's Blue Card system impact on all Aboriginal and Torres Strait Islander children and adults seeking to volunteer or work in child-related employment**

In Queensland, minors and adults are required to hold a Blue Card if they want to volunteer or work in child-related employment. Aboriginal and Torres Strait Islander children, young people and adults are significantly over-represented in Queensland's youth and adult criminal justice systems largely because they experience law and order, policing, and the justice system very differently to other populations, irrespective of socio-economic status. Negative perceptions of the bureaucracy surrounding the Blue Card system are compounded when in combination with the child protection system - 'the welfare' – and impact adversely on considering to apply, actually applying, going through with an application (i.e. not withdrawing an application), and seeking review of a negative notice. These are very real considerations for all Aboriginal and Torres Strait Islander peoples across Queensland, not just those who usually live in remote or discrete communities. In the context of the child protection system, this means, for example, that extended family are dissuaded from or unwilling to put up their hand to care for younger family members. Children and young people are therefore more likely to be placed with strangers in foster care or in residential care, which are lower order priorities in the 'placement' element of the Child Placement Principle.

A comprehensive solution is needed to address the many challenges inherent in Queensland's current Blue Card system, and working with children check regimes more generally, if Aboriginal and Torres Strait Islander children and young people across Queensland are to be raised by family in connection with family, community and culture.

## Concluding remarks

While PeakCare understands and supports the drivers for the Working with Children (Indigenous Communities) Amendment Bill 2021, the fundamental issue of structural racism, and the reason why Aboriginal and Torres Strait Islander peoples are disproportionately likely to have a criminal record and other histories that mitigate obtaining a Blue Card, cannot be appropriately 'solved' by the proposed amendments because the 'problem' is bigger than employment in remote and discrete communities.

PeakCare encourages the Committee to consider the intent and aspirations of this Bill and a driver for positive change and urges Government to seriously consider broad structural improvements to the way Queensland undertakes its WWCC regime to better meet the needs of all Queensland children, their families, and communities.

Thank you for the opportunity to provide a submission on aspects of the Working with Children (Indigenous Communities) Amendment Bill 2021.

Yours sincerely,



**Lindsay Wegener**  
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