



Working with Children (Indigenous Communities) Amendment Bill 2021

Submission by the Queensland Mental Health Commission

November 2021

The Queensland Mental Health Commission

The Queensland Mental Health Commission (the Commission) is an independent statutory agency established under the *Queensland Mental Health Commission Act 2013* (the Act).

It was established to drive ongoing reform towards a more integrated, evidence-based and recovery-oriented mental health and substance misuse system. Under the Act, the Commission must focus on systemic mental health and substance misuse issues.¹

In exercising its functions under the Act, the Commission takes account of issues affecting people who are vulnerable to, or otherwise at significant risk of, developing mental health issues, as well as recognising the importance of custom and culture when providing treatment, care and support to Aboriginal and Torres Strait Islander peoples.

The Commission works in four main ways:

- developing a whole-of-government strategic plan for improving mental health and limiting the harm associated with problematic alcohol and other drug use
- undertaking reviews and research to inform decision-making, build the evidence base, support innovation and identify good practice
- facilitating and promoting mental health awareness, prevention and early intervention
- establishing and supporting statewide mechanisms that are collaborative, representative, transparent and accountable.

The Commission promotes policies and practices that are aligned to the vision of the *Shifting Minds Queensland Mental Health, Alcohol and Other Drugs Strategic Plan 2018-2023 (Shifting minds)* for a fair and inclusive Queensland, where all people – including Aboriginal people and Torres Strait Islanders living with problematic alcohol and other drug issues – can achieve positive mental health and wellbeing and live their lives with meaning and purpose.

Shifting minds highlights the importance of meaningful employment, community participation and social inclusion for mental health, wellbeing and recovery. Stigma, in the form of misunderstanding and negative attitudes, and structural discrimination towards people living with problematic alcohol and/or other drug issues or a history of drug related offences can limit people's ability to find employment, form and maintain social connections and participate in community life. *Shifting minds* includes the priority action of 'Removing barriers to social and economic participation'.

Overview

The Commission welcomes the opportunity to make a submission to the *Working with Children (Indigenous Communities) Amendment Bill 2021*.

We note that the objectives of the Bill are to provide a new Blue Card framework that empowers Indigenous communities to make decisions which best serve their interests in relation to child protection and employment of community members.

We understand from the examples provided in the Explanatory Notes and the Introduction Speech that the current Blue Card system is inflexible and has had negative unintended consequences for people, especially those experiencing problematic alcohol and other drug use or a history of drug related offences looking for work requiring a blue card in Indigenous communities where unemployment is chronically high and work opportunities are statistically low.

¹ Section 11(2)(a) of the *Queensland Mental Health Commission Act 2013*

Aspects of the Bill relevant to the work of the Commission

- Employment for Aboriginal and Torres Strait Islander people living with problematic alcohol and other drug use in remote communities

Employment opportunities in Indigenous communities are rare and as outlined in the Explanatory Notes the current Blue Card system is resulting in missed opportunities for social and economic development of Indigenous people who in the past had alcohol and/or drug issues or a criminal history of some drug related offences.

These individuals might have been denied access to work due to the inflexibility of the current system although they might not have posed any risk to children and their employment would have had broader positive community impacts.

The Commission agrees that existing unintended consequences of the present system are addressed in the Bill through providing decision making responsibilities to Community Justice Groups.

However, these issues should also be addressed through drug policy reform.

The current criminal system around drug offences contributes to people in Indigenous communities not being able to get a Blue Card. As outlined in the Queensland Productivity Commission's Final Report into the Inquiry into Imprisonment and Recidivism, August 2019² (page 206) criminalising the use and supply of illicit drugs causes a range of problems. The Productivity Commission therefore recommends significant reforms that would reduce the harms caused by problematic drug usage, interactions with the criminal justice system, and would reduce imprisonment rates.

The Bill includes offences under the *Drugs Misuse Act 1986*. This would directly improve outcomes for Indigenous people as the rate of criminal conviction tends to be higher as Aboriginal people and Torres Strait Islanders as less likely to receive diversion for a range of reasons, which contributes to the overrepresentation of Aboriginal and Torres Strait Islanders in the criminal justice system.

- Self-determination for Indigenous people

The Commission promotes and supports self-determination and the ability for Aboriginal people and Torres Strait Islanders to make decisions directly affecting their communities. This Bill creates a framework to enable local Community Justice Groups to make a binding recommendation to the chief executive to issue a restricted working with children clearance to an individual for work within that community even if the individual would be issued a negative notice by the chief executive due to previous criminal offences. The Commission agrees that a Community Justice Group which typically includes Elders, Traditional Owners, respected persons and community members of 'good standing' will be best placed to decide whether a blue card should be issued for work in their jurisdiction. Providing this binding decision-making power to Community Justice Groups means empowering Indigenous people to regain a sense of control and mastery over the lives in their community which is of significant importance not only for social inclusion and economic development but general mental health and wellbeing.

Conclusion

The Commission supports the Bill as it provides a more flexible approach to issuing blue cards in Indigenous communities. It hereby removes barriers to employment and provides important opportunities for self-determination and decision making for local Community Justice Groups for their specific geographical area. The proposed amendments can reduce stigma and discrimination, especially for Indigenous people with lived experience of problematic alcohol and other drug issues

² <https://qpc.blob.core.windows.net/wordpress/2020/01/FINAL-REPORT-Imprisonment-Volume-I-.pdf>

and/or a history of drug related offences. The proposed changes can support better mental health and wellbeing outcomes for Aboriginal people and Torres Strait Islanders and their families.

The Bill has highlighted an additional problem caused by the current criminal justice system and it supports the call for drug law reform as proposed by the Queensland Productivity Commission.

The health, safety and wellbeing of all children is paramount and must continue to be the number one priority of the community. The Commission agrees with the submission of the Aboriginal and Torres Strait Islander Legal Service (QLD) in support of the Bill³: *“...As the safety of the child is always paramount, we recognise that any amendments that have the potential to impact on the safety of a child or children must be implemented in a way that ensures any potential risks are identified and managed and would seek the appropriate supports to be put in place”*.

³ <https://www.atsils.org.au/wp-content/uploads/2021/03/210SUB1.pdf>