



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Wednesday, 16 November 2011

EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL



Hon. CR DICK (Greenslopes—ALP) (Minister for Education and Industrial Relations) (8.05 pm): I move—

That the bill be now read a second time.

At the outset, I thank the Industry, Education, Training and Industrial Relations Committee for its report on the Education and Training Legislation Amendment Bill 2011, dated 7 November 2011. While the committee was generally supportive of the bill, it has recommended that four amendments be made to the bill. The government has carefully considered the committee's recommendations and has decided to act on the majority of them. I table the government's response to the committee's report.

Tabled paper: Queensland government response to Report No. 5 of the Industry, Education, Training and Industrial Relations Committee, Education and Training Legislation Amendment Bill 2011 [5894].

The committee's recommendation 1 was that the bill proceed, subject to the amendments recommended and issues raised in the committee's report. The government notes this recommendation and will be making amendments to the bill during consideration in detail to address some of the issues raised by the committee.

Recommendation 2 was that a definition of 'sexual abuse' and 'likely sexual abuse' is required. The government supports this recommendation in part. Attempting to define sexual abuse may have the unintended consequence of narrowing the scope of the reporting obligations on school staff. However, I have noted the concerns of stakeholders about the scope of the reporting obligations and have taken into account the views of the committee. In response, on behalf of the government, I will move an amendment during consideration in detail to provide clarity around the circumstances in which sexual behaviour should be reported under the proposed mandatory reporting provisions.

The committee also expressed the view that comprehensive training should be made available to school staff across all sectors in relation to the reporting of sexual abuse. The committee referred to a training program used by the education department in British Columbia, Canada. I reassure members that the Department of Education and Training already provides comprehensive training to state school staff. The training deals with issues such as identifying appropriate and inappropriate sexual behaviours and how to respond to those behaviours. The Department of Education and Training will make its training materials available to the non-state school sector so there can be consistency in training across both sectors.

Queensland's state schools use similar resources to the British Columbia program to assist staff to determine an appropriate response to student sexual behaviour. *Student's sexual behaviour—a guide for schools* provides information to help school staff identify age appropriate sexual behaviours. The guide makes use of Family Planning Queensland's traffic lights framework to help staff to identify, assess and respond to sexual behaviours, ranging from normal to inappropriate or problematic behaviours. A *Principals' Checklist: Managing Students' Sexual Behaviour* also provides a step-by-step procedure for principals to follow. The Department of Education and Training will review and update these materials prior to the commencement of the amendments in the bill.

The department takes its obligations to ensure the safety and wellbeing of school students very seriously. The current training provided to state school staff is based on the latest research in child protection and comprehensively addresses all aspects of reporting sexual abuse. The department will continue to deliver this training to staff and ensure that it is kept up to date.

Department of education staff are required to complete the online student protection training on commencing work in a state school. Training is targeted to the role of the staff member. Staff members are informed about the department of education student protection policy, which outlines required responses to suspicions of harm. A fact sheet detailing the new legislative requirements will be produced and made available to all employees through the department's website. To allow time for implementation in state and non-state schools, the mandatory reporting amendments will not commence until July 2012 for the start of term 3. Aligning commencement with the start of term 3 will ensure there is sufficient time for informing and training school staff in state and non-state schools.

Recommendation 3 was that a person's eligibility declaration should only be cancelled when they are convicted of a serious offence, not when they are charged with a serious offence. The government proposes to support this recommendation in part. The bill will provide that a person who is convicted of a serious offence is prohibited from applying for teacher registration. A person who is convicted of a serious offence but is not sentenced to imprisonment may, however, apply for an eligibility declaration. If granted, the person may subsequently apply for teacher registration. At both the eligibility declaration and registration stage the applicant must demonstrate exceptional circumstances.

The committee has recommended that an eligibility declaration should only be cancelled upon conviction for a serious offence. The government supports this recommendation in part. It is proposed to provide that a person's eligibility declaration is not ceased upon a charge for a serious offence if the person to whom the eligibility declaration has been issued also holds registration or permission to teach. The existing provisions of the Education (Queensland College of Teachers) Act 2005 will operate adequately to protect the safety of children if the person holds registration when they are charged. Under the QCT act, as amended by the bill, a teacher charged with a serious offence will have their registration immediately suspended. If convicted, the person becomes an excluded person. In that instance, the person's registration would be cancelled and their eligibility declaration will cease. If the person is not convicted of the serious offence, the Queensland College of Teachers must take disciplinary action against the person before the Queensland Civil and Administrative Tribunal.

The Queensland Civil and Administrative Tribunal has the power to cancel the person's registration or permission to teach and to prohibit the person from applying for registration or permission to teach in the future. If such an order is made, the person becomes an excluded person and their eligibility declaration would be ceased. However, where a person to whom an eligibility declaration has been issued does not also hold teacher registration, the bill will continue to cease the declaration upon the charge for a serious offence. The person would need to reapply for an eligibility declaration if they wish to seek teacher registration in the future. This gives the college the opportunity to consider the facts of the matter leading to the person's charge, together with the person's previous criminal history, to decide whether it is appropriate for the person to hold an eligibility declaration.

Where possible, the Queensland government aims to ensure consistency across Queensland's criminal history screening processes, including the blue and yellow card systems for working with children and people with a disability and screening for teacher registration. The eligibility declaration provisions in the Commission for Children and Young People and Child Guardian Act 2000 and the Disability Services Act 2006 provide for ceasing of the declaration upon a charge for prescribed offences. Deviation from these criminal history screening processes is only considered appropriate for teachers already in the system. If the eligibility declaration of a teacher ceased upon a charge, their registration would be cancelled at that time as they would become an excluded person. Due process, prescribed in the Queensland College of Teachers act, for considering the effect of the charge on the person's suitability could not be followed.

Recommendation 4 was that the bill provide for a right of appeal to QCAT in respect of decisions by the college not to grant an eligibility declaration. The government does not support this recommendation—not because we disagree with the principle that administrative power should be subject to an appropriate level of review, but because we believe the administrative power in this case is sufficiently well defined and subject to an appropriate level of review, being judicial review by the Supreme Court. As I have noted previously, the Queensland government aims to provide for consistent criminal history screening criteria and decision-making processes across government. The eligibility declaration provisions in this bill were modelled on the provisions in the Commission for Children and Young People and Child Guardian Act 2000 and the Disability Services Act 2006. Neither of these acts provide for a right of appeal from a decision to refuse an eligibility declaration, apart from judicial review.

The decision-making processes for the college are well defined. The college must make its decision based on whether it is in the best interests of children for the person to be granted an eligibility declaration.

This is a test the college currently exercises when considering the suitability of a person to teach. For these reasons we consider that a further right of review to QCAT is not required.

The committee also sought clarification of the consequences of the revocation of an eligibility declaration where a person is charged with a serious offence. The government response indicates that there is a two-year limitation on applying for an eligibility declaration when the college refuses an eligibility declaration under the proposed section 12G. However, where a person has an eligibility declaration revoked or ceased under the proposed section 12M, that person is able to immediately apply for an eligibility declaration again.

Recommendation 5 was that currently registered teachers with a conviction for a serious offence be subject to a show cause process rather than being automatically cancelled. The committee was commenting on proposed amendments to the bill to cancel the registration of those teachers who have existing convictions for serious offences. The Queensland government makes no apologies for setting the highest possible standards for teachers and taking action to protect Queensland's schoolchildren. However, after considering the committee's views and the comments of stakeholders, the government has decided to accept the committee's recommendation in part.

The bill will be amended to provide that registered teachers with a conviction for a serious offence will have to show cause why their registration should not be cancelled. This show cause process will only apply where the teacher was not sentenced to imprisonment and the college has, during previous registration or renewal processes, considered the person to be suitable to teach under exceptional circumstances despite their conviction. In this instance we are only talking about a handful of teachers. I understand that seven teachers will be caught by the show cause process.

I anticipate that amendments in relation to teacher registration will be proclaimed to commence in January 2012, subject to the passage of this bill. It is important that these new standards take effect as soon as possible, and a January 2012 commencement will ensure these standards apply for the new school year. The January 2012 commencement will allow sufficient time for the college to implement the new administrative processes required.

I would like to thank the committee for its detailed consideration of the bill and the stakeholders who took the time to make submissions to the committee. I am pleased that this government was able to work constructively with the members on the committee and accept many of its recommendations in relation to this bill. The committee's detailed report and its interactions with stakeholders have provided new insights into the policy questions this bill addresses and has enabled this government to make further improvements to the bill.

As I advised the House upon its introduction, this bill will strengthen Queensland's child protection framework by improving the processes for mandatory reporting of sexual abuse of schoolchildren. It will also strengthen the safeguards in the teacher registration system by providing for lifetime bans on teachers convicted of serious offences. The bill makes minor amendments to other education and training legislation regarding the use of university trust land, recognition of overseas schools providing Queensland senior school qualifications and the not-for-profit status of statutory TAFE institutes.

I propose to move a number of amendments during consideration in detail in relation to teacher registration, delegation of the director's function to receive and make reports about suspected sexual abuse and revocation of eligibility declarations. The primary purpose of the amendments will be to apply the cancellation of teacher registration provisions to teachers convicted of serious offences, irrespective of the date of the conviction. As I have noted already, those teachers who were not sentenced to imprisonment and whose convictions have previously been considered by the college will be subject to a show cause process. The amendments will ensure that any person convicted of a serious offence will be excluded from holding teacher registration, irrespective of when the offence was committed. These amendments are aimed at ensuring the protection of children in Queensland schools and to uphold the standard of, and public confidence in, the teaching profession in Queensland.

The amendments will prohibit a director of a non-state school's governing body delegating their function to receive and make reports about sexual abuse to a non-state school principal or other staff member. This ensures that a staff member of a non-state school has two avenues for reporting allegations of sexual abuse—either to the principal or to the director or their delegate. This aligns with the state school procedure, which allows reporting to the principal or the principal's supervisor. It will ensure the staff member has an alternative avenue to report allegations of sexual abuse involving the principal.

The proposed amendments will also provide that a person's eligibility declaration is not ceased upon a charge for a serious offence if the person to whom the eligibility declaration has been issued also holds registration. I have already outlined why this amendment and the other amendments proposed in response to the committee's recommendations are considered necessary.