




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 18 February 2020

**WORKING WITH CHILDREN LEGISLATION (INDIGENOUS COMMUNITIES)
AMENDMENT BILL**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (6.00 pm): On 17 October 2018, the member for Traeger introduced a private member's bill, the Working with Children Legislation (Indigenous Communities) Amendment Bill 2018. On 14 February 2019, the Education, Employment and Small Business Committee tabled its report No. 13 recommending that the private member's bill not be passed. I can advise the House that the government will be opposing the private member's bill.

In saying that, however, I acknowledge the passion of the member for Traeger. We all want to see some solutions for how we can myth bust the issues in the Indigenous communities around blue cards. I take the point of the member for Traeger when he says that there are inadvertent consequences, despite the best intentions. That is what this bill is about. There are serious inadvertent consequences, even though there is the best intentions in what it is seeking to achieve. The private member's bill proposes a new blue card decision-making framework that would enable a statutory community justice group to make a binding recommendation to the chief executive of Blue Card Services to issue a restricted blue card to an applicant who would otherwise have been issued a refusal under the existing blue card framework.

A blue card issued in circumstances envisaged by this bill would enable that person to be employed in child related employment or to carry on a child related business in a defined community area. In effect, it would operate as a conditional blue card, restricted for use in a certain geographical area.

In summary, the committee concluded the private member's bill does not have sufficient regard to the key principle underpinning the Working with Children (Risk Management and Screening) Act 2000 that the welfare and best interests of a child are paramount. The committee noted that the private member's bill would allow certain applicants to obtain a blue card when they otherwise would not be eligible and consequently provide a different standard of assessment and a lower standard of child protection in specified communities.

As the Queensland Catholic Education Commission stated in its submission—

While the specific difficulties associated with the operation of the blue card system in Indigenous communities are recognised, a dual system should not be created where particular individuals are issued with a blue card in circumstances where they would not otherwise be given a blue card.

Principally, the government's opposition to the private member's bill is borne out of the fact that it runs contrary to the recommendations made by both the royal commission and the Queensland Family and Child Commission that there should be no conditional nor different types of working with children clearances.

However, I acknowledge there are valid concerns about the operation of the blue card system on First Nation peoples. The QFCC in its review of the blue card system found that First Nation peoples needed more support to improve participation and the system as a whole needed to enhance its cultural

capability. 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 First Nation peoples and build cultural capability in the blue card system. This is what we are doing.

The committee considered that implementation of the QFCC report is the preferred approach to addressing the concerns about the blue card system. Accordingly, the committee recommended that I, as the responsible minister, provide the committee with a progress report on implementation of the strategy and action plan by 31 July 2020. That is exactly what the government will do. The government has accepted this recommendation and I refer to the government response to recommendation 2 of the Education, Employment and Small Business Committee report No. 13 which I tabled in the Legislative Assembly on 13 May 2019.

I can advise the House that the development of the strategy and action plan has been prioritised and is well underway. It is important to note that the response to the QFCC report is only one part of the work the government is undertaking to improve its engagement with First Nation peoples.

Blue Card Services has also increased its travel to discrete communities to provide information, education and individualised assistance to applicants to increase participation in the blue card system. In addition, Blue Card Services has undertaken targeted, community engagement activities and information sessions for First Nation organisations that assist and support kinship and foster care applicants. This includes the fact that we have produced material in First Nation language in those communities so they better understand exactly what their rights are, how they can apply and how they can work through the process. They are walked through the whole process.

Blue Card Services has intensified our efforts to support applicants in discrete communities through key parts of the application process where historically applicants have not responded to requests for further information and their application had subsequently been withdrawn. This has included the establishment of a dedicated team, including two identified positions to cater for men's and women's business which educates and assists employer organisations to reduce unnecessary processing delays and supports applicants throughout the application and assessment process.

This more targeted engagement has resulted in a better quality of information being provided to inform the decision-making process and there has been an increase in the number of blue cards issued in circumstances where a negative notice may otherwise have been issued had the person not provided a submission. This is key. Often they believe there is no point applying in the first place because they have a history—and we have heard that from the member for Traeger—and they assume a history means refusal. Then when they make an application, because they are asked for further information at that point, they assume they are going to receive a negative notice and withdraw. This is the work we are doing.

Overall I am very pleased to advise that the outcomes of these specific initiatives in these communities have been positive. This is evidenced by a reduction in the percentage of applications in discrete communities being withdrawn due to lack of response to requests for further information or a request for a submission from 17.8 per cent in 2015-16 to 4.4 per cent in 2018-19. That is a significant reduction in the number of applications being withdrawn.

As noted by the Australian Association of Social Workers, there is no quick fix to what is a longstanding problem. Without a focused, sustainable and meaningful strategy to address the structural issues, any short-term solution is not going to achieve the outcome. As part of its submission to the committee, the Australian Association of Social Workers commented on the lack of details in relation to who would be responsible for enforcement and monitoring and reflected that 'this gap needs clarification and resourcing as the potential that community justice groups become an enforcement agent would change their role and responsibilities'. I believe this would reflect very negatively on the community justice group and put them in a very difficult position in their community. There would be, I suspect, significant conflicts of interest in terms of those individuals and their relationship and friendship with those who are applying. We also have the possibility that a community justice group in one community would approve the application but a community justice group in another community would not.

The framework proposed by the private member's bill provides that a community justice group may have regard to whether its decision would have a negative impact on the social or economic wellbeing of the community area's inhabitants and the person's social standing and participation within the community area. Giving weight to these factors would dilute and distort the paramount consideration under the Working with Children Act.

Again, I acknowledge the passion and drive of the member for Traeger in terms of what he is trying to achieve with this bill. However, there would be inadvertent consequences if this framework were to be set up. I believe there is a role for community justice groups. I believe that consultation can

occur with them to better understand the needs of their communities and better break down the myths in the communities but we should not make them the decision-maker and we should not set up a conditional blue card system.

Again, I would like to thank the Education, Employment and Small Business Committee for its detailed consideration of the private member's bill and acknowledge the valuable contribution of all those who made submissions and participated in the public hearing. While well intentioned, a quick-fix response such as that proposed by the private member's bill would lead to a lowering of child protection standards in discrete communities, run contrary to the recommendations of both the royal commission and the QFCC and may lead to a number of other unintended consequences such as an increase in harm to vulnerable children.

Rather, the work currently being undertaken by the Department of Justice and Attorney-General, which I have outlined to the House, provides a long-term, sustainable and community-led solution to this complex issue. I am happy to work with the member for Traeger and come to the communities, talk to the people and work out ways that we can better open the dialogue and provide ways to encourage people to make applications. That way we can get people to realise that a criminal history does not mean they will be automatically rejected. We want people who may very well have had a history and turned their lives around to be great leaders and mentors for others in their communities to not follow in their footsteps. This bill is not the solution.

I ask members to not support this bill. I reflect on the work that is being done across my department. We are all seeking to achieve the same aim of acknowledging the problems with the blue card system for Indigenous communities.