

Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024

Submission to the Education, Employment, Training and Skills Committee

10 July 2024

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INTRODUCTION

PeakCare Queensland Incorporated (PeakCare) welcomes the opportunity to respond to the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024 (the Bill). We acknowledge the intention behind the proposed amendments includes an important focus on strengthening and simplifying Queensland's Blue Card system.

ABOUT PEAKCARE

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

Across Queensland, PeakCare has more than 80 members including small, medium and large, local, state-wide and national 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 care, 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 and youth justice systems.

A network of associate members and supporters also subscribe to PeakCare. This includes individuals with an interest in child protection, youth justice 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.

PEAKCARE'S SUBMISSION

PeakCare believes the Bill achieves its policy objectives, to implement recommendations from the Queensland Family and Child Commission (QFCC) report, *Keeping Queensland's children more than safe: review of the blue card system* (QFCC Blue Card Review Report) and recommendations made by the former Legal Affairs and Safety Committee (LASC), the Women's Safety and Justice Taskforce (Taskforce) and the Youth Justice Reform Select Committee (YJRSC). We also believe the amendments will simplify, streamline, and improve the operation of the blue card system.

We are pleased to note the move to implement the first stage of the Government's response to the QFCC report, *A thematic analysis of provisionally approved kinship carers who receive a subsequent blue card negative notice* (QFCC Kinship Care Report). Additionally, we commend the provision for the sharing of Childrens Court child protection records with other Australian courts and tribunals, in particular to facilitate information sharing under the National Strategic Framework for Information Sharing between the Family Law Courts and Family Violence and Child Protection Systems (National Framework).

While PeakCare acknowledges and defers to the valued contribution and expertise of other organisations in responding to specific legal and technical considerations identified in the consultation guide and draft Bill, our submission focuses primarily the implementation of the amendments, namely consideration for enhanced community awareness and training to allow for consistent application of the changes.

Removal of the requirement for Aboriginal and Torres Strait Islander kinship carers to hold a blue card if they are caring for children in their family

PeakCare supports the recommendations made by the QFCC in the Kinship Care Report, including the removal of the requirement for Aboriginal and Torres Strait Islander kinship carers, as defined in the *Child Protection Act 1999* (CP Act), to hold a blue card if they are caring for children in their family. We also support the recommendation to retain the existing departmental assessment and approval process, in relation to Aboriginal and Torres Strait Islander kinship carers, removing the provisional status period in the absence of the blue card condition.

This amendment is in alignment with the United Nations Convention on the Rights of the Child, that it is in the best interests of the child to be raised within their family (Article 9) and with continuous connection to their culture (Article 30). The amendment also adheres to Queensland's Human Rights Act 2019, particularly sections 26 and 28 relating to the protection of families as a fundamental group of society, and the requirement to maintain Aboriginal peoples' and Torres Strait Islander peoples' connection to culture.

PeakCare agrees with the QFCC, that blue card screening is not designed for kinship care, and that its processes create additional barriers for Aboriginal and Torres Strait Islander kinship carers. We look forward to supporting our members to receive and understand detailed guidelines about the new decision-making processes as they are developed.

New decision-making framework (recommendation 41)

PeakCare supports the shift to aligning the Queensland framework to those frameworks being applied in New South Wales and Victoria. We believe this will better enable a nationally consistent approach in the assessment of eligibility of a working with children check, and support in reducing Queensland having the highest rate of negative notices compared to other jurisdictions.

We are satisfied that a risk-based approach underpinned by the principles of best interest and wellbeing of children is a contemporary way of determining an applicant's suitability. However, consideration should be given to the implementation of the approach, including how the framework will be applied and result in consistent outcomes for applicants.

The explicit consideration of cultural context is appropriate. To facilitate practicality, consideration should be given to how Blue Card Services will complement this with an appropriate cultural framework and embed cultural capability with the organisation.

We are supportive of a multidisciplinary approach, noting the success of its application in other jurisdictions. However, we are concerned the consent process outlined in the Bill may cause additional confusion for First Nations applicants and deter the progression of applications.

As with any new legislation, the key to success is the implementation, messaging and communication. This includes providing support and training for staff at Blue Card Services to ensure the framework is consistently applied in line with its intent and objectives.

Introducing a new disqualification framework (recommendation 29)

We support the inclusion of an age qualifier, providing that an offender must be 18 years or older at the time of committing the offence for it to be treated as a 'serious' or 'disqualifying' offence. We believe in the possibility of rehabilitation and healing for young people involved in the criminal justice system.

Expanding the scope of regulated employment and regulated businesses (recommendations 12 and 15)

We support the requirements for anyone providing services or activities at a camp site to obtain a blue card for overnight camps and excursions. We are also in support of the removal of the exemption for amusement parks, requiring those employed or engaging in providing services directed to a child at an amusement park to hold a blue card. However, given the number of children and young people employed by or working with adults in services not deemed as child related, additional safeguards should be implemented to protect their safety and wellbeing. While it is appropriate that this does not include suitability screening, employers should be accountable for creating safe environments through the application of child safe standards.

PeakCare further supports the establishment of a new category of regulated employment requiring those working in youth justice related employment to obtain a blue card where the usual functions of the employment are carried out at a youth detention centre or include supervising and monitoring a child on youth justice orders in the community.

As the peak body for child and family services, PeakCare is well placed to support the Queensland Government and organisations impacted by the amendments to understand, implement and comply with the new obligations.

Providing a consistent exemption for parent volunteers (recommendation 25)

PeakCare supports the proposed amendments regarding parent volunteer exemption, noting that other safeguarding strategies should be implemented to ensure the safety and wellbeing of children and young people.

Requirement for members of an executive committee of a church, club or association to obtain a blue card

PeakCare supports the additional clarification that a person engaging in decision making in relation to children as a member of an executive committee of a church, club or association is captured under the churches, clubs and associations regulated employment category.

Removing the exemption for Australian lawyers (recommendation 24)

PeakCare believes the definition of legal advice services and legal advocacy services adequately reflects the legal services provided to children and young people. When transition occurs, consideration should be given to the capacity of Blue Card Services to implement the changes (for example volume of applicants). For consistency, transition arrangements should align to the other proposed transition arrangements.

Improving information sharing arrangements

PeakCare does not foresee any unintended consequences with the proposed amendments to information sharing. However, this should be closely monitored during implementation to ensure the appropriate measures are in place that allow only relevant information to be shared.

Genuine researchers (recommendation 75)

Research guidelines should align with requirements in other government agencies and jurisdictions. PeakCare is unable to provide advice on data that can be shared in the absence of a data dictionary outlining what data is currently captured by Blue Card Services.

Auditing and monitoring compliance (recommendation 49)

PeakCare is supportive of the intent of the legislative change. However, any statutory penalties that result from the failure to provide information to a government agency should be considered with caution. Additionally, information and education for the application of the penalties will be paramount to ensure consistent application of the requirements. This should be in addition to public awareness strategies.

Refining QCAT's review jurisdiction

PeakCare supports the proposal to align Queensland with all other jurisdictions by empowering QCAT to review a decision of the chief executive to issue a negative notice or refuse to cancel a negative notice.

Changes to screening requirements for schools

We believe it is reasonable to provide that employment at a school will be regulated by the Act only if the activities of the business take place in an area of a school in which children are being educated and cared for, or that is accessible to children; and at a time when children are ordinarily present.

Cancelling a blue card without issuing a negative notice

PeakCare is supportive of the intent of providing the discretion to the chief executive to cancel a blue card when a person is unable to be contacted. However, transparent and publicly available information regarding what constitutes attempts of contact and the impact on an agency/employer if a blue card has been cancelled should be provided.

Aligning the terms in which a negative notice and blue card are in force

PeakCare supports aligning the sit-out period for a negative notice holder with the term of a blue card to create administrative efficiencies for Blue Card Services.

Inclusion of self-disclosure requirements

PeakCare supports the intent of self-disclosure, however the parameters and requirements for self-reporting need to be clearly described and defined. Additionally, the determination of risk to a child based on a self-disclosable matter can be subjective.

We believe it is fair to expect a person to self-disclose the existence of international criminal history. However, clear expectations of what constitutes criminal history for the purposes of self-disclosure needs to be defined and publicly available. Penalties need to be considered in line with a person's understanding of these requirements.

PeakCare is unable to comment on the current application forms. We strongly encourage any cultural enhancement for the new requirements should be co-designed with First Nations Peoples.

Any statutory penalties that result from the failure to provide information to a government agency should be considered with caution. Additionally, information and education for the application of the penalties will be paramount to ensure consistent application of the requirements. This should be in addition to public awareness strategies.

Linking to foster and kinship carers services in the blue card portal

PeakCare is in support of providing foster and kinship care services direct access to information about the blue card status of carer applicants, approved carers and household members they support, to streamline and facilitate the timeliness of blue card and kinship care approvals.

Emergency exemption

PeakCare understands and supports the requirement for a special exemption from blue card screening for an emergency services worker deployed from an interstate or overseas location where the worker is deployed to respond to the emergency.

CONCLUSION

PeakCare is encouraged to see that the Bill clearly reflects those recommendations from the QFCC and the LASC and other reviews. We believe that these amendments will continue to move towards a nationally consistent approach to the application and assessment of working with children checks and offer additional operational efficiencies for Blue Card Services to allow for the streamlining of the application process. We do believe that a strong community education campaign is required to support the amendments, particularly for First Nations applicants, and training for Blue Card Services staff to allow for the consistent application of the new decision-making framework.

Thank you for the opportunity to provide a submission on the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024*.

Yours sincerely,



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(Pronouns: he/him)