



EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE

Members present:

Mrs LM Linard MP (Chair)
Mr N Dametto MP
Mr MP Healy MP
Mr BM Saunders MP
Mrs JA Stuckey MP
Mrs SM Wilson MP

Staff present:

Ms L Manderson (Acting Committee Secretary)
Ms M Coorey (Assistant Committee Secretary)

PUBLIC BRIEFING—INQUIRY INTO THE WORKING WITH CHILDREN (RISK MANAGEMENT AND SCREENING) AND OTHER LEGISLATION AMENDMENT BILL 2018

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 16 JANUARY 2019

Brisbane

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The committee met at 10.24 am.

CHAIR: Good morning. I declare open this public briefing for the committee's inquiry into the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018. I am Leanne Linard, the member for Nudgee and chair of the committee. I would like to acknowledge the traditional owners of the land on which we meet today and pay my respects to elders past, present and emerging.

On 13 November 2018, the Hon. Yvette D'Ath MP, Attorney-General and Minister for Justice, introduced the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018. The committee is also considering the Working with Children Legislation (Indigenous Communities) Amendment Bill 2018, a private member's bill introduced by Mr Robbie Katter MP. The public hearing that follows this departmental briefing will hear stakeholders' evidence on both bills. The committee is required to report on both bills by 14 February this year.

Present today are: Mrs Jann Stuckey MP, the member for Currumbin and deputy chair of the committee; Mr Bruce Saunders MP, the member for Maryborough; Mrs Simone Wilson MP, the member for Pumicestone; Mr Michael Healy MP, the member for Cairns; and Mr Nick Dametto MP, the member for Hinchinbrook. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. I ask everyone present to please turn their mobile phones off or to silent mode.

Only the committee and invited officials and witnesses may participate in the proceedings. The purpose of today's proceedings is to assist the committee with its examination of the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018, and to hear later from witnesses about both the government bill and the private member's bill.

I remind committee members that departmental officials are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House. The departmental officials are here to brief the committee on the government bill, but I understand they may also be able to provide technical and operational advice with regard to the interaction between the two bills. I also ask that responses to any questions taken on notice today are provided to the committee by 4 pm on Monday, 21 January.

The program for today's briefing and public hearing has been published on the committee's web page. There are hard copies available from committee staff.

**BOURKE, Mr Gregory, Project Director, Strategic Policy and Legal Services,
Department of Justice and Attorney-General**

**FRASER, Ms Fiona, Director, Blue Card Projects Team, Justice Services, Department
of Justice and Attorney-General**

**ROBERTSON, Mrs Leanne, Assistant Director-General, Strategic Policy and Legal
Services, Department of Justice and Attorney-General**

CHAIR: I now very warmly welcome representatives from the Department of Justice and Attorney-General, who have been invited to brief the committee on the bill. Thank you for making yourselves available to us this morning. Thank you also for the written briefing you provided to the committee. I certainly found that very instructive and of assistance. That has been published on the committee's website.

Thank you also for your comments on the submissions. The committee was able to consider those this morning. They will be published. I apologise to any stakeholders who are here today who would have loved to have read them already. We will make copies of them available to those who are here from those groups. I invite you to make a short opening statement and then we will go to questions.

Public Briefing—Inquiry into the Working with Children (Risk Management and Screening) and
Other Legislation Amendment Bill 2018

Mrs Robertson: Thank you chair and committee members for the opportunity to brief you about the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018. At the outset, I refer the committee to the overview of the blue card system which was provided as part of the department's written briefing on the bill.

Queensland's working with children check system has been in place since 2001. Working with children checks assess a person's known police and disciplinary information to identify people who may pose a risk to children. As the Attorney-General and Minister for Justice stated in her explanatory speech to the bill, 'Child protection does not start and finish with a blue card. It is one of many tools available to us to assist in protecting our children.'

The bill primarily amends the Working with Children (Risk Management and Screening) Act 2000, which I will now refer to as the working with children act, and has two core objectives. Firstly, it implements the government's commitment to introduce a no card, no start policy which requires all applicants to hold a blue card before commencing work in child related services. Secondly, and complementary to this commitment, the bill implements a number of recommendations from two Queensland Family and Child Commission, which I will refer to as QFCC for the rest of this opening statement, reports—in particular the report titled *Keeping Queensland's children more than safe: review of blue card system*, which I will now refer to as the blue card review report for ease of convenience.

The bill aims to provide an improved customer experience. Given the enormous reach of the blue card system and its direct interface with so many Queenslanders and Queensland organisations across the state, if you are agreeable, Chair, I propose to take the committee through the new application process and also the screening requirements that are established by the bill to explain this new customer experience. Currently, under the Working with Children (Risk Management and Screening) Act, a person must have an agreement to work or volunteer with a regulated organisation before they can apply for a blue card. The application itself must be completed by both the employee and the employer and it requires the employer to check the employee's identification documents before lodging the application.

The bill actually breaks this link and introduces a single-party process by removing the requirement for a person to have an agreement to work prior to making a working with children check application. This will mean that a person can make an application on their own initiative, so it will enable people to become job ready, for want of a better expression, before entering child related employment. Once a person decides that they wish to apply for a working with children check, the Blue Card Services website will provide direction as to how to make an application in an approved way. A specific notice will be published on the website that provides a step-by-step guide to submitting an application. Currently, blue card applications are paper based.

The bill introduces a simplified and streamlined framework that facilitates making online applications while retaining an alternative manual process. A key component of the new online system is a strengthened identity check process for applicants. This will improve the quality and robustness of the check undertaken and take that particular responsibility away from employers, thereby reducing their administrative burden. A large proportion of applicants will be able to utilise the online identity check. Alternative processes will be available for persons who may not have the necessary identification documents to complete the process. The applicant must also pay an application fee at the time of lodging their application. Volunteers who wish to continue to have their application fee waived will still need to demonstrate that they have an agreement with a regulated organisation to provide volunteer services.

Once an application is submitted, the application is assessed by Blue Card Services. Approximately 90 per cent of working with children checks return no assessable information—that is, no police or disciplinary information. It is anticipated that the new process introduced by the bill will result in a turnaround of an average of five business days for these applicants, compared to an average of 16 business days in 2017-18. Applicants who have returned assessable information will undergo a risk assessment by Blue Card Services. If a working with children check application is approved, Blue Card Services will issue a person with a working with children clearance and a working with children card will be mailed to the applicant. As an additional safeguard and implementing the recommendation of the blue card review report, amendments introduced by the bill require all working with children cards to include a photograph of the person. This requirement will apply to new cards issued post commencement of the legislation.

What happens in relation to commencing child related work? In implementing the government's no card, no start commitment, the bill ensures a person will be unable to commence in regulated employment while their working with children check application is pending. Currently, paid employees

can commence work while their application is pending. However, volunteers and business operators cannot. New section 175 inserted by the bill prohibits an employer from employing a person in regulated employment unless the person holds a working with children clearance and the employer has notified Blue Card Services about the employment or proposed employment of the person. The ability for employers to notify Blue Card Services in real time will be facilitated by the introduction of a new online organisational portal. The current system of manual paper based notifications will also be retained as an alternative for employers.

Before notifying Blue Card Services of an employment arrangement, new section 173 provides that an employer will be required to take reasonable steps to verify the person's identity, for example, by viewing the person's working with children card. To avoid any confusion, this step, which the employer must take prior to a person commencing in regulated employment, is different to the strengthened identity check process being introduced in the bill to support the new online application process. By establishing a link to the person, an employer becomes a notifiable person under the working with children act and Blue Card Services will provide updates to the employer if the person's blue card status changes. These updates will be communicated to the employer through the organisational portal or continue in paper form where an organisational portal account does not exist.

I note that section 175 provides for more significant penalties to be imposed against an employer who engages an employee without a working with children clearance if an aggravating circumstance applies—for example, if the employee holds a negative notice and the employer knows or ought reasonably to know the employee holds the negative notice. In addition, personal responsibility is also placed on the employee.

New section 176A provides a person must not start or continue in regulated employment unless the person holds a working with children clearance. A range of aggravating circumstances also applies to this particular offence, which results in a more significant penalty—for example, if the person is a disqualified person.

Finally, the bill expands the range of disqualifying offences under the working with children act to include bestiality, kidnapping of a child, kidnapping for ransom of a child, child stealing and abduction of a child under 16. The abduction, child stealing and kidnapping offences will only be treated as disqualifying if the context in which the offence was committed was not familial. These amendments meet the recommendations of the blue card review report and the Royal Commission into Institutional Responses to Child Sexual Abuse. However, the bill goes further by including murder and rape of an adult as disqualifying offences. As the Attorney-General noted in her explanatory speech, the bill's inclusion of these offences as disqualifying is beyond what the QFCC and the royal commission called for. Notwithstanding the current strict framework regarding serious offences, the Palaszczuk government has listened to community concerns and is making these changes to include murder and rape of an adult as disqualifying offences, providing even greater protection for Queensland's children.

Chair, I note that there are a range of other amendments contained in the bill that are canvassed in our written briefing as well as the explanatory notes that obviously I have not had time to formally address this morning. Again, thank you for the opportunity to address the committee about the bill. We are happy to take questions from the committee. As has been mentioned earlier, the private member's bill is also being considered by the committee. We are happy to take questions about operational issues, but we will be limited to that on the private member's bill.

CHAIR: Thank you for the opening statement. I am aware that we could always benefit from more time. We would love you to be able to keep going. We will probably be short on time for questions, too, so we thank you for keeping your opening statement short and concise. I have a question on the government's working with children bill. In regard to high-risk persons or exemptions, there is an offence relating to an employer continuing to employ a person in restricted employment if they know or ought reasonably to know the person is a restricted person. I know this was a question from the Queensland Catholic Education Commission that the department addressed, and obviously I have read your response. As a further point of clarification, will clear examples be provided to guide employers on what properly constitutes 'know or ought reasonably to know'? They provide an example in their submission that says, 'If we did this, would that suffice?' I am happy for you to take that on notice. While your answer was general in nature and very informative, it would probably give them confidence if there was more information around that. Mr Bourke, you are looking at me like you are about to answer.

Mr Bourke: I suppose we could not give an absolute ironclad guarantee. It will be about organisations. This offence is really about improved child safe cultures and practices and having that frank conversation at the point of intake, at the beginning of engaging a volunteer parent. The
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department is willing to engage with stakeholders and develop some material and some things to really show that you have taken some reasonable steps, you have had the conversation, you have asked the question, you have put a declaration to them. However, I do not think the department would be in a position to ironclad tell an organisation; it would come down to the individual circumstances of each particular case.

It is a clear recommendation of the royal commission and the QFCC that that particular existing loophole is closed. I think it will be an ongoing dialogue with organisations to ensure that they are putting in those appropriate practices. I think it is a fluid obligation. It is not a static thing where, just at the start, you have a discussion. It is continuing to engage your volunteer parents who might be reading at the school, or whatever it may be. It is continuing that dialogue that child safe practices are everyone's responsibility. This offence of 'ought reasonably to know' is really about being active in your engagement as a child safe organisation.

CHAIR: I think that is very fair and I am totally supportive of that. Personally, I am supportive of the change in the legislation. I think it was a reasonable point to raise on behalf of an employer that examples, which I think is commonplace anyway, might be provided as to what would constitute properly seeking to respond to that issue. I am happy if you take that comment on board. Director-General, you were about to speak?

Mrs Robertson: Obviously the department is very keen to actually work with stakeholders in the implementation process. Certainly, we are happy to provide some guidance. However, we would have to be very clear. It comes up often that people say, 'If I did this, is this an absolute?' We cannot do that, because we are not the decision-makers in relation to any prosecution type decisions. We have to be very careful in how we provide that.

CHAIR: I totally appreciate that, thank you. The next question is more about possible operational implications of the private member's bill. I note that the Working with Children Legislation (Indigenous Communities) Amendment Bill proposes to create what is, in effect, a mini blue card system within specific discrete communities. On the face of the contents of the bill and explanatory notes, which I appreciate is all you can respond to, are there any operational implications of the bill being implemented in that regard that you would be aware of or happy to comment on?

Mrs Robertson: I will give a bit of background in the context of the consideration of the sorts of issues raised in the private member's bill by both the royal commission and also the QFCC. The framework in the private member's bill would run contrary to the recommendations of both the royal commission and also the QFCC by proposing, in effect, what we would call a conditional blue card which is limited in application, as you have identified, to a certain community area and placing a weight, I guess, on situational factors as part of the decision-making process.

The royal commission and the QFCC both identified that imposing conditions on a working with children clearance limits its portability across child related roles generally and/or employers within the jurisdiction that issued the clearance. Obviously, it also creates very practical monitoring and enforcing compliance issues. We note that the bill itself is silent as to who would monitor the geographical compliance of the person's restricted positive notice.

Although it foreshadows that an application may relate to multiple community areas, we note that it does not indicate what is to occur if there are conflicting recommendations by different community justice groups. It provides that the community justice groups may make a binding recommendation that the interim restricted positive notice or restricted positive notice be issued by Blue Card Services but, again, it is unclear how it will work if there are contrary recommendations by community justice groups.

I note that the QFCC emphasised that of most concern is that conditional cards would allow people to work with children in circumstances where they would not otherwise be given a blue card. By making a provision for the issue of a restricted positive notice to a person who would otherwise have been issued a negative notice, the private member's bill creates a lower level of protection for children within a community area compared to children outside that particular community area.

The QFCC was very cognisant of the issues and the challenges in supporting Aboriginal and Torres Strait Islander people and building cultural capability in this area. It identified a specific strategy encompassing a number of factors, including partnering with other government agencies to improve outcomes; establishing a reference group to co-design a strategy and action plan to establish appropriate governance structures to implement that strategy; developing specific community engagement plans and culturally appropriate information sources; identifying options to provide community based support; establishing identified positions within Blue Card Services itself in DJAG

to provide regular cultural capability training to staff; developing guidelines to embed an appropriate consideration of cultural working with children check decisions; considering ways to empower communities to be involved in decisions about their community and evaluating the effectiveness of implementing the strategy and action plan.

The QFCC itself noted that the implementation of recommendation 73 of its report and other recommendations will achieve change and address many of the concerns which underpin the desire for a conditional framework. Obviously that sort of framework is contrary to the government's no card, no start policy. If it would be helpful, my colleague Fiona Fraser from Blue Card Services may be able to outline in a bit more detail what they are doing on the ground now.

CHAIR: That would be great. You have referred to the QFCC recommendations and comments, but I am very interested to know what work is being undertaken by Blue Card Services, the government and the department to try to assist with some of the concerns that have been raised. They are very real concerns that discrete Indigenous communities have been raising for some time. I know that time is limited, Ms Fraser, but post the hearing I would love any commentary from you. If you want to take questions on notice to provide a more fulsome response, the committee would really benefit from knowing what has been happening and what is happening, given it is a recommendation of the report.

Ms Fraser: As Leanne indicated, recommendation 73 laid out quite a number of areas that needed to be looked at as part of the blue card review. To deliver the strategy and action plan we have established a project around that recommendation: we have a board in place; we have developed project documentation; we have brought together an evaluation panel on which three out of the four members identify as Aboriginal or Torres Strait Islander; and we are in the process of procuring a consultant who will lead the development of that strategy and action plan. Post procurement of that consultant the Aboriginal and Torres Strait Islander reference group, which was referred to in the recommendation, would be established, and then we would work with that group and the consultant to co-design that strategy and action plan. Work has commenced to bring that person on board.

Outside of the strategy and action plan itself there are some other activities that Blue Card Services have commenced, and they will continue to do that alongside the work that has been done for the strategy and action plan. For example, Blue Card Services partnered with an Indigenous creative agency to develop a series of information resources which were launched in Cairns at the end of 2017 and Brisbane at the beginning of 2018. They are available on the Blue Card Services YouTube channel and things like that. They were developed to address some of the common concerns that were raised in the report such as challenges around meeting identification requirements and understanding the scope of where blue cards are needed and not needed. They also aim to provide more information to people who have assessable information with regard to how is it assessed and how people can contribute more information to support their application.

We have increased our travel to discrete Aboriginal and Torres Strait Islander communities. We have established a dedicated team in our assessment area to specifically look at some of the challenges for people engaging with the system, particularly where they have been asked to provide more information about their criminal history. We have been doing some work to establish an identified position within that assessment team as well. Those activities are happening alongside.

CHAIR: More information being sought was mentioned in a previous transcript from the Legal Affairs Committee, I believe, which considered this matter last year. It was mentioned there that there was a large percentage maybe not responded to. There are obviously some trends that you are responding to as a department and there are lots of things happening. I am happy for you, Assistant Director-General, to take that on notice and provide more detailed information. With regard to those trends, could you provide the percentage of applications where more information is sought but you do not hear anything back so that we understand the complexities that you are dealing with?

Ms Fraser: Yes.

Mrs STUCKEY: I would like a couple of clarifications from the department and then I also have a couple of questions. I apologise if I missed it, but can the department provide a breakdown list of the 81 recommendations in the blue card review report showing which have been implemented, which are in progress, which were rejected and which are still to begin? I have seen a question on notice which just had some numbers of how many of the 81 were in those situations, but I think it would be really helpful for the committee to know specifically which numbers of those fit those categories.

Mrs Robertson: I think, Chair, that we might have to take that question on notice.

Mrs STUCKEY: I would appreciate it if you could. I would not expect you to be able to rattle that off. I would also like to seek some clarification—and again it might sound pretty simple—on the topic of the new concept of a working with children card, which from my reading includes a photograph of the person. Will this replace the blue card as we know it, or is it an additional authority?

Mr Bourke: The working with children card is a general definition that will be used for both those people who are not registered teachers and police officers and also what is known as the exemption card that registered teachers and police officers obtain. The blue card will continue as a colloquial term, but the legislative construct will be the working with children card under the act. That will refer to both the blue card and the exemption card, which is probably more the everyday language that will be used on the ground. It is not two different things. The working with children card is a definition meant to capture both.

Mrs STUCKEY: We all just very casually say blue card. In fact, I applied to have one myself as a politician. It was quite difficult for me to get one because it had not been done before. I think for the public to understand the new legislation and have an awareness you have to keep it as simple as you can, to know that a blue card is still a blue card and that is what it means. I am mindful of the time. In Queensland we have seen a number of violent deaths of children where the offender has only been convicted of manslaughter. In New South Wales, manslaughter of a child is a disqualifying offence. The question is: why should a person convicted of the manslaughter of a child and cruelty—such as Mason Jet Lee—not automatically be disqualified from applying for a blue card? Could someone explain why the government has not made manslaughter of a child a disqualifying offence?

CHAIR: It is a question of policy, I know, but you can obviously respond to disqualifying offences and what is included in the bill.

Mr Bourke: The bill does implement the recommendations of the QFCC and the royal commission to include bestiality, kidnapping and abduction related offences. The government then took the extra decision to include the murder and rape of an adult, which was above and beyond what the royal commission called for. The bill does address that. Any further expansion is really a policy matter for government, I would have to say.

Mrs STUCKEY: Given that the majority of child abuse is perpetrated by people known to the child, I notice that this wording 'familial context' relates to kidnapping or abduction by a family member. Was that what the QFCC put in there? I am puzzled as to why this is omitted, because we do hear some horrific stories.

Mr Bourke: The QFCC raised that as a live concern and foreshadowed that abduction and kidnapping may occur in a familial context. It is worth noting that if it does occur in a familial context the offence would be treated as a serious offence under the act, which essentially creates a presumption under the act that the person would be denied a blue card unless there were exceptional circumstances. It just builds in that very small discretion for Blue Card Services in situations where it would not harm the best interests of the child to issue a blue card. It was a point directly raised by the QFCC, which asked the government to consider it. I think it does also align with the way New South Wales treats its abduction and kidnapping offences, recognising that it does lower it down to a serious offence which still creates quite a strict framework that Blue Card Services then administers its decision within.

Mrs STUCKEY: I do live on a border. Dealing with two different states' laws on a number of issues, let alone the time zone, is quite frustrating. In Bravehearts' submission they raise the issue of volunteer parents. They advocate that working with children checks should be applicable to all employees and volunteers in the child related sector, including parents who volunteer and seasonal workers such as Santa Claus. In the department's response it states, 'These issues will be considered as part of the staged implementation of the QFCC report.' Can someone explain what that means? Will that be included or not?

Mrs Robertson: When the QFCC reports were tabled the Attorney-General acknowledged that there would be a staged approach in relation to the implementation of various recommendations. There was general support by government for the QFCC recommendations, but it was acknowledged that there would be a staged process. The timing, which is I think where your question is leading, really is a matter for government. I cannot take that any further.

Mr HEALY: In relation to the community justice group providing recommendations to the chief executive, are there any protections for the community justice group during their decision-making process?

Mrs Robertson: My understanding is that the bill itself is silent on that. I think you are raising an interesting legal question in that context. I think that would be a matter that would need some formal legal advice which the department is obviously not in a position to give. I also note that, although it is a binding recommendation on the chief executive, the chief executive is still the issuer of the card. There are quite complex legal issues arising from your question. I do not have the answer to that. I do not think it is something that we could take on notice. I think it would be a matter for formal legal advice.

Mr HEALY: I will pursue that through other areas. I note that the Working with Children Legislation (Indigenous Communities) Amendment Bill 2018 relates to a specific community. That being the case, the person can only work within the community in which the community justice group has jurisdiction. How would this work operationally? For example, if somebody lives five or 10 kilometres outside of that community but works within the community, they may be granted a blue card under the bill to work in the community but would not be able to work in the community in which they reside.

Mrs Robertson: I think your question highlights that the private member's bill is silent on that issue, which is an enforcement and compliance issue. That is another issue that I think I flagged previously—that the bill is silent about that enforcement and compliance.

Mr HEALY: That is helpful. Thank you.

Mrs WILSON: The report recommends that the eligible declaration relating to disqualified offences be repealed in recommendation 29. The provision gives the chief executive the discretion to grant a disqualified person eligible to apply for a blue card. Why is this recommendation not supported?

Mr Bourke: Just to clarify, you are asking why the eligibility declaration process has been retained in the bill?

Mrs WILSON: Yes.

Mr Bourke: The eligibility declaration process currently provides scope for a person who has been convicted of a disqualifying offence but not sentenced to a term of imprisonment to essentially make an application to Blue Card Services to be declared eligible to make a blue card application. The vast majority of eligibility declarations that have been approved by blue cards over the years have been for offences of unlawful carnal knowledge or similar to that where you are talking about the boyfriend-girlfriend type scenario. There is an example outlined in the report of a 19-year-old and a 16-year-old. That offence occurred and they are 35 years happily married and there has been no offending behaviour since. Essentially it builds in that limited discretion for those rare instances where it is a disqualifying offence. There has to be no term of imprisonment imposed on the person. There is no right of appeal to an eligibility declaration application. It is just a decision made by Blue Card Services.

It was retained because of the fact that there will still be an up-front offence for someone to make a blue card application. That is an important deterrent to continue within the system. It is important that a disqualified person is still discouraged from even making an application. However, given the history of what we have seen with the eligibility declarations that have been approved over the years, there was a decision taken to retain that process for those small instances of cases where it is still a live issue that you would want to retain some discretion. I think that the report identifies some statistics on that front. The eligibility declaration process was retained recognising that it does enable some people the ability to seek that discretion or power that Blue Card Services have to then be deemed eligible to make a blue card application.

Mrs WILSON: The report recommends in recommendation 29 an automatic issue of a negative notice to a person over the age of 18 who has been convicted of a disqualifying offence and sentenced to a period of imprisonment, including a suspended sentence. Can you confirm that there will be an automatic issue of a negative notice when a person is convicted of a disqualifying offence and explain the process to achieve this?

Mr Bourke: As I have mentioned before, the act will still prohibit up-front a person convicted of a disqualifying offence and sentenced to a term of imprisonment from even making an application. The bill retains the quite significant offence that attaches to a person to even making a working with children check application. The act still has the direction that an automatic negative notice would be issued to someone in that instance, but the first hurdle they will not get over is that it is not even a valid application. Given that we still want a deterrent, that we want disqualified people completely discouraged from simply making an application, that offence has been retained. It still gives effect to that in just a slightly different way.

Mr SAUNDERS: I would like to thank the department and the hard work that officers in the department put in with regard to blue cards. I have two quick questions. Are police officers and clergy on the exempt list?

Mr Bourke: The two professional groups captured by the exemption card framework are police officers and registered teachers.

Mr SAUNDERS: Do clergies and pastors et cetera have to have a blue card to work?

Mr Bourke: There is a category of religious representatives.

Ms Fraser: There is a category under the current act which requires religious representatives who provide services to children to obtain a blue card. A number of clergy would come under that requirement already. There is also another category of churches, clubs and associations. Outside of religious representatives, that category would capture volunteers and paid employees who provide services in a church or religious environment. A Sunday school teacher and people like that would fall under that category.

Mr SAUNDERS: How many people have applied for the card and have been knocked back? Do you keep those statistics? For example, if 10,000 people apply in a year, how many get rejected?

Ms Fraser: I have some statistics from the 2017-18 financial year. In that particular year we processed 266,761 applications. We identified 2,946 high-risk cases where individuals were prohibited from working with children, so it is a smaller percentage.

Mr SAUNDERS: How often do the police check those issued with blue cards? Say I am issued a blue card on 16 January 2019, how often would that be checked? When I worked with companies we went through a mandatory police check every six months because we worked on government sites and we went into aged-care facilities and schools. The company was checking every six months for which we gave our permission. Once you get a blue card, is it updated annually?

Ms Fraser: When someone applies for a blue card we conduct a full national police check and we do that again on renewal. While the person is a card holder, their police information in Queensland is monitored on a daily basis through an interface with the Queensland Police Service. We pick up the Queensland changes during the life of the card and then there is a full national check on renewal.

CHAIR: Ms Fraser, you quoted some statistics there. Were they from the annual report? Can I ask what the source was just so that we can look at them because they would be of interest to us for the report. If you wanted to table any statistics or take that on notice and provide some overall statistics, that would be of benefit for our reporting processes.

Mrs Robertson: Chair, we are happy to take that on notice and provide you with some data that we have.

CHAIR: That would be great. Thank you.

Mr DAMETTO: I thank the department for coming along today and giving us this briefing. We really appreciate it. I congratulate the department on what it is doing at the moment in trying to change the framework around how people apply for a blue card. Previously, when I owned a small business, I went to apply for a blue card but found that I could not be both the employer and the employee when filling out the paperwork. We had a little bit of a drama trying to get around that and get things to work. I congratulate you on those changes. You have talked about the police conducting background checks on applicants. Is there any other database that you check against? Is the community justice group included in that?

Ms Fraser: When we do the check of a person's eligibility to hold a blue card, we do the national police check. We also access some disciplinary information—for example, teacher disciplinary information or foster carer disciplinary information. We also get access to certain information about types of orders that people may be subject to. We do not check with groups like the community justice group. It is really restricted to that police information and disciplinary information.

Mr DAMETTO: For someone who has immigrated to Australia, do you ever check offences committed overseas?

Ms Fraser: Not currently, no.

Mr DAMETTO: What penalties exist at the moment for someone who is caught working without a blue card? I think it is a great framework, but I would like to know what the penalties are and what discourages a person from working without a blue card.

Mr Bourke: You are talking about an employee rather than an employer?

Mr DAMETTO: That is right, yes.

Mr Bourke: For an employee there are current offences that exist under the act in terms of a person who holds a negative notice or is a disqualified person from engaging in regulated employment. What the bill introduces is that baseline offence which creates greater personal responsibility on employees given that we are breaking the link that you identified—that it is a two-party process, that an employer cannot engage an employee and they actually make the application together. Given that employees will now be able to make applications on their own behalf, the offence that is introduced by the bill has that baseline that they cannot engage in regulated employment without a working with children clearance and then there are aggravating circumstances that are based on existing offences under the act. If they were to do that when they were the holder of a negative notice or a disqualified person or had had their application withdrawn, that would create a more significant penalty. The bill does introduce that new onus to recognise that greater personal responsibility—that shift to the employee by breaking that link in the application process.

Mr DAMETTO: What would be the repercussions of that? Would it be jail time? Would it be a fine? Does it line up with another offence that it could be tried against? How does that work?

Mr Bourke: The baseline penalty against the employee is 100 penalty units, which is a monetary fine. Then the circumstances of aggravation involve a higher penalty unit. I think it is 500 penalty units and the potential of five years imprisonment for those aggravating circumstances. It is in new section 176A. If an aggravating circumstance applies, it is 500 penalty units or five years imprisonment; otherwise it is 100 penalty units. That 100 penalty unit offence is the new player. It is a new offence in the bill.

Mr DAMETTO: Thank you very much.

CHAIR: Thank you very much for coming before the committee today. I note that you have taken a number of matters on notice. My recollection is that you have taken three questions on notice. Our secretariat will be in touch with you in regard to the nature of those questions to clarify. Thank you all again for your time today and for the written briefing. You have been of great assistance.

That concludes the briefing from the Department of Justice and Attorney-General. I thank the officials who were here today. I advise that a transcript of these proceedings will be made available on the committee's parliamentary web page. I declare this public briefing on the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill closed. The committee will now hold a public hearing on the two working with children bills.

The committee adjourned at 11.08 am.