# *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 HEARING—INQUIRY INTO THE WORKING WITH CHILDREN (RISK MANAGEMENT AND SCREENING) AND OTHER LEGISLATION AMENDMENT BILL 2018 AND THE WORKING WITH CHILDREN LEGISLATION (INDIGENOUS COMMUNITIES) AMENDMENT BILL 2018

## TRANSCRIPT OF PROCEEDINGS

**WEDNESDAY, 16 JANUARY 2019**

**Brisbane**

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**The committee met at 11.09 am.**

**CHAIR:** I declare open this public hearing for the committee's inquiry into the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018 and the Working with Children Legislation (Indigenous Communities) Amendment Bill 2018. The purpose of this public hearing is to hear evidence from stakeholders who made submissions as part of the committee's inquiry into the two working with children bills. As I outlined earlier in the public briefing, these proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. Hansard is recording the proceedings, which are being broadcast live on the parliament's website. Copies of the program of witnesses are available from committee staff.

## ANDERSON, Ms Julia, Senior Lawyer, QCAT Self Representation Service, LawRight

**CHAIR:** I welcome Ms Julia Anderson from LawRight. Thank you for coming along today and thank you also for making a written submission. I invite you to make an opening statement and then we will open for any questions the committee might have with regard to your submission.

**Ms Anderson:** Thank you to the committee for the opportunity to comment on the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018, which I will from hereon in refer to as the bill. LawRight is an independent community legal centre and the leading facilitator of pro-bono legal services in Queensland, harnessing 30,000 hours of services from the private legal profession in 2017-18 in order to increase access to justice for vulnerable members of our community. LawRight's Self Representation Service at QCAT has operated since 2010 to provide discrete task assistance for vulnerable parties in QCAT.

In my capacity as senior lawyer, I regularly assist clients who are seeking a review of a decision by Blue Card Services. The number of applications to our service regarding blue card decisions has grown considerably in recent years and currently accounts for approximately 40 per cent of client files opened in the last year. LawRight's blue card clients are the people who are being issued with a negative notice or are having their positive notice cancelled typically because of minor offences where, in many cases, convictions are not recorded. They are not the people who are automatically disqualified; they are the people who fall into what are considered exceptional cases, and that is where they have not actually committed a disqualifying offence or have any other quality which would automatically disqualify them from being able to have a blue card.

Based on our experience with these exceptional cases, LawRight has two broad concerns. The first is that the no card, no start policy will unnecessarily impact the employment of people who are already vulnerable, particularly First Nations people. The second is that the automatic stay provisions on QCAT decisions are unnecessary and overreaching and furthermore will only disadvantage minority and vulnerable people. I would like to introduce you to Kay. She is a typical client of LawRight. Kay is a single mother with three children, limited education and no significant assets. Kay commenced work in the disability support sector and shortly thereafter applied for a blue card. At the time of commencing employment, she undertook a compulsory police check which raised no concerns. Six months into her employment, Kay was advised by Blue Card Services that her application for a blue card was being assessed as one of these exceptional cases and she was invited to make submissions. Fourteen months into her employment, she was issued with a negative notice and consequently was out of work. Blue Card's negative notice was based on a series of minor charges spanning a two-month period which had occurred three years earlier. The sentence for these charges was no conviction and a small fine. She had no other criminal history.

At the time of the charges, Kay was dealing with the collapse of her marriage, which had been both physically and emotionally abusive. She briefly fell into a short pattern of drug abuse, something she had never engaged in prior to this. Kay voluntarily sought rehabilitation treatment with the support of her family. The treatment was successful and she has not since relapsed into drug use again. Kay informed Blue Card Services of all of these matters during the review and provided overwhelming personal and professional references to back up her position. However, she was still unsuccessful in getting a blue card. After the issue of the negative notice from Blue Card Services, Kay applied to

QCAT to review the decision. Twenty-two months after Kay first initially applied for a blue card, QCAT overturned the decision due to overwhelming evidence and a positive notice was ordered, confirming that Kay was a fit and proper person to work with children. However, of course at that stage she was out of her job. Kay is an example of a woman in a vulnerable situation surviving long-term domestic violence and caring for three children, but she found herself unemployed because she falls into this category of exceptional cases.

The bill does not purport to change how Blue Card Services assesses people like Kay or how Blue Card Services conduct their internal reviews, nor will it shorten the time that it takes for QCAT to review decisions like Kay's. Kay would still be out of work during the QCAT process. In fact, the proposed amendments would mean she was out of work even after the QCAT process exonerated her because of the automatic stay on QCAT decision provisions. However, the changes proposed mean that Kay would not have been able to work for those first important 14 months that provided her with positive employment and a supportive employer. Those 14 months of experience are how she got the references from her employer which were relied upon by QCAT to overturn the decision made by Blue Card Services. LawRight's concern is for the Kays in our community—the low-income earners, the minority groups, the vulnerable and the disadvantaged. They will be the ones who are negatively affected by the no card, no start policy for no tangible benefit or increased safety to our community.

Most of our clients have limited resources, limited assets and often have a limited education. They face social and financial isolation and are more likely to have been charged or convicted with minor criminal offences. They mostly have tenuous employment and they cannot afford the further delays proposed by the legislative amendments. In LawRight's experience the process from when an applicant applies to Blue Card Services and when a negative notice is finally issued can often take 12 to 18 months, with the longest delay we have seen being two years and five months. This is before the review to QCAT commences and this is time that could be spent in employment. If the parliament is not minded to reconsider the no card, no start policy, it may at least consider imposing a time limit on Blue Card's consideration and internal reviews of these exceptional cases or with a review on how regularly that time frame is being adhered to.

Furthermore in the alternative, another suggestion is that these exceptional cases be exempt from the no card, no start policy. Again, we are not talking about people who have committed serious or disqualifying offences. We are talking about the people like Kay who fall into the category of being an exceptional case. The suggestion we are proposing is to allow these people to continue working while Blue Card Services consider their application. Not only would this be of benefit to the community; it would also put the onus on Blue Card Services to consider these cases promptly.

I also want to turn to the issue of First Nations. LawRight has a particular concern for our Indigenous clients who are overrepresented in criminal and policing statistics. Conversely, they experience lower than average employment rates, yet when they are employed it has a meaningful impact on the community as they become role models. We are currently assisting Della, a young Aboriginal woman who worked as a teacher's aide in an isolated and regional area of Queensland. Blue Card Services cancelled Della's positive notice and issued her with a negative notice after she was charged with possession of a knife in a public place. No conviction was recorded and she was released absolutely. This was the only offence Della has ever been charged with. At the time of the offence there was significant family dispute going on in Della's life and in the heat of the moment she indicated to a family member that she was going to commit suicide and she left the house with a knife. Out of concern for Della's safety, a family member contacted the police and they located Della, conducted a search and located the knife. Consequently, Della was charged with this offence which resulted in her losing her blue card and therefore losing her employment.

Della has since reached out for psychological assistance for the significant lifelong trauma she has experienced which led to these events. These levels of trauma are in fact quite typical for Della's demographic, especially in remote areas where access to services is often limited. The reality is that here is a woman who has overcome extensive and ongoing trauma in her life, was organised and capable enough to have employment and was making an invaluable contribution to her community by supporting young Aboriginal kids in the classroom. Right now she is out of a job and she is on Newstart. She was recently referred to LawRight to assist her with applying to QCAT for review of the decision by Blue Card Services—a process that may take up to 12 months.

Whilst we believe that Della's case has strong prospects of success, whether she will actually be successful engaging with the QCAT process, like Kay, is another matter. Seeking a review of a decision by Blue Card Services in QCAT is no easy feat. Della's evidence is strong, but since losing

her job and having to relocate to another town she has had a lot of difficulty accessing our service and engaging with the QCAT process. She has limited credit on her phone, she does not have access to a computer and at the end of the day she is still just a young woman dealing with a history of complex trauma and lacking the education or the support to fully comprehend the complex QCAT process that she has ahead of her.

The last point I want to address in our submission regards the finality of the QCAT proceedings. The current situation provides that where QCAT overturns a decision of Blue Card Services the chief executive may seek a stay of the decision or QCAT may order a stay on its own initiative. The effect of the stay is that the person will be prevented from commencing regulated employment until the appeal is finalised. The bill seeks to amend these stay provisions by stating that where QCAT overturns a decision of Blue Card Services there will be an automatic stay of the QCAT decision until the appeal period has expired or an appeal is finalised. The impact of this amendment on our clients will be that, after navigating a lengthy and stressful QCAT process, they will be further prevented from commencing regulated employment for up to 87 days, which is the maximum amount of time that the appeal period can go for. Of course if Blue Card Services do appeal the decision then that period of time is most likely going to be longer. Many of the people impacted by this amendment will be those from marginalised and vulnerable backgrounds who will have to rely on social security benefits while awaiting the outcome from their QCAT decision. Our view is that the current legislative framework is sufficient to ensure the principles of the act are upheld and therefore the proposed amendments are unnecessary and overreaching. Thank you.

**CHAIR:** Thank you. You have given us a lot of additional detailed information compared to your written submission, so thank you for the effort that you have put into that opening statement. I am quickly scrawling to clarify something in my mind, so I invite the deputy chair to ask a question.

**Mrs STUCKEY:** Thanks, Julia, and I really appreciated some actual case studies. I thought that was really helpful as well. In your submission you state that the current framework is sufficient to ensure that the principles of the act are upheld and therefore the proposed amendments are unnecessary. Are you referring to those to do with the no card, no start and QCAT, or in that submission statement are you referring to some other amendments in this proposed bill?

**Ms Anderson:** The particular reference I was making is with regard to the stay provisions. As it currently stands, if QCAT makes a decision to overturn a decision of Blue Card Services, there is already the opportunity for Blue Card Services to ask for a stay on that decision or for QCAT to make a stay on their own decision. I think it is also particularly worth noting that this is after quite an extensive QCAT process after a hearing and after a huge amount of evidence has been given and QCAT has made that decision. Our view is that it would be unnecessary to put an automatic stay on the result from the QCAT hearing.

**Mrs STUCKEY:** Thank you.

**CHAIR:** Just following on from that, which is what I was quickly going through my notes to clarify, in the situation proposed where a stay is given—that is, the chief executive has 28 days within which to decide whether to bring an appeal—you commented on an average of 87 days. Is that if a decision is made and there is enough information that the chief executive will risk that they would then pursue an appeal? Can you clarify for me your comment with regard to 87 days on average?

**Ms Anderson:** Once QCAT has made a decision, if a party wishes to appeal, they have 14 days to request reasons. QCAT then have 45 days to provide those reasons and once those reasons have been provided the party has 28 days to appeal. Sometimes that can go quicker, but they are the time limits that currently stand.

**CHAIR:** There is something that I just wanted to clarify in my mind, because the department gave us a briefing just before you—which I know you were here for and you heard that—and they commented, if I am correct in my notes here, that 90 per cent of blue card applications result in no further information being required, so they obviously go through a normal process and are straightforward. You are talking about those difficult or more complex matters where the exceptional cases exist, which is obviously a fairly small cohort. While we did not ask that question of them, it is obviously less than 10 per cent but a large percentage of your work. You commented earlier that it was around 40 per cent; is that right?

**Ms Anderson:** That is correct.

**CHAIR:** Okay, so that is 40 per cent of the work that you are doing. Given that 40 per cent, you have calculated what numbers? How many are you getting per year? Did you mention that? I do not have that number written down—that is, how many people are coming to you with these sorts of matters on average.

**Ms Anderson:** In terms of the case work amount that we have at QCAT, we have cases in various areas of law and 40 per cent of those are blue card matters. Unfortunately I do not know the exact number, but I believe that we have opened between 30 and 40 cases this financial year on blue card matters.

**CHAIR:** Thank you.

**Mrs STUCKEY:** Chair, would you like Ms Anderson to take that on notice for clarification?

**CHAIR:** I am happy with a general indicative sense of it, but if you did go away and wanted to provide further information you are welcome to do so. I am happy just to get a sense of it. Obviously we are talking about a small number of matters which are complex, but I also wondered about your view on behalf of LawRight with regard to seeking an exemption from that no card, no start policy, even for that cohort. That would seem to me, on reading the papers that this committee has been provided with in terms of the proposed government bill, inconsistent with recommendations from the royal commission and the QFCC in terms of putting the paramount interests of the child first. What would be your comment with regard to balancing that with what you have also put forward to the committee, and they are really complex and sad stories for those individuals who found themselves in difficult circumstances?

**Ms Anderson:** Sure, but firstly—sorry—I just want to go back to the point about our workload at LawRight and clarify the fact that obviously we are not seeing all of these exceptional cases.

**CHAIR:** Understood.

**Ms Anderson:** Yes. In terms of balancing the principles of the act, I suppose our comment would be that the legislation already has adequate protections in place. I could take that question on notice.

**CHAIR:** I know it is a difficult question because, from a public interest point of view, something that someone proposed to me was that if that is an individual working with my child—you commented on very extended reviews. It could be over a 12-month period, and I think you said even more, that an individual is working with children under your proposal that this group may receive an exemption for a period of over 12 months. Should that negative notice be upheld and should they no longer be able to work with those children, that particular member of the public who spoke to me—and I am sure there would be many others—would say that that is 12 months that my child and other children were then in the company of an individual who was deemed not appropriately so to be with them. What would be your comments with regard to LawRight in response to that?

**Ms Anderson:** My view would be that the onus is on Blue Card Services to ensure that those cases where the person should not be working with children are determined promptly and given priority.

**CHAIR:** So you would say when you look at the policy intent and the introductory speech from the Attorney-General that that is the intent and reason for the no card, no start policy to achieve that, but I take your point that you feel that processes are too drawn out and there needs to be far more timely consideration. I think that is something that has been raised by other submitters as a key concern and I take that on board.

**Mr SAUNDERS:** Thank you for coming in, Julia. One of the things I have picked up from you is that maybe as a society we are letting applicants down because maybe when they apply for a job there could be funding through job agencies to get people ready to apply for a blue card so we do not have the incidents that you are talking about. In my area the neighbourhood centres play a very large part in my community, so maybe neighbourhood centres and things like that could get people ready, especially migrants who have come to this country or low socio-economic people who are looking for employment.

To finish off with the chair's words, if as politicians we let people who may fail work with children, that would not pass the sniff test in the pub. It would cause a lot of grief in the community, from what I see coming through my office. There would be an outcry if someone had been working with a child for 12 months and a negative decision was upheld. I know the response that would come through my door. We have to try to sort out things. As I said, let us be proactive and go through job agencies and things like that, to get people checked before they are employed in those positions.

**Ms Anderson:** I imagine that that would be of some benefit. I think it is worth noting also that the effect of these provisions is not just on people who are applying for a job for the first time. I have another example: a person had been working for 10 years in their job. They applied for a review. The effect of this bill would be that they would have to cease their employment while that review was ongoing. In that case, that person actually not only lost their job but also lost their long service leave. I think it is important to be mindful that this is not just affecting people going for a job for the first time. That is the point that I would make.

**CHAIR:** You provided a partial example that I do not understand. For 10 years they were employed in a role working with children, but then sought a review. They would have had an approved card, so I do not understand how that example occurred. Can you clarify that? You can take that on notice, as I have put you on the spot.

**Ms Anderson:** That would be great. I only have brief details about the matter, but I could provide a more meaningful submission on that point.

**CHAIR:** I am happy for you to do so. Thank you very much for your time. We appreciate it. Our next witnesses are Mr Kevin Bates from the Queensland Teachers' Union and the Independent Education Union of Australia and Ms Rachel Drew from Holding Redlich.

## BATES, Mr Kevin, President, Queensland Teachers' Union and Independent Education Union of Australia

## DREW, Ms Rachel, Partner, Holding Redlich

**CHAIR:** I start by apologising, as I have and will throughout the day, for keeping you waiting. Thank you for your time today. I also thank you for your submission to the committee. We very much appreciate your contribution. Would you like to make some opening comments and then we will open for questions?

**Mr Bates:** Thank you, Chair. In the interests of allowing the committee the maximum amount of time to question me and our expert who is with me today from Holding Redlich, I will make a couple of very brief comments and then rely entirely on the written submission. Our submission is made jointly by the Queensland Teachers' Union and the Independent Education Union, Queensland and Northern Territory branch, developed in cooperation with Holding Redlich Lawyers and Rachel, who is a partner there. The two unions jointly represent more than 60,000 teachers in Queensland. We have a very significant role in this particular piece of legislation, indeed both in terms of principals managing the implementation in the school context in terms of employment of people working with children and also, obviously, as a regulated workforce of registered teachers. We represent a very large number of those registered teachers in Queensland. The gravitas of our submission, I think, is supported by the fact that that is the case.

Those are the only things that I wanted to highlight at this point in time. Thank you for the opportunity to make the submission to the committee and also to appear before you today.

**CHAIR:** Thank you very much. Ms Drew, I am assuming you have no opening comments, as you are here as an expert in workplace relations and safety, should you be required.

**Ms Drew:** Thank you.

**CHAIR:** Thank you for your submission. If I forget to do so later, good luck for the coming year. Those you represent will be very busily preparing for the year ahead.

**Mr Bates:** Indeed.

**CHAIR:** Normally the process is that while you give a few brief comments I quickly read my scrawly questions for you and then we start. I am interested in a few comments in your very clear submission, which I appreciate. I do not need much clarity. You do make a number of points around some simplified expiry dates that would assist. I know you have not had the benefit of reading the response by the department to particular submissions. I apologise for that. We have only authorised publication today, so you will have that now. A number of your questions or things you have posed are actually addressed by the department, which I also found helpful.

I could see your point around clarity, given the sheer number of members and schools that you represent and seek to keep oversight of. The department made a fair point in that regard, that there is no one size fits all. I take your point around the complexity of managing these processes. I am interested in your views on the obligation on employers as gatekeepers of regulated employment. You make the point that you have some concern or anxiety around how those employers manage the sheer amount of information on the employee that they have to manage. Can you speak to that and your concerns?

**Ms Drew:** The concern that we have is more around the criminalisation and the creation of quite serious offences and penalties against anybody who fits the category of employer in these situations. A school might need to manage 100 staff who hold a blue card that could expire at any time within the course of a year. From our perspective, the no card, no start policy helps enormously because no longer do we have that difficulty of managing when Blue Card Services is going to make a decision on the application. That helps from that perspective. However, we still have this concern around the renewal of those applications or, for example, where a person commits an offence that is not a school based offence, so it might be within their own personal life and the school is not told about it. There is this obligation for the employer to act immediately to not offer any further employment to that person.

There is probably a number of facets to the question. One of the concerns is going to arise around the online portal. The online portal is a fantastic idea, but I think it is human nature to assume that an electronic system is going to be infallible. If Blue Card Services hits 'upload' on a negative notice, for example, or a refusal or a disqualified person notification to a school, there is an assumption that the school has received that notice. I do not think we will ever get to a stage where

any school, state or otherwise, can dedicate a resource to sitting at that portal all day and checking it. While schools will certainly implement systems to have those portals open to a number of people and checked on a regular basis, there will undoubtedly be examples where that notification is going to be missed, with the best systems in the world and the best intentions of the staff members. However, that might allow prosecution against those individuals if the police decide they fall within that category of employer and it is believed that they continued to employ someone when they ought reasonably to have known because they received a notification through the portal, yet it was not actually within their knowledge or was not able to be actioned.

**CHAIR:** Thank you for taking my inelegant question and answering it. In that situation, would it not be fair to say that they would not be considered to have reasonably known if they never received that notification because of an IT issue? I raised this earlier with the department in regard to the Queensland Catholic Education Commission submission, to seek some clarity from them also, and I see they have arrived. While you cannot give definitive examples—as a trained legal professional you would know that better than anyone here—there will always be areas of grey and these sorts of discussions and those sorts of outcomes would be a matter of ongoing discussion with the department. I note that they make that comment in their response to you. I think the online portal does provide a better and more constant ability for the employer to engage with the data than now. I appreciate what you are saying that the balance needs to be found and it will never be black and white or foolproof. Thank you for raising the concern in that regard. Otherwise, I note your submission is unsurprisingly and unequivocally supportive of the no card, no start policy, given the very vulnerable and precious people you represent and teach.

**Ms Drew:** Then there is the workload that is created with an event in a school. It can easily take 10 to 20 hours of school time to deal with a difficult event or a disclosure by a student. It is very much around a workload issue for us.

**Mrs STUCKEY:** Welcome and thank you for your submission. It is very clearly laid out and quite good to follow. As you probably heard before, the responses from the department to some of those issues have only just been tabled through our committee meeting. I would have been quite interested to see what your reactions were to those. As you do not have them, I want to continue with proposed amendment No. 2 in your submission, which is about the criminalisation of paperwork errors, which is where the chair was going. Your proposal is that the act should provide that the employer must not continue to employ a person without a working with children card and shift the continue-to-employ obligation to a new subsection with no criminal penalty for breach. You further state that this will cover situations where school staff by error fail to identify the correct date of expiry of a card. Ms Drew, you gave us another example also. I am interested to see what other examples may be captured by that, which has prompted you to put that.

**Ms Drew:** I think there are probably a couple of examples around. If we were braver, we would have suggested there ought to be no criminal penalty against the employer at all. We were not that brave.

**Mrs STUCKEY:** We think you are very brave.

**Ms Drew:** We decided to suggest a drafting alternative that would still create an offence. To fulfil the no card, no start policy, there needs to be some kind of penalty that will be attached to anyone who does not comply with that. The compromise suggestion was, 'Let's leave that offence there.' 'Continuing to employ' is much more difficult, because there are so many more ways in which a person might lose their blue card than in which a person might be refused a blue card at the time of application. It is pretty clear at the time of application, although we do know of examples of people who applied for blue cards knowing they were not eligible to receive a blue card. With a no card, no start policy it will be very clear: either you have a card or you do not. If you do not have the card, you do not start. It is easy to comply. For someone who gets caught out and has started someone without a blue card, maybe it is justifiable that there is some kind of civil remedy provision attached to that, because it is pretty easy to comply.

If you have employed someone and at some point through that employment they do not pay their card renewal fee, they commit an offence that brings them to the notice of Blue Card Services, they might be asked to provide a submission to Blue Card Services about some disciplinary information that has come to the attention of Blue Card Services and Blue Card Services might either suspend or cancel their card, there probably will be a notification through that online portal. Someone at Blue Card Services will comply with their obligation to hit the 'send' button at their end. Whether or not the school picks that up on the same day; whether it is three days later when it is picked up and

actioned; whether it is a week later when it is picked up and actioned; or, if it has come through during a school holiday period, it might be two weeks or six weeks before it is picked up and actioned—that person has continued to be employed technically while there is that delay.

When Blue Card Services makes its decision to cancel that card or if the person does not pay their registration and it lapses, the moment that happens the obligation goes onto the employer not to continue to employ. There is always going to be a delay. I do not think it is right to pick a time frame and say, 'It's a reasonable time frame for you to take three days to not continue to employ.' I do not think that is right. I think the obligation should exist so that there is a statutory obligation that you must not continue to employ a person who does not continue to hold a blue card. However, we do that without a civil remedy penalty; without a risk of police investigation and prosecution; without a risk of an offence against an otherwise competent and conscientious teacher/principal/employer hanging over people's heads.

I do not think it will be taken any less seriously by anybody for the absence of that civil remedy. I think it will still be taken very seriously. From a fairness perspective and from an understanding perspective, I think we are creating a bit of an unreasonable circumstance for people to understand and know what they need to do to comply.

**Mrs STUCKEY:** In your submission you also state in proposed amendment No. 3 that the renewal of exemptions is unnecessary for registered teachers. I understand that you have not seen the response from the department yet, but they say—

The requirement for a registered teacher to renew their working with children exemption every three years, as introduced by the Bill, is not considered overly onerous. It does not seek to override or diminish the obligations imposed on registered teachers under the *Education (Queensland College of Teachers) Act 2005*.

Would you like to comment on that?

**Ms Drew:** We are addressing here the quite significant and complex statutory regime that exists for registered teachers in Queensland. We have the Queensland College of Teachers that has been operating for 14-odd years that applies a very high standard to the conduct of teachers and certainly anything to do with criminal offences. It applies even a high standard to whether or not a person's health impacts their ability to teach and work with children. They apply a very high standard even to competence, which is a difficult thing for a regulator to look at but they do.

We have a very complex system of registration which looks 360 degrees at every teacher and imposes some very high standards on them. To impose a second parallel process of every three years renewing a card is a paperwork burden. There is a fee. It is not a massive fee, but there is a fee that will need to be paid. They need to fill out their forms correctly. They need to pay the correct fee. I think there is scope for misunderstanding again on the part of teachers. They might be doing something which appears to be within the school context but that they ought to have had a blue card for.

It gives scope for a bit of misunderstanding as opposed to applying for their exemption once and then renewing their card to get the new photograph taken every 10 years. My view is that there is nothing in the renewal process that creates safety. There is no safety that is being assessed in that renewal process for a teacher needing an exemption. What we are trying to do is create lots of safeguards for child safety and I do not think a renewal process really creates additional safety.

**Mrs STUCKEY:** Will you continue to lobby the government over that amendment?

**Mr Bates:** Absolutely. Fundamentally our concern goes to the fact that we have a very heavily regulated profession, and rightly so because we are working with vulnerable young people. Critically, every year teachers are required to pay a renewal fee for their registration. They go through a five-yearly professional and legal check where national police checks are conducted. There is a very strong, supportive regime here which looks to make sure that teachers as a profession are maintaining the highest possible standards and public confidence. Our view is that overlaying that with another set of statutory requirements, regulatory requirements, does not actually add anything further in terms of the safety of our young people. It is therefore unnecessary. We will continue to make that point very strongly to government.

**Mrs STUCKEY:** I will be listening closely.

**Mr HEALY:** Ms Drew, my question is very straightforward. Before I ask it, I note the issues you raise. As we begin our journey through the 21st century and see the increased automation of processes, it will come down to efficiencies. We will not be as efficient as machines. These are the challenges.

I do not think anybody questions the motivation of what we are doing here. Everybody accepts the importance of it. We are such a big state—and it is not only our geographical size. There are so many challenges in our different communities. Our communities vary so much. Trying to have a one-size-fits-all approach is extremely difficult. Your concerns are well founded and we will certainly take those on board.

Having made that statement and everyone still being awake, your submission does refer to the onerous workload of teachers. Having a number of friends who are teachers I recognise that. That is particularly the case in relation to blue cards. I would be interested in any guidance or assistance you could provide in terms of where we could alleviate some of that work. Where can it be made a little easier from a teacher's perspective? I spend a lot of time in the schools in my area and the workload on teachers is phenomenal. It is getting onto parenting now, but that is another issue.

**Mr Bates:** Indeed.

**Mr HEALY:** Did you understand the question?

**Ms Drew:** Understood.

**Mr Bates:** There are a couple of things that I would add. There are processes here that are straightforward—for example, the no card, no start process. Everyone understands that implicitly. The crucial thing is where the workload sits in terms of managing that processing. For us—remembering that I speak on behalf of both unions—the crucial thing is the extent to which that can be centralised to the point where people can rely on a set of advices that make it very clear without having to go through a localised process to determine whether or not a person meets the required standard under the legislation. For me fundamentally it is about the extent to which we can centralise the record of those approvals and those positive or negative notices to the extent that people can then rely on those. The balance here is between communities that really are going to benefit from the electronic portal—the online portal—that will perhaps potentially see those delivered in a more timely way and also the potential for there to be a need to rely on a much more robust interpretation or robust interrogation of the available databases to ensure that that information is ready available.

**Mr HEALY:** At what level would you see that happening—at a school level? You are talking about a centralised system.

**Mr Bates:** Speaking on behalf of the state system in particular, there is a strong potential—and we have actually argued this at a number of levels—for regions, for example, which continue to perform a very valuable role in our education system for state schools, to be an appropriate place for those sorts of preliminary employment processes to be conducted in a centralised way. That would allow schools to rely on a record of them having satisfied the requirements particularly around a working with children check.

**Mr DAMETTO:** The government bill proposes to put more of an onus on the employee to make sure their card is up to date and they have undertaken their checks. Are you in support of that? I notice that you want more of an onus to be put on the employer. I have worked in the mining industry. It was up to me most of time to make sure that I had the competencies to do the job that I needed to do. If I want to drive a car I have to make sure my driver's licence is up to date. When it comes to a blue card and working with children, which is a very important part of my employment, I should feel comfortable to take some of that onus on board.

**Mr Bates:** I think crucially here we are not talking about an either/or proposition. In reality what we have is an overlay. Teachers are already subject to a regime of regulation that goes back well over 40 years where they are required to meet academic requirements before they can get registration. They are required to keep character requirements about their fit and proper person status up to date in terms of registration. There is also a regulation relating to the reporting of criminal offences and offences that might have an impact on a person's ability to maintain registration.

This is an ongoing regime that applies to me as a teacher and every other teacher every single day of the year. The notion that we are laying down another layer of obligation does not change the fact that as an employee—as a teacher—I am actually obligated every single day to meet certain requirements. This is just about duplicating a pre-existing circumstance where those employees as teachers are already subject to those expectations. It is not as though it is meeting a need that is unmet. It is actually duplicating a pre-existing circumstance that has in fact been in place for years.

**Mr DAMETTO:** I think the comment you made earlier was: does it make it any safer for the children who are in that classroom?

**Mr Bates:** No safer.

**CHAIR:** Your submission only went to the government bill, but the committee is considering two bills concurrently—a private member's bill and the government bill. One is suggesting what could essentially be summed up to be a two-tiered system with regard to the blue card system. Do you have any comments you would like to make with regard to the private member's bill or children in those communities?

**Ms Drew:** There are always going to be categories of persons who probably need more support in making their applications. The two examples we heard from LawRight might have been people who if they were able to access some support in making the first application would have had their application approved much faster. You do not have to wait to be rejected to make your submissions about the exceptional circumstances. There is always going to be those categories. I think Indigenous communities are an obvious example where there needs to be more support in the making of the application rather than waiting for a rejection and then waiting for a QCAT review.

We are here today representing unions that provide that support at a very high level, exceptionally well and quickly. That is one avenue of support. I do not think we have made any submissions on the Indigenous communities bill. That is a category of persons who obviously need some way to get themselves support in making their application in the first place rather than waiting for 22 months.

**Mr Bates:** I would also say as an ad hoc response that what comes back to us very clearly from our members, particularly principals in state schools, is a general concern about the fact that there are unintended consequences—and this is an ongoing discussion we have heard already today from the department—around the over-representation of Indigenous Australians in the justice system, particularly in terms of criminal matters and so on, and the consequences of that in terms of being able to staff schools.

Nobody is suggesting there should be any diminution of the responsibility of the system to keep children safe by ensuring that people are reasonably satisfied that there has been a check and that people are fit and proper people to work with children, but by the same token that means in many of our communities there are significant issues with actually finding staff to work in our schools and to provide the support that those young people need. This is part of a cycle that we have to be very conscious of. If we are creating a system of safety for children that then means there are no people to work with the children in providing the education that they need, are we to some extent creating a circumstance where we are having a negative outcome for those young people that we do not want?

We need to keep those two things balanced. They must be kept safe. We also have to have an opportunity to employ people who will provide the right role model and right sort of input into an education process. You cannot be what you cannot see. It is absolutely crucial that the balance be maintained between those two things, acknowledging the bill's assertion around the paramount importance of the safety of the child.

**CHAIR:** I thank you for letting me put you on the spot. Obviously you represent children and those teaching children across Queensland in both Indigenous communities and non-Indigenous communities and remote communities. Do you have any fixed views with regard to how that balance is best achieved?

**Mr Bates:** It is a very difficult balance to strike. Ultimately what we would say is that you have to err on the side of the safety of child. All that can be done will be done. That is where we have to end up. The circumstances have to be supported and assisted and the resources dedicated to making sure that people who can meet the requirements will do so, but that they should not be arbitrarily or unintentionally excluded from accessing employment. Ultimately it has to be about the safety of the child.

**Mr DAMETTO:** Would you see the community justice groups in those remote traditional communities being the kinds of groups that could make those decisions?

**Mr Bates:** The parliament's intent with the legislation is reasonably clear. The notion that we would sideline the clear and unambiguous intent of the legislation by allowing other groups to make supplementary decisions is problematic, as an off-the-cuff response. I think ultimately, however, communities making decisions about communities is fundamental to the reconciliation process in this country. The notion that we would empower local communities to be making decisions that are in the best interests of their communities is something which fundamentally should be in the consideration of the parliament in the longer term, in my humble view.

**Mr HEALY:** Queensland is a big state and there are many different geographical areas. Knowing that the priority is to ensure the safety of children, would you be supportive of different rules for different areas? I know that is a very broad question.

**Mr Bates:** In terms of equity and in terms of a whole range of issues, the diversity of our state means that fundamentally we do have to have differentials. I do not think there is an alternative. The fundamental cannot change inasmuch as if it is about a different process then that is a different story to a different goal. The goal has to be the same, regardless of the community. If the process to achieve that can be differentiated in order to provide the appropriate support to people in different communities who have different lived experiences then that is not necessarily something that we would see as objectionable.

**Ms Drew:** From the legal perspective, defining a particular geographical area as having different rules can cause some confusion in terms of the application of the law. Defining different criteria, for example, when considering exceptional circumstances taking into account the views of community elders, I think that is clear. That is easy to understand and easy to apply. You say to Blue Card Services, 'If you get a letter of recommendation from a particular community, you need to give some weight to that when you are considering those exceptional circumstances.' But to say, 'This particular geographical area is going to have'—

**Mr HEALY:** It was purely an inaccuracy from my perspective in relation to referring to a geographical area. It would be a specifically defined community and it could vary from community to community. I appreciate your words, Mr Bates and Ms Drew.

**CHAIR:** Members, we have run out of time. I thank you both again very much for appearing before the committee today. We really appreciate your time. I now invite Mr David Robertson and Ms Judy Young from Independent Schools Queensland to the table.

## ROBERTSON, Mr David, Executive Director, Independent Schools Queensland

## YOUNG, Ms Judy, Assistant Director, School Services, Independent Schools Queensland

**CHAIR:** Welcome, Mr Robertson and Ms Young. Thank you for coming along today and thank you for your submission to the committee. I invite you to make a brief opening statement, should you wish to. Then we will open for any questions the committee has.

**Mr Robertson:** Thank you, Chair. I represent Independent Schools Queensland, which is the peak body for the Queensland independent schooling sector. The sector comprises 210 schools and educates approximately 122,000 students. Thank you to the committee for the opportunity to make a submission on this bill and to appear here today.

The bill amends the current Working with Children (Risk Management and Screening) Act 2000. Obviously this act and its provisions are important to schools. Given schools' role in educating children and young people, clearly schools are subject to the provisions of the act in respect of their non-teaching staff. Independent schools, like all schools, I am sure, recognise their responsibility to ensure a safe and secure environment for every child. The working with children check is just one of a component of a range of strategies that schools put into place to achieve that. The significant change proposed in this legislation is the no card, no start provision. We have heard quite a lot of discussion about that already this morning. We are aware that this is a change, because schools can currently employ non-teaching staff who have made an application for a working with children clearance, whereas under the proposed legislation that will no longer be the case.

I looked at the briefing note provided by the department previously to this committee, and it states that in 2017-18 the average processing time for applications that returned no assessable information was 15.6 business days, and the average processing time for persons who returned less complex information was 37.6 business days. I assume that the time for people returning more complex information would be longer than that. What we are very clear about is that we very strongly support the intent of the no card, no start legislation; however, for it to work successfully those processing times need to be significantly reduced. I think that would be our strong position.

Schools do often need to employ staff at short notice, and it would be operationally difficult for a school to function if processing times are not going to be significantly reduced. We understand that Blue Card Services are planning to upgrade the portal and associated processes to shorten time frames. We also recognise and support the amendment that will allow people to apply for working with children clearance prior to commencing employment. We recognise all of that, and we hope that those actions will mitigate the impact of long processing times. However, we would suggest that the committee might like to have a look at making some formal recognition in the legislation about the importance of processing times. As a suggestion you might take into consideration that, for example, processing times are reported and reviewed after 12 months of the no card, no start provisions operation coming into effect.

We have raised a number of other issues about the legislation in our submission. I do note in the document just circulated that the department has provided written responses to some of those issues. I obviously have not studied them in detail, but we thank the department and we will have a look at them. For the record I will state that one was the cancellation of a working with children clearance when a card is lost or stolen. What does that mean for the employment of a person? Processing times in terms of replacement cards will again be paramount there. We also note that, under the proposed legislation, if a blue card is suspended an employer is not permitted to terminate the employee on the grounds of the suspension of the card alone. That does seem a bit problematic to me. What does an employer do? We have also sought clarification around the provision which states that you cannot employ someone without a blue card and someone who does not work for more than seven days in a calendar year does not actually require a blue card, whereas under the bill it is very clear that you cannot employ someone who does not hold a blue card. There does seem to be an inconsistency there, and I am sure the department has given a response to that.

We have also raised an issue which I think everyone can relate to because we have all been billeted at some time in our lives by parents on school trips and so forth. Currently under the act parents can have people in a billeting situation for up to 10 days at a time twice a year without having a blue card, whereas again we are not quite sure where that will sit with the current provisions of the bill, which says that seven days is the cut-off.

There is an issue about the renewal time frame for blue cards, and we have noted that in a number of submissions. We have no objection to the exemption having a time frame on it. We think that is a good thing. Currently it does not. We are not sure about the three years. We probably would have preferred that five years apply to both the blue card and the exemption. We would have considered that to be appropriate given that there are daily checks on the records. That is my statement, and I am happy to take any questions or provide any further information.

**CHAIR:** Thank you for your comments. We appreciate that you have not had a chance to read the department's response in detail. On my reading of it many of your questions are addressed by that response, so I really only have one point of clarification from your submission. With regard to proposed new section 175 of the government bill, page 3 of your submission states '... a school may not continue to employ an employee unless they hold a working with children clearance.' You make the point that this was also raised by the QTU before you. You further state—

This could pose issues where a school is able to employ a certain person today, and tomorrow they are not able under the Act to employ the very same person.

I wanted you to extrapolate and explain what whomever was drafting the submission was thinking when they wrote that. Was there a particular circumstance? Can you explain the practical application of that? If you were notified that an offence had been committed by an individual, obviously you would not want them to be employed there. Can you give me an example of your concerns?

**Mr Robertson:** Clearly, if a person is employed and their card is cancelled, that is a pretty clear-cut case. It is about that period between suspension and review. The person has the right to appeal. What happens in that period? It is a bit like teachers with teacher registration. Sometimes the most loved teacher in a school may all of a sudden have their teacher registration cancelled or suspended, and it is a shock to everyone. That is the reality. As you say, the protection of children is paramount, but what does the school do with an employee in the period between the suspension or review and the appeal?

**CHAIR:** Thank you for clarifying that. I was not sure if you were referring to a renewal. If someone has not completed their renewal, what does that mean for you?

**Mr Robertson:** We did question that, but again I am sure the department has provided advice. As many of you would be aware, under the accreditation act board members of non-government schools have to have blue cards, and that is black and white. Your accreditation as a school is cancelled if you do not have a current blue card. Sadly, the most common experience is not because of offences but because of failure to renew. We see that happen quite often. People should not be absolved from personal responsibilities, but the reality is that this does happen. The common things I see happen in relation to board members is that they are overseas when their renewal is due and therefore it is missed, or it is just missed for some other reason. For an employee that is a bit of a worry. If you miss the renewal of your blue card because you are overseas, on long service leave or whatever, all of a sudden what does the employer do with you in terms of not being able to employ you?

**CHAIR:** Thank you. I did want to understand what happens in practice. The department's response states that up to 10 weeks notice is given before a renewal is pending, and I think that is very reasonable. It is much like any of us who are licensed in particular professions before coming here have a responsibility to renew, so I just wondered what happens in practice. You have mentioned long service leave and being overseas. Have you heard of instances where they do not get their renewal?

**Mr Robertson:** In the case of board members, there are probably about 10 or 12 cases a year where clearly the renewal has not happened despite the notification.

**CHAIR:** They did get a notification but it did not happen. Thank you for clarifying that; I appreciate it.

**Mrs STUCKEY:** My head is swimming here. I am just reading the eight points that you had in your summary. Of course, the fact is that the department's response has only now just been made public, which sort of negates a number of the questions I was going to ask in relation to whether you had clarity around some of those things.

**Mr Robertson:** I did notice that in the department's response they said they will delete that 'current' thing. That is a concern in my mind, because we are therefore further restricting the ability of parents to billet.

**Mrs STUCKEY:** I am reading the sentence that says, 'Regulation which exempt certain types of child-related services if they occur not more than twice in the same year and the periods are for 10 days or less will be removed.'

**Mr Robertson:** That is correct, yes. We will have a look at that, but I think it would be a bit of a shame if it does impact on the ability of schools to organise billeting with parents. I will have to work through the detail of that.

**Mrs STUCKEY:** Do you have a different suggestion?

**Mr Robertson:** Obviously there is a current provision, and there needs to be a case as to why we need to change that current provision. The protection of children is obviously the most important thing here but, as we have talked about this morning with other groups, it is about the balance, isn't it?

**Mrs STUCKEY:** It certainly is. Would you be kind enough to provide the committee with your thoughts once you have had a chance to absorb what the department has come back to you about?

**Mr Robertson:** Absolutely.

**Mrs STUCKEY:** If there are still some issues that you are not happy with, of course there is still an opportunity for some sort of tweak to the legislation before it goes before the House, which is the whole purpose of having a committee. Would you mind writing back to the committee in a very short time?

**Mr Robertson:** Yes, we will undertake to do that after we have had a look at the department's responses.

**Mrs STUCKEY:** Can we have a time line on that?

**CHAIR:** Perhaps we will just take it as a question on notice and they can respond by the due date.

**Mr SAUNDERS:** David, I just want to clarify something about billeting because of paramount importance is the welfare of children. We know that there are parents in the community who probably look good and feel good and the community thinks they are good, but we do not see what happens behind closed doors. As I always say, street angels, house devils. It is a bit of an onus on these parents, but what role does the school play in terms of parents who are billeting students? If you want to weaken the law, surely there has to be someone to pick up that slack to ensure that those parents who are billeting kids are right.

**Mr Robertson:** The proposal here does not weaken the law; it strengthens it.

**Mr SAUNDERS:** No, because you are saying you do not want 10 days. You want to stay with the seven days, but the bill says that it has to go to 10 days.

**Mr Robertson:** No, it is the other way around sorry, Bruce. It is currently 10 in the bill.

**Mr SAUNDERS:** Do the schools play any part in checking that?

**Mr Robertson:** Schools would obviously do their own checking, taking into account all sorts of factors I imagine, but we are talking about volunteers here remember.

**Mr SAUNDERS:** It does not matter whether you are volunteers or you are paid professionals. Does the school do any background check on the parents?

**Mr Robertson:** I am sure they would, yes.

**Mr SAUNDERS:** That is all I wanted to know because parents who send their children from, say, Maryborough to Brisbane to play hockey, Rugby League or whatever do have concerns when their kids are going to be billeted by people they do not know. If it is an interschool hockey match, the school should have some responsibility to make sure those parents are okay.

**Mr Robertson:** Sure. Again, given the history of the current profession, obviously there is a reason why we have said that if it is less than 10 days you do not need a blue card. If we took, Bruce, the approach that it was such a high-risk area, we would not have any exemptions, would we?

**Mr SAUNDERS:** No.

**Mrs WILSON:** Thank you both for coming in today. Looking through your submission, can you enlighten the committee as to why your submission sought to extend the renewal process from three to five years?

**Mr Robertson:** Basically because of the daily checks that are done. It seems to me a pretty comprehensive system and going from three to five years would clearly be less a task administratively on everybody, including Blue Card Services.

**Mrs WILSON:** Thank you.

**Mr DAMETTO:** Thank you very much for coming in and spending some time with us today. You were talking earlier about a quicker turnaround time for reviews and application processes. What would be a timely turnaround from your perspective?

**Mr Robertson:** Four to five days.

**Mr DAMETTO:** That is what I read here.

**Mr Robertson:** Clearly there will be a turnaround time.

**Mr DAMETTO:** That is exactly right.

**Mr Robertson:** I would have thought four to five days would be reasonable.

**Mr DAMETTO:** You think that would be sufficient, and we understand that schools are still running a business and their day-to-day operations in terms of education.

**Mr Robertson:** Yes.

**Mr DAMETTO:** Thank you very much.

**CHAIR:** Mr Robertson and Ms Young, thank you so much for your time today. On behalf of the committee, we wish you and those you represent all the best for this school year ahead. Thank you very much.

**Mr Robertson:** Thanks, Chair.

**CHAIR:** Questions on notice have to be returned by 4 pm on Monday, 21 January. The secretariat will be in contact to remind you. The committee will now break for a short five-minute break and then we will hear from the Queensland Catholic Education Commission.

**Proceedings suspended from 12.18 pm to 12.30 pm.**

**MacDERMOTT, Mr Patrick, Senior Policy Officer, Governance and Strategy, Queensland Catholic Education Commission**

**PERRY, Dr Lee-Anne AM, Executive Director, Queensland Catholic Education Commission**

**CHAIR:** I welcome Dr Lee-Anne Perry and Mr Patrick MacDermott from the Queensland Catholic Education Commission. Thank you very much for your submission to this inquiry. We appreciated it. I invite you to make a brief opening statement and then we will ask some questions.

**Dr Perry:** Thank you very much, Chair. In light of the pressures that I know that the committee is under, I will try to constrain my opening remarks. The QCEC welcomes the opportunity to provide feedback on the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill, both through the submission process and appearing before the committee today. The QCEC is the peak strategic body with statewide responsibilities for Catholic education in Queensland. Our submission and the comments that we will be offering today are provided on behalf of the five diocesan Catholic school authorities and 17 religious institutes and other incorporated bodies that, between them, operate a total of 306 Catholic schools and educate more than 147,000 students in Queensland. Of course, Catholic schools are absolutely committed to providing the safest possible environment for young people in our care.

At the outset, I would like to say that the QCEC has been an active participant in the implementation reference group established by the Department of Justice and Attorney-General to guide the implementation of the recommendations of the blue card review and other changes. Therefore, our participation and our feedback have been informed through that participation as well.

Overall, the QCEC supports the amendments proposed for the blue card system by the bill and we offer the following comments on a few specific provisions. Firstly, on the no card, no start policy, which has been discussed by a number of our predecessors, the QCEC supports the change. However, for a no card, no start policy to be effective and feasible, it is essential that blue card application processing time lines be significantly reduced. As you have already heard, like other institutions dealing with children, at times schools are required to employ staff at very short notice. This will be adversely impacted if the blue card application process cannot be done in an efficient manner.

As such, the QCEC strongly endorses the planned improvements in processing time lines, supported by the implementation of a new online portal system that we have been advised will likely reduce processing times to approximately five working days. Therefore, provided the no card, no start policy is adequately supported by improved processing time frames, the QCEC supports the introduction of the new policy as it will provide a greater level of coverage of blue cards from the very start of child related employment.

Part of the no card, no start policy relates to the removal of the requirement that for paid employment a person must have an agreement to work with an organisation before applying. We support this change as over time it should help to address the issue raised above of potential staff not being work ready due to not having a blue card. We would envisage that, as there is greater awareness of the no card, no start policy, people seeking work in child related industries such as schools will obtain a blue card in adequate time as part of their preparation for employment.

We would like to touch on the development of the organisational portal. The QCEC sees this as a positive move that should allow for greater streamlining and efficiency. As part of the implementation reference group, we are currently engaged in discussions as to how the organisational portal will function across our 22 Catholic school authorities that operate schools in Queensland. Given the diversity of the Catholic education sector—for example, one of our Catholic school authorities operates 139 schools, whereas other Catholic school authorities operate only one school—appropriate flexibility will be required through the portal. Again, there are some variations: some of our Catholic school authorities manage the blue card for paid staff centrally; others do it at a school level. Therefore, some customisation of the functioning of the portal will be required in relation to matters such as levels of access, viewing and editing rights across different Catholic school authorities. In our view, it will also be critical that the organisational portal allows for reminder notices to continue to be sent prior to the expiry of blue cards and exemption cards.

To move on to the issue of exemption cards for teachers, the bill introduces a three-year term for the exemption card. The QCEC does not have an objection to that change. However, we believe that obviously it will need to be appropriately managed and there will need to be appropriate

communication around that. Typically, the child related activities undertaken by teachers beyond their school roles for which they would require the exemption card, such as volunteering for sporting groups or parish functions, are of a socially beneficial nature and therefore are to be encouraged. While we recognise there is a three-year grace period for current exemption card holders, the new requirement for teachers to make reapplication for exemption cards will need to be widely publicised to avoid any inadvertent noncompliance, given that it is a change to existing practice. We would note that this publicity will be particularly important for registered teachers who may not currently be engaged in the workforce. Therefore, it needs to be noted that not all registered teachers are actually actively engaged in the school workforce.

We would like to touch on the issue of high-risk persons not able to rely on an exemption, and so the introduction of the 'restricted person' and 'restricted employment' terms. The bill creates an offence on the restricted person to not start or continue in a restricted employment. The QCEC strongly supports this amendment. However, an offence is also placed on the employer not to employ or continue to employ the person in restricted employment if they know or reasonably should know that the person is a restricted person. While the principle underpinning this amendment is understood and supported, the QCEC has some concerns regarding its practical application. We would particularly like to address the issue of its practical application for volunteers.

Catholic schools rely very heavily on volunteers, most of whom are parents, many of whom would not have blue cards and are exempt. Schools are likely to be in a position not to be able to independently verify that a person is, in fact, a restricted person, particularly if you put the frame on of verifying that a parent who is volunteering is or is not a restricted person. This will present schools with significant difficulties in ensuring that they are not inadvertently committing an offence under the act. Those schools will require further advice and strategies on how the intention of these amendments is to be achieved in practice and again I stress particularly with regard to volunteers.

We would be of the view that, if there is notification to schools of a paid employee having some variation to whether they are restricted or not, schools should be attending to that. Yes, it is an administrative burden, but they should be able to manage that. However, it is very challenging around parent volunteers. Therefore, we are concerned to ensure that there is an appropriate balance that is struck between implementing the amendments—and we understand the philosophy behind that—and the operational practicalities of schools, particularly encouraging parent volunteering and engagement in their children's education.

The QCEC supports the other changes made to the blue card system by the bill, all of which we believe will improve and enhance the rigour of the blue card system, including such things as photographs on blue cards, the expansion of the disqualifying offences and the stay of overturning a negative notice pending an appeal. I will leave my remarks there, Chair. We are happy to take any questions.

**CHAIR:** Thank you very much, Dr Perry, for your opening statement and your submission. Certainly we appreciate that you were on that reference group, so you have a lot of expertise to add. We really thank you for that. I refer to the comments that you made on page 3 about high-risk persons being unable to rely on an exemption. I know that you were not able to be in the room for the whole hearing. This morning, on behalf of the QCEC, I asked the department for further clarification. The transcript might be of interest to you in terms of the response from the department. Certainly, what I would glean from that—and I think you would too from your comments—is that that is an ongoing discussion in terms of seeking that clarity. Being on the reference group will provide you with the perfect opportunity to continue to do that. Certainly we appreciate that that is a cause of concern and complexity for those you are managing.

I found your submission very straightforward and I appreciate that. My question is not in regard to the government bill, which is very clear; it is more in regard to the private member's bill. On page 1 of your submission, in regard to the review you made the comment—

> Some stakeholders did identify issues with the operation of the Blue Card arrangements in relation to Aboriginal and Torres Strait Islander peoples. These issues included a lack of support in making Blue Card applications, lack of culturally appropriate information and resources, inability to practically access the appeal mechanism and resultant barriers to employment and kinship care arrangements.

I note that was stated in the overall review report. Certainly that is something that I have heard in previous inquiries involving Indigenous communities. It is something that the deputy chair commented on from her experience travelling with the Legal Affairs and Community Safety Committee. It is something that is understood and it is a real cause for concern. Given your expertise in the few schools that you run—what was the number, again?

**Dr Perry:** It is 306. We have added some.

**CHAIR:** Do you have any specific practical comments about what your schools are seeing on the ground in communities and are there particular issues with Indigenous employees? Are you aware of any improvements that could be made without necessarily—and I know you are not supportive of the bill as it is—creating a different system for some than others?

**Dr Perry:** Our reference there was picking up on some of the feedback that had gone through the other reviews that had happened, rather than necessarily talking to ourselves. From the feedback from our school authorities, particularly those that run schools with many Indigenous students or in Indigenous communities, with respect to employment in Catholic schools they have not found huge numbers of challenges. I think there is a general understanding that there can be challenges and it is being really mindful of individual or specific circumstances. As our submission indicates, we think consistency is really important, but consistency does not mean you have to have uniformity in the way that you try to work with people and so forth. Just as we do in schools, we have consistency but we recognise that there are different needs of different students and different families and different staff. We appropriately respond to that. I guess we are just trying to re-emphasise the fact that there needs to be that sensitivity and awareness and support where it is needed. On the ground, we have not had a lot of challenges in this area.

**CHAIR:** I think you may have been in the room when Mr Bates from the QTU said something similar, which was of interest. I would love to have had the time to tease it out more and to tease it out a little with you now, because you are experts in this area. You are seeing things on the ground all the time. What does that practically look like? He mentioned—and I am sure your submission goes to the same point—that the paramount concern is the safety of children. He said that the goal should not be different, but that maybe the process has differences given the regionalised nature of the state and its complexity. Can you give an example of where that might be acceptable without compromising the first goal, which is the paramount concern for children and not creating different standards in different communities?

**Dr Perry:** I agree with Mr Bates's comments. The goals should not be different and the absolute goal has to be the safety of young people. In our experience, the more variations and therefore inconsistencies you introduce, the harder that is to achieve. As I say, schools face this all the time in that schools rely on consistent rules and consistent application. However, one has to be sensitive to individual circumstances as well.

I am not sure that I can give any particular ways forward in this. Probably there are others who are more directly on the ground and experienced in this. Sometimes if you have a one-size-fits-all application process, that is where you can look at the actual application process and at giving support. I think that was raised by counsel who was with Mr Bates. Rather than people waiting until they get a rejection, it is about giving front-end support. Ultimately, in our experience, that is a really invaluable thing. It is the front-end support to assist with the process, rather than necessarily changing the process itself. It is around the support mechanisms that get put in place there that can be of assistance. Sometimes that is awareness raising and information but also a higher level of support that can be provided for those circumstances.

**CHAIR:** Thank you, Dr Perry. I did not think it would be an easy question, but it is one of the most complex that the committee faces and, of course, the member who drafted the private member's bill and the government face in trying to find that balance. I thank you for giving your thoughts.

**Mrs STUCKEY:** Thank you both very much for your submission. It was very interesting to read. I want to pick up on something that the chair was just talking about then to do with the private member's bill. There is a lot of talk about not having the two different sets of rules et cetera, but the one thing from everything that I have heard that has been suggested it will not do is erase the convictions that are longstanding convictions, not for anything to do with direct child abuse. Does that mean that some of the suggestions we are getting from people who have raised these concerns would say that those people in Indigenous communities should never be able to work with children, even if they have had a clean record for 20 years and it was perhaps alcohol related? Is that what the premise is? I know it is hard.

**Dr Perry:** Yes, indeed. We obviously are very minded to the work that has been done by expert groups including the royal commission, which has come to a similar conclusion in the blue card review. We certainly feel that that needs to be given its due recognition in terms of the views and the consideration that has been given. It is incredibly complex and far be it for me to suggest a way through that. I do keep coming back to the fact that the goal has to be the safety of young people.

Does that mean that there are consequences of that for individuals? As it stands at the moment, yes, there clearly are. Are there ways that that can be addressed without having parallel systems or different systems? The royal commission was not able to find a way, as I understand it, through that and I do not think I will be in a position to offer that, but we do absolutely understand the challenges and the impact that that will have on individuals and the disproportionate impact it will have on some communities that have an overrepresentation of those individuals. We are absolutely sensitive to that and there is enormous complexity which we understand. In our view the goal, on balance, is always the protection of young people.

**Mrs STUCKEY:** In your submission regarding the amendment relating to obtaining a blue card before entering child related employment, the department has said—and I am not sure if you have seen the department's response because it was only circulated—

**Dr Perry:** We only just received it and we have not had a good look.

**Mrs STUCKEY:** Yes. In their response they say that removal of the agreement to work requirement will be a key message communicated as part of the education and awareness campaign which will be developed to support introduction of no card, no start. Are you hopeful that you will have some input into that education campaign and do you have any suggestions you would like to put in the *Hansard* now?

**Dr Perry:** Obviously we would be very keen to be involved in any communication. We were making the point before that sometimes people categorise people and, so long as we communicate through schools, teachers will know about it. Not all registered teachers, for example, are working in schools. They may be working in other industries. They may be, for various reasons, retired, semiretired or out of the workforce. It is having that broad perspective as to how you communicate and what different methods of communication are available. Obviously in this day and age one would be looking at traditional media, social media and a whole range of strategies and that it is not a one hit. It should not be, 'We're introducing these changes. Here are the changes,' because people only engage with the change when it is relevant to them.

I think there needs to be an awareness that people only start thinking about these things when it becomes relevant to them and so it cannot just be a short-term thing. There needs to be some mind given to how you would repeat these sorts of advices and so forth going forward. I take that there would be some responsibility on employers. As schools, we would be making it very clear when we are advertising positions and so forth of this requirement. To me, everyone working who is affected by this legislation should take their part in communicating it as well so it is not one person's responsibility, although of course the department should be leading that.

**Mrs STUCKEY:** It takes a village to raise a child.

**Dr Perry:** Absolutely.

**Mrs STUCKEY:** Thank you so much.

**Mr SAUNDERS:** Good afternoon, and what a marvellous job you do with the Catholic education system. One of the things that I have picked up on—and I know about it through the schooling years of my children—are volunteers at a school and you were saying it is problematic with a blue card for volunteers. I have two questions, and I asked this about the billets. Does the school do any scoping work on the volunteers who do come in? Would it not be beneficial to a school to advertise that their volunteers do have a blue card to allay parents' fears, because we know that in some cases these individuals strike through volunteering in schools or in sporting organisations?

**Dr Perry:** Thanks very much, Mr Saunders, for the question and for your comment about Catholic education. You will note we did not make a comment about billeting.

**Mr SAUNDERS:** No, I made that comment.

**Dr Perry:** Yes, that is right. It was not raised as a particular issue for Catholic schools, and I think that would reflect the fact that in Catholic schools many of our schools have moved away from billeting over time because of the challenges around it and the fact that increasingly parents are not comfortable with their children being billeted. That varies of course. From my own personal experience I had a child who played representative sport—hockey. It was interesting that that was the example. He was never billeted and the hockey association chose not to billet, and that goes back probably 10 years or so, so I think there has been a change in that.

In terms of volunteers in Catholic schools, if the volunteer is not a parent, most of our schools would be using much more rigorous processes. If it is a volunteer who is outside the school community, you would have to ask the question as to why this person was volunteering and you would

go through a screening process, and in many cases our schools would require the volunteer to have a blue card. The challenge is parent volunteers, so these are parents of the children. They are volunteering. Again, many of our schools have moved to, even with parent volunteers, going through processes with them requiring them to engage with a code of conduct and various other policies of the schools and so forth. In my view that is a good thing, but again it needs to be balanced.

As you would all know, it is getting increasingly difficult even to get the parents of the students in the schools to volunteer, let alone anyone else outside. If you put up too many barriers to parents then that just makes another problem in terms of that. Again, it is striking a balance. The challenge that we see in a school community is that you have parents who are representative of the communities that they come from. It is possible—probable—that some of those, in proportion to the population, will be restricted persons. How is a school to know that? Is the expectation that a school will ask all of its parents to declare whether they are a restricted person? It is that sort of practical application that is the challenge for us. That would be a solution—that is, every school would be required to ask every parent and then regularly update that. Is that where we want to go with this?

**Mr SAUNDERS:** If the parent is volunteering in the classroom or in the school ground or has day-to-day physical contact with the student, as a parent I would not find that too hard. My wife used to volunteer, for example, at the school. As a parent I would find it satisfying to know that Joe Bloggs or Mary Bloggs who was working at the school had been scoped and found out that they were right and proper people to be with the children.

**Dr Perry:** I understand what you are saying, Mr Saunders, and the intent of what you are saying. The committee has heard and would be aware of the administrative burdens that schools face now in managing the requirements around teachers and making sure teachers have appropriate registration and so on. All staff who are not teachers are required to have blue cards and administering that is a really significant administrative impost on schools, which we support because of the goal that is intended there. In terms of extending that to parents, again it is that question of balance.

I understand where you are coming from. For example, if parents are in the classroom, there would be a teacher present. There are other mechanisms put in place—protective mechanisms put in place. In most instances, if a volunteer is working in a school, there will be other staff who do have blue cards or who are registered teachers who would be overseeing, monitoring and managing that situation. There are other protections in place which is different, for example, than a teacher who is by themselves in the classroom and so obviously you would expect there to be a very rigorous screening process used because they are often solely responsible and in a situation by themselves. Volunteers are usually managed in schools so that they are not by themselves with young people. That is the balancing act.

**Mr SAUNDERS:** Thanks very much.

**Mrs WILSON:** Thank you both for coming in this afternoon. In your submission you raise concerns about a school's ability to validate whether a person is a restricted person or not which could lead to school officers potentially being charged with offences. Would the Catholic Education Commission like to see a process where further communication is delivered to your schools so that you are able to ensure that compliance is paramount?

**Dr Perry:** Thanks very much, Mrs Wilson. It goes to the issue of reminders and information coming through, so we would certainly have an expectation that there be some process whereby the employer is notified if someone is a restricted person and then the onus is on the school to take action appropriately from that. Yes, certainly we would want that to be the case.

**Mrs WILSON:** Within Catholic education I would assume—and I am sure you do—that you have processes in place where all of this information is coming through and it is distributed out to X, Y and Z people who are in charge of that. They would be gaining additional education and training within your education system to ensure that they are accountable?

**Dr Perry:** Yes, we would have to do that, and again it goes to my point around being aware of the different arrangements. For example, in what we call a stand-alone school there would be a designated person in that school who would receive that and take the appropriate actions. For some of our big diocesan systems where it is centrally managed, it is important that the information goes to the right person and recognises particularly—and I am sure this would apply with state schooling as well—that where you have bigger systems and you have more layers of people involved there needs to be appropriate recognition given to that. If the email comes in—and the point has already been made if it comes in when the office is closed or so on—what is reasonable in terms of action from that notification? That understanding of reasonableness is really critically important.

**Mrs STUCKEY:** And the interpretation.

**Dr Perry:** Yes.

**Mrs WILSON:** Thank you so much. I appreciate it.

**Mr DAMETTO:** Thank you very much for coming along this afternoon. I went through the Catholic education system. It worked out quite well for me. My son just graduated from grade 12 and he is a little standing pillar of the community as well, so I applaud the system. Firstly, out of the 306 schools that come under the Queensland Catholic education portfolio, how many of them are in remote traditional owner communities?

**Mr MacDermott:** The primary school at Palm Island is within the community. Other Catholic schools draw on students from the communities but are not located within the communities.

**Mr DAMETTO:** For example, St Teresa's at Abergowrie?

**Mr MacDermott:** Yes. It is 98 per cent Indigenous there and they mainly come from communities.

**Dr Perry:** We have a school on Hammond Island in the Torres Strait.

**Mr MacDermott:** Yes, sorry; Hammond Island.

**Mr DAMETTO:** I heard you say earlier, Dr Perry, that even the royal commission could not come to an agreement or come up with an idea on how to fix some of these problems with blue cards in those remote communities. Your submission does not give support to the private member's bill. Mr Katter, who is the member for Traeger and who probably has more schools which fall under that portfolio than anybody else—arguably, maybe the member for Cook may have a couple more—has put this bill together with an understanding of talking to the people on the ground about what could actually work to allay some of these problems, and that is how the bill was constructed. I do not really have a question surrounding that but more just a statement: no-one seems to be coming up with a solution for this problem. We have come up with a bill that we have put together by talking to people in those communities. As I said, that is more of a statement than a question.

**Dr Perry:** Thanks, Mr Dametto, and I am glad you say that you had a wonderful experience in Catholic education. I guess I go back to my comment before. Everyone acknowledges the complexity and the challenge around it, but we just do not see that having two systems rather than one is the most effective way forward. It is about how we can make the system that we have more effectively support both those in Indigenous communities and others where there might be other particular circumstances as well.

**Mr DAMETTO:** Dr Perry, I respect your opinion. Thank you very much for that and thank you for giving it.

**Dr Perry:** Thank you.

**CHAIR:** Dr Perry and Mr MacDermott, thank you so much for your time today. We apologise for running late and we hope that your schools have a wonderful 2019 and your office as well. Thank you.

**Dr Perry:** Thank you very much, Chair.

## DOORIS, Ms Marissa, Policy Officer, Sisters Inside

## KILROY, Ms Debbie, Chief Executive Officer, Sisters Inside

**CHAIR:** Welcome, Ms Kilroy and Ms Dooris. We apologise that we are running behind time. We have your submission. Thank you very much. You are welcome to make any opening comments and then we will open for questions.

**Ms Kilroy:** Thank you for the opportunity to give evidence to the committee today. I would like to begin by acknowledging the traditional owners of the land on which we are meeting today, the Turrbal and Jagera people, and pay my respects to elders past, present and emerging. Sovereignty was never ceded over this land. We continue to see the consequences and practices stemming from the dispossession of Aboriginal and Torres Strait Islander peoples, particularly in the high rates of Aboriginal and Torres Strait Islander children, women and men in youth and adult prisons.

As you may be aware, Sisters Inside is an independent community organisation that exists to advocate for the human rights of women and girls who have been affected by the criminal legal system and to provide services to meet their individual needs. Issues relating to blue cards frequently come up in our work both for the women and girls we support and in our role as an employer where we engage staff with lived prison experience or criminal records. Sisters Inside is absolutely committed to ensuring that all children are safe and supported to thrive. Children are our future, and protecting children from harm is paramount. Through our work and the lived experience of many staff, we see the long-term consequences of violence against children. Many of the women and girls that we support are survivors of child sexual abuse, including sexual abuse in institutions or other places which would be covered by the blue card system today. As outlined in our submission, we also see systemic and institutional forms of violence that are standard operating procedures for government agencies which operate outside of the blue card system and are not recognised as practices that harm children.

The blue card system as it currently operates does not assist people, organisations or communities to achieve the goal of keeping children safe. It is a risk management compliance system. It does not give people, organisations or communities the skills and support that are necessary to address trauma or unsafe practices in terms of keeping children safe. We believe that extending risk management and compliance strategies like the no card, no start measure will not actually improve safety for children. We are concerned that it will have the effect of excluding people from employment or volunteer opportunities and further entrench people in poverty or unstable employment.

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended allowing applicants for working with children checks to start child related work while their application is being processed but with the following safeguards: the applicant must not previously have been denied a working with children check card or been convicted of sexual offences against children; employees must check applications with the screening agency; interim bars must be imposed on applications where records show a risk of harm to children; and contact between applicants and children must be supervised by a person who has had a working with children check. Despite this recommendation, the Queensland Family and Child Commission recommended that employees and volunteers should not be able to commence employment without a working with children check.

As we understand it, the main justification for this recommendation is the number of negative notices issued by Blue Card Services for paid employees who worked for a period of time after applying for their working with children check. The QFCC found that on average 163 people each year have been able to begin working with children who subsequently received a negative notice from Blue Card Services. As far as we are aware, there is no information about the appeal rate of reviews for negative notice decisions, the number of decisions reviewed and whether or not those reviews were successful. As an employer we have employed people who were subsequently issued with a negative notice. These decisions have been very disappointing. They undermine our service delivery and our processes as an organisation to support people with serious criminal convictions.

Relatedly, we also see significant difficulties for women we support with the blue card system, particularly Aboriginal and Torres Strait Islander women. From the decisions we have seen, Blue Card Services does not appear to fully understand the lived experience of criminalisation and violence for Aboriginal and Torres Strait Islander girls and women. The criminal history check is very extensive, and offences as children continue to count against adult women. Systemic discrimination has far-reaching consequences for Aboriginal and Torres Strait Islander women, including limiting available accommodation options after parole from prison. For example, we are supporting an

18-year-old young woman who wished to return to live with her grandmother, but she was not able to do so without a blue card because her grandmother was a foster carer who had children in care living with her. This is seriously prejudicial when you consider that the 18-year-old young woman in prison was herself a child in care up until the previous year.

We want to present four brief case studies to the committee today—I will present two—to illustrate our concerns about the current operation of the blue card system. We have changed the names of each person to protect their identity and ensure confidentiality. I want to talk about Derek's case. Derek is a 37-year-old Aboriginal man who is employed in our youth programs at Sisters Inside to work with boys and young men affected by the criminal legal system. Children can be affected by the criminal legal system either directly as defendants having experienced youth imprisonment or indirectly as a result of their parents having been in prison. Derek has a criminal history which includes a serious offence committed when he was 19 years old. Derek was sentenced to 15 years imprisonment for this offence and was required to serve 80 per cent of the sentence prior to being released on parole. Derek was released on parole in 2013 and successfully completed his parole without incident. Derek's offence was committed when he was very young. Although it involved violence, it did not involve children. Derek was employed by Sisters Inside after completing his parole. In that time Derek became a father and completed the Circle of Security training, which is a highly successful parenting and relationship program that is recognised by the Department of Child Safety.

It took almost a year for Derek to be issued a negative notice after commencing employment with Sisters Inside. During this period of time Derek was a valued staff member and worked effectively alongside another experienced youth worker to support Aboriginal boys and young men. They were running cultural programs for those boys and men. The decision-maker found that Derek's situation was not an exceptional case in which it would not harm the best interests of children for a positive notice to be issued. As a result of this decision Sisters Inside was required to end Derek's employment. This requirement affected our service delivery to Aboriginal boys and young men and imposed additional requirements on the existing youth worker. Derek is currently seeking a review of the decision by Blue Card Services and we are supportive of this process. In our view, it would have been practically impossible for Derek to seek a review of the negative notice decision without having an employment history with Sisters Inside and without our support as an organisation and employer.

I will talk about Natalie's case. Natalie—that is not her real name—is a young Aboriginal woman who was extensively criminalised as a child and spent significant periods of time in youth prison and adult prison as a 17-year-old. We know that the laws have now changed and that 17-year-olds are not deemed adults; however, when she was 17 she was deemed to be an adult. As a young adult, Natalie's younger brother was placed in her care by Child Safety after he was no longer able to remain with their mother. Natalie was required to apply for a blue card in order to continue caring for her brother. Due to her difficult childhood Natalie had a significant children's criminal history. Natalie's last offences occurred in 2014 and the decision by Blue Card Services was made in 2017, almost three years after the last offence.

Natalie was 15 years old when she committed the serious offence of robbery. The decision-maker found that her lack of maturity—that is, being a child—was not sufficient to mitigate the risk factor that Natalie would be harmful to children. The decision-maker also decided that Natalie would be a poor role model for her brother. Natalie was not in a position to provide submissions or references at the time the decision was being made. After the decision was made Natalie was able to get support letters from a number of organisations which demonstrated her positive support for her brother and the significant positive impact that she had on him while he was in her care. For example, one letter that came from the school—it was in their notes which had been recorded—said, 'We all noticed a fairly remarkable change in his mood and demeanour once he was in Natalie's care. It is very unfortunate that factors earlier in her life have interfered with Natalie's application for a blue card.' I will hand over to Ms Dooris.

**Ms Dooris:** I will just supplement what Deb said. We have been looking at the figures and trying to find more information about who exactly it is we are talking about. From the examples that Deb has shared and from our experience more broadly as an organisation, those people who fall into what is called the high-risk group are the people who we are seeing. Derek's case is a really good example of that. When we have been able to look at the data that is available either through the QFCC report or on the Blue Card Services website, the number of people that we are talking about is really unclear. It seems to be a really small number of people. Looking at the December 2018 year-to-date figures on the Blue Card Services website, it seems that in that period there were over

119,000 blue cards issued. From what we can tell from the data available, the 'high-risk' individuals who were prevented from working with children—presumably after an application process that resulted in a negative notice being issued—was 1,707 people, so we are talking about 1.4 per cent of people.

Our real concern as an organisation that is an employer and that also advocates for women and girls who are criminalised is the support that is offered and not offered to people and the support that is required from us as a society to improve safety for children. The reality is that a negative notice is a piece of paper that someone gets. It is very overwhelming. In Derek's case, it was incredibly traumatic to have gone through the process of successfully completing a sentence. This is something we challenge all the time, but if we accept the premise that the prison system rehabilitates people then when is that rehabilitation taken to have crystallised? When does it end? He went through the process of receiving a letter which issued a negative notice, and there was no follow-up in terms of, 'You are a father now. What can we do for you?' He has contact with children, and this is the other thing that the system does not recognise. It makes a decision that is limited by employment, but for people who are going to have contact with children what do we as a society do to provide support to embed child safe practices?

Our position is that a workplace is a place that offers some of those support opportunities and access to training such as Circle of Security. I suppose it is a balancing exercise. We are really happy to talk more about that. We really want to make this submission because we see that it has devastating consequences for individuals, particularly Aboriginal and Torres Strait Islander people.

**CHAIR:** Thank you for your opening comments and your submission. Speaking as a member of the committee, you bring an expertise for which we are very grateful. We appreciate the opportunity to ask you some of these really difficult questions because you see it on the ground all the time. I know that you have been present at this hearing for some time already, but one of the questions that I and others have posed is: how do you find the balance between the paramount concern of the act, which is the protection of children, and the fact that a number of parties who work in the area that you work in have come forward to say that these people who are not being approved could make a significant contribution to further the aim of protecting and assisting children? An assessment has to be made. Some people who have previous offences will get through and some will not, and it is about finding that balance. That is a question that I have in my mind.

I do not know if you were in the room for both the QTU and the Queensland Catholic Education Commission, but they said something similar, and that was that the goal has to be the same—which is the paramount protection of children. You spoke to that, Ms Kilroy. Of course you totally support it. I do not even have to state it, but it is always important to. They talked about the fact that not just in a decentralised state but in a state as vast as Queensland you also have to have differences in processes. There cannot be a one-size-fits-all approach as to how it works, but no-one can say how you make that process practically work for the cohort that you are talking about and, indeed, that you work with every day. Do you have any practical ideas or suggestions for the committee about how we allow those individuals you talk about who could make a positive contribution without allowing those who may be a risk to children—and they are out there too—from going forward?

**Ms Kilroy:** When we have people who have criminal offences against children, that is one thing. When we have people who have criminal offences for street offences or violence that does not involve children which occurred when they were young—a children's record or Derek's situation of a 19-year-old man who was involved in a fight in the street with another adult—that is another thing. I think we have to pick the offences.

When this legislation first came about it was supposed to be similar to the New South Wales legislation that was particularly for sex offenders and paedophiles and to stop them accessing children. However, the list of offences in the Penalties and Sentences Act was attached to the legislation. It included, for example, hijacking a plane. It was a joke back then. I suppose we do not joke about hijacking planes now because of 9/11, but prior to that we did because you actually could not work with children if you had an offence of hijacking a plane. That seemed amusing back in the day. We have this list of offences that has nothing to do with children. You actually have to apply for a blue card because of those criminal offences. I believe the offences should be narrowed to what it is that is harmful to children.

If a woman is a victim of domestic violence and has used violence to defend herself and is then arrested and convicted of that offence, that is taken into account. This has happened to someone I know. When she applied for a blue card she was knocked back at QCAT. QCAT was wrong in law.

We knew that and we wanted to take it to the Supreme Court, but she could not deal with it anymore. She did not want to go through the process anymore and so did not give us instructions to move forward to the Supreme Court.

We have women who have criminal convictions of fraud, for example. They will not apply for a blue card because they do not want to get knocked back. They have been oppressed for so long that they do not want to be oppressed again and get a negative notice. They actually do not work. They sit at home on Centrelink benefits and rely on government funds and government services and not even try to be employed because they know that they are not going to get a blue card.

With my criminal history, really when you look at it, I should never had got a blue card. I applied and I got a blue card. If the no card, no start situation applied now and I applied for a position and did not have a blue card, I would not get the job, yet I am a lawyer. I am admitted to the Supreme Court of this state as well as to the High Court of Australia.

We need to actually work out what it is that will ensure children are safe. Is it a tick and flick exercise because that is what this is? It is never based on an individual's life story and the consequences. It is never based on their experience of what has happened and putting it in that context and making a decision on an individual basis. It is more about your history, and if those offences are deemed serious under the act you get a negative notice.

Most people do not even go that far. It is only those women we support and those staff we support and continue to support through the QCAT process and take to the Supreme Court so that a Supreme Court justice can make the decision about a blue card. We see this predominantly affecting Aboriginal and Torres Strait Islander women—and also Derek in his case. He was a male youth worker. We do employ mister sisters in the context of Sisters Inside to work with boys and young men.

We need a process that is individualised to take people's life circumstances into account and not actually deem because of an offence on their criminal history that that equals a negative notice. People will not apply for jobs because they have a criminal history. If they do, they get a negative notice and they do not want to proceed any further to challenge a decision at QCAT.

We cannot even get any decent law around this to get to the Supreme Court to make some decisions and make some law about what it means at the end of day with regard to allowing you to have a blue card. There are a lot of issues in there, I know. I probably have not been very clear about what you can do step by step. I think broadly. I am not a very practical person when it comes to step-by-step processes. Marissa may be able to give you more steps than me.

Overall, this blue card system is discriminatory to those who are most marginalised, particularly Aboriginal and Torres Strait Islander people. If government of any persuasion wants jobs, jobs, jobs then we actually have to free up people who have made mistakes in the past, may have criminal histories and may have been imprisoned to give them the opportunity to be employed—and employed working with children because they are not at risk of bringing harm to those children.

**CHAIR:** I appreciate your general statements, but as legislators we would appreciate hearing the steps as well.

**Ms Dooris:** I agree. I think we need to have an eye to the broader ethical and systemic issues when we are weighing this up. This is always going to be a balancing exercise. I think it has already been acknowledged by the committee that the blue card system obviously does not prevent violence and harm to children. That is a tragic reality too.

We are trying as best we can to come up with a process to keep children safe. The thing that gets raised in some of the reasons for decision that we have seen from Blue Card Services is the inability to impose conditions on blue cards. That might be that we would love to approve Derek for Sisters Inside because we can see that he has a good support network and Sisters Inside has some policies that it has written to us about such as professional supervision for every staff member once a month. We recognise that workplaces are places where people develop skills and awareness of their triggers. That is the case for every staff member. That is not just the case for staff members who have a criminal history. Everyone can experience triggers and everyone needs professional supervision and support through the course of difficult work.

That is something that continues to come up. A condition might be tied to an employer. I think in the private member's bill there are amendments that propose conditions around where a person might be. We would welcome the opportunity to consider amendments. We are not here saying that we think that a particular way is the only way or the right way. We are not really sure.

What makes an assessment hard is that we do not know, of those 1,707 people, say, what their circumstances were and we cannot dig down into what it is that is actually causing the high-risk situation. Is it people who are convicted of serious assaults or domestic violence offences who are then being knocked back or is it that the majority of those people did not provide submissions in the blue card process? Is that because, as Deb said, they did not have the support to do that, but if they had had the opportunity to provide submissions would there have been a different outcome? How many of those decisions would have been different? We do not know that, so it is hard to think of what conditions might be useful. That is certainly something that I think in Derek's case could have been helpful—that is, the ability to impose a condition that his blue card was granted conditional on his employment at Sisters Inside.

**CHAIR:** Putting the comment with regard to conditions aside, I note the points that you have raised. Thank you for trying to answer what I understand is a complex question. These are the questions that we grapple with as a committee. You talked about those who have committed offences. Of course not all offences or previous convictions preclude someone from seeking a blue card. I was going to ask you, but time is an issue, whether you support at least the disqualifying offences that are proposed and the extended disqualifying offences, which of course automatically disqualify those from even applying. We are already dealing with here a cohort—to take your statistics of 1.4 per cent—of applicants who are not disqualified applicants but those who may have previous offences and are actually seeking the discretion that you feel should be present but, if I am hearing you correctly, feel that enough of their circumstances and previous history are not taken into account.

I think you are raising process matters. I take that on board. We will be looking at that further. It does seem to come down to the process that is being applied to these individuals. They already have open to them to seek an appeal, but I take your point that it is protracted and they may feel intimidated. The consistent thing that I seem to be hearing and that you are also supporting is that up-front information, support and assistance could in large part help those who may have a more complex situation rather than simply those who say, 'I'm going to apply and I have never had a previous conviction.' I think you are saying that strongly. Others have said the same and that will be something that we will look at.

**Ms Dooris:** Absolutely. I think the only thing is that it does make it more difficult in circumstances like Derek's, for example, when there are the no card, no start provisions. Given his connection to Sisters Inside, he did complete that Circle of Security training as a participant prior to his employment. After his employment he completed Circle of Security facilitator training. That was a significant investment that we made as an organisation to give him the skills to be able to teach other boys and young men about attachment, child development, safe practices with children and children's needs. Now that is effectively unusable. As an organisation that is something we are willing to do for quality people whom we identify. The no card, no start process undermines our ability to support people through employment. I think that is the difference. That is a thing that further develops someone and further develops their ability to successfully challenge a blue card decision, if we take it at points in time.

**CHAIR:** There are many more questions I could ask about where the threshold is between those who have sought to prove their safety with regard to children and those who have not, but I appreciate we do not have the time.

**Mrs STUCKEY:** Can I thank you not just for your submission but for the measured comments that you are making. I am not sure if you have had a chance to see the department's response.

**Ms Kilroy:** We have briefly looked at it.

**Mrs STUCKEY:** I was wondering whether you would be kind enough to take on notice to provide comment on that. As we have asked previous people to do, could you send your comments to us by 4 pm on Monday, 21 January? I would be really keen to see your response to their response. I was on the Legal Affairs and Community Safety Committee last parliament and travelled to some remote Indigenous communities when examining this private member's bill. I believe that certainly provided me with a lot better insight into the challenges and difficulties faced.

We all know that there are unique situations there, particularly with regard to jobs that are available in those communities. I understand this bill actually says that it would be an application approved for work within that community only and not elsewhere, as I think you have indicated is the situation for Sisters Inside with that case study that you put forward. Can you see any issues regarding impartiality within the community justice groups? This is something that was raised in discussions we

had. These are the people who will be making those recommendations. The groups are made up of members who live within the community and automatically have close relationships with the families there. How do you see a way around the issue of impartiality?

**Ms Dooris:** As an organisation that largely operates in an urban context, I do not really feel like we are qualified to talk about the politics that might happen in such a decision-making process. In terms of comments more broadly around decision-making processes that empower Aboriginal and Torres Strait Islander people to have a voice, we would want to see a process that does allow some flexibility in terms of who is involved in making that decision.

In an urban context I think that raises really significant questions. That is the thing that we are concerned the bills leaves out. For example, in Derek's case he is in Brisbane with us. A large of number of Aboriginal and Torres Strait Islander people live in cities. When we think of it from that angle—that is, who are the decision-makers who might have the appropriate self-determination decision-making ability—then that might be a helpful way to think through a process that can be broadly applied when it comes to who should be involved. I do not think we are really in a position to comment on the situation in regional and remote communities. Unfortunately, we do not have that insight.

**Mrs STUCKEY:** I think you did make some comments about the situation with Indigenous workers as well. Some of them do perhaps come from remote communities?

**Ms Dooris:** Yes, people have connections to country across the state and find themselves in Brisbane. It is an interesting question about who is qualified and suitable—all of those words that we use—to make a judgement about that person. I think that is part of what would need to be nutted out.

**Mrs STUCKEY:** If someone has come to the city or a bigger township, what would your comments be about that person if they said, 'I would like to go back to my community'? I know it may be wider than that. If a specific community were nominated and that bill were passed, then that person would be able to work in a remote community but not in the city.

**Ms Kilroy:** That is where it is discriminatory. That actually narrows the places of employment for anybody. We know that there is hardly any employment in rural and remote areas. Employment is in bigger cities. The other issue we have is that that could discriminate against Aboriginal people who actually do not know where they come from—the Stolen Generation, for example. They do not know where their country is. There are a number of issues around that.

**Ms Dooris:** We support the thrust of what the bill is trying to do, because it is trying to respond to some issues, but it is not solving the problem because the majority of people do find work in cities, or at least the people we are seeing.

**Mrs STUCKEY:** Thank you.

**Mr SAUNDERS:** Thanks for coming in this afternoon. I have two quick questions. First of all, there are not too many young Indigenous men who have not had problems either from communities or from the cities because of what has happened over the years—and we will not go into that—where some have been victimised et cetera for who they are. Wouldn't Derek's case be a fine example and an easy sell to young Indigenous community men to say, 'Yes, Derek might have got into a bit of a street brawl as a young bloke and a few things happened, but look where he is now and look where Derek has come from'? Do they look into that sort of thing when they are doing their review on the card?

**Ms Kilroy:** They do a review on the written submissions that were sent and we have a conciliation conference to discuss those types of issues in March, so it is taking some time. It took them 12 months to issue a negative notice and that was at the end of last year, so now we do not have a conference until 8 March. During that conference there is a resolution one way or the other, positive or negative. If it is positive, we all go home and Derek can be employed again. If it is negative, then it will go to a hearing at QCAT. If it continues to be negative, it will go to the Supreme Court. It is going to take another 12 to 18 months before we can get a resolution for him, we believe, because of the decision that is made and on the submissions that have been sent which are very thorough and raise all of those types of issues that you have just raised.

**Mr SAUNDERS:** What is the effect on Derek? We are talking about a young man who has lifted himself from where he has come from. He has done his time. He is now out working with other young Indigenous men. How is his mental health?

**Ms Kilroy:** He is deflated but we continue to support him, as we would continue to support anyone who comes in contact with Sisters Inside. We have supported him now where he has found other employment. He is now in a traineeship as an environmental technician which has no contact with children, but he wants to continue to fight to receive the blue card because he believes that he has done his time—he has finished his time—and that he deserves a chance to be given a positive notice to be able to come back and work with young boys and young men who are Aboriginal and Torres Strait Islander. He is a cultural man. He teaches them dance. He teaches them culture. We need that in our community for Aboriginal and Torres Strait Islander boys and young men because of the role model that he presents.

He talks very clearly about the mistakes that he made when he was a young fellow running on the streets, being homeless, colliding with the police and ending up in prison with a very substantial sentence for a very serious offence. However, he was young and he does not want other young Aboriginal and Torres Strait Islander boys and young men to end up in the same predicament as he did. That is very powerful for those of us who have been criminalised and imprisoned to turn our lives around, if you like, move forward and talk to others and support others—mentor others—so that they do not go down the same journey that we have through the experiences of imprisonment. The majority of us who have come through the prison system as a child and an adult use those experiences to encourage young people—children—not to follow the same path and to support them so that they are not criminalised and imprisoned.

**Mr SAUNDERS:** That is what I was thinking. I was hoping that throughout the process someone would pick up on what Derek is doing for not only Aboriginal and Torres Strait Islander young men but also everybody in the community to show how he has turned his life around.

**Ms Dooris:** The legal test unfortunately is whether there are exceptional circumstances that justify the positive notice. In those circumstances maybe decision-makers do not feel that there is the discretion to take into account what you have talked about—that is, the ability for a person's story to have a positive and powerful impact for all of us to understand how people can change and shift themselves and their own experiences and how resilient Derek is to have gone through what he has gone through and emerge where he is now as a really positive role model for boys and young men. Because there is this requirement to be an exceptional case, if you have a serious offence it is not clear what that means, but I think it does preclude consideration of maybe the broader community impact of having positive stories like Derek's being able to be shared with children whom he would work with.

**Mr SAUNDERS:** Thank you for sharing it today.

**CHAIR:** Ms Kilroy and Ms Dooris, thank you very much for your time today. We appreciate your expertise and your written submission as well. Thank you.

**Ms Dooris:** Thanks so much.

**CHAIR:** The committee was due to conclude the hearing today at 1.20 pm, but I have just confirmed that we can maintain a quorum of members until 2 pm because we want to ensure that we hear from our two final submitters. I thank you very much for being so generous with your time and staying here to help us.

## BEAUMONT, Ms Ellen, President, Australian Association of Social Workers

## BUTLER, Ms Candice, Subcommittee Convenor, Reconciliation Action Plan

**CHAIR:** Thank you for coming to assist us today. I invite you to make a brief opening statement and then we will go to any questions we have.

**Ms Beaumont:** Thank you, Chair, Deputy Chair and members of the committee. The AASW respectfully acknowledges Aboriginal and Torres Strait Islander peoples as the first Australians and pays its respects to elders past and present. I am here with my colleague Candice Butler, who is a member of the branch management committee and co-convenor of the Reconciliation Action Plan subcommittee. We will both be presenting today.

The AASW is a professional body representing more than 11,000 social workers throughout Australia. We set the benchmark for professional education and practice in social work and advocate on matters of human rights, social inclusion and discrimination. The Queensland branch has over 2,000 members and covers the region from the southern border north to Rockhampton. The branch has engaged with public submissions to the Queensland government on many issues that social workers are involved with. The social work profession is committed to pursuing social justice and human rights. At the very core of the social work profession are the principles of human rights and social justice. A commitment of a social worker is to promote policies, practices and social conditions that uphold human rights and to ensure access, equity, participation and legal protection for all.

We welcome this opportunity to provide additional input into the proposed Working with Children Legislation (Indigenous Communities) Amendment Bill 2018. We recognise that the bill is based on a desire to empower Indigenous communities to make decisions which best serve their interests in relation to child protection and employment of community members. We are deeply committed to reducing the structural and social barriers that continue to result in poorer and negative outcomes for Aboriginal and Torres Strait Islander people. However, we have identified a number of concerns with the proposed bill which resulted in our recommendation that the bill not be passed in its current form. I will hand over to my colleague Candice to continue.

**Ms Butler:** Thank you, Chair and members of the committee. As Ellen said, I am an Aboriginal social worker and my mum's family are from Yarrabah just outside of Cairns.

**Mr HEALY:** Beautiful place.

**Ms Butler:** Thank you. We recognise the importance of ensuring a fair and accessible system to enable Aboriginal and Torres Strait Islander individuals to access blue cards, taking into consideration some of the unique complexities resulting from a history of colonisation, disempowerment and oppression. However, we believe that the draft bill does not provide the most appropriate mechanism to address the issues that currently result in individuals not being able to access a blue card. After engaging with our members, which have included Aboriginal and Torres Strait Islander social workers, the Queensland branch of the Child Protection Practice Group and the AASW national social policy and advocacy team, it is our position that the proposed framework will result in a range of unintended consequences that can in fact further disadvantage communities without further consideration.

A key point made by the QFCC, which has been referred to quite a lot today, was that achieving better outcomes for Aboriginal and Torres Strait Islander peoples requires change at every stage of the process. We need to provide opportunities for active engagement and involvement in decision-making and we need to improve the system's capacity to understand different cultural approaches. However, in doing so, we must remain vigilant in keeping Aboriginal and Torres Strait Islander children more than safe.

At the core of our concern is the lack of detailed information about the consultations with the relevant communities to understand their views and wishes on how best to address the issues. It is recommended that there needs to be more widespread consultation to develop an appropriate, sustainable and just process and strategies. While empowering communities with decision-making authority is absolutely essential and welcome, the current bill's narrow focus does not in our view achieve this. There must remain a core, meaningful and sustainable commitment to addressing the structural inequalities and challenges that our first nation peoples continue to experience and that continue to lead to the significant over-representation of our children in our justice systems and child protection systems.

The key messages from our review of previous inquiries have been the importance of developing a consistent national working with children scheme that has at its heart a commitment to safeguarding all children. Any such programs need to also be culturally responsive to the unique needs of Indigenous communities. It is for this reason that we recommend that, prior to any significant investment in Queensland, further consideration be given to how this can be achieved to better ensure the protection and wellbeing of children nationally. This is particularly important as Queensland borders on other states and territories, and many of our Indigenous communities are located on these borders.

People's past experiences with the justice system can cause significant processing delays as their blue card applications require further decision-making and assessment. A lack of transparency in this process and how it accounts for these structural issues is an ongoing concern. It is suggested that without meaningfully addressing the blue card application process there will continue to be ongoing issues and exclusion and a continuation of finding bandaid solutions. The QFCC also raised similar concerns to those our stakeholders have raised, and that is about the inconsistency of decisions in similar cases, delays and lack of support for applicants and a lack of a cultural perspective impacting on Aboriginal and Torres Strait Islander applicants.

We recognise that the proposed bill has been introduced in an attempt to meet some of the unique needs of community. However, our main concern is that the use of community justice groups will in fact result in less consistency. The key focus of a community justice group is to work with offenders and victims in the criminal justice system through restorative community justice approaches. The current bill and in particular the lack of funding for resourcing and training associated with this would, we believe, be problematic. We are therefore concerned at the burden of responsibility that this would place on community justice groups that already experience issues with the amount of responsibility they have with limited resources. Adding another layer of responsibility would require development of expertise in understanding of the legal requirements and there would need to be support with decision-making frameworks to ensure consistency and equity, yet the proposed bill recommends that this would not be covered by existing funding.

The KPMG evaluation—the most recent that we can find—already identified a number of challenges with the levels of remuneration and also the level of ability as a result, particularly in the more remote locations. We uphold QFCC's position that any compromise to ensuring the safety of children is problematic. We highlight the submission into the QFCC blue card and foster care systems review by a peak stakeholder representing the rights, safety and wellbeing of Aboriginal and Torres Strait Islander children, young people and their families which stated—

The Aboriginal and Torres Strait Islander child protection sector is strong and committed to working together to achieve better outcomes for our children and families and working alongside the Queensland Family and Child Commission. Our position, while clearly privileging the legitimate role of our families, organisations and communities in growing our children up, strong in culture, does not in any way support a lowering of standards or safeguards that our children have equitable rights to expect of the adults in their lives and ... systems with whom they interact.

We support this view and therefore consider that the bill does not support a safe child environment while placing an additional burden on one particular volunteer group within a community. The bill also proposes changes without addressing broader structural, systemic and social issues. What must remain a core principle is the safeguarding of Aboriginal and Torres Strait Islander children and young people and developing systems that can achieve this holistically. This can only be done by genuine consultation with Aboriginal and Torres Strait Islander communities. We welcome any further questions.

**CHAIR:** Thank you for your opening statement, which was very detailed and of great assistance. You have obviously put a lot of time and consideration into it, and we thank you for the submission on behalf of the Association of Social Workers. Having chaired the health and communities committee previously, I know that you make many very valuable submissions to parliamentary inquiries.

My question, Ms Butler, is: do you have any practical suggestions? I would be very happy for you to take this question on notice and provide your response to the committee in written form. That is a very strong and powerful quote. I read it in your submission, but it makes it no less powerful to hear you say it again. How do we balance that with having processes which a number of parties have called for—and you acknowledge in your submission—to allow those individuals who may make a contribution without having a multi-tiered system? Would you take that on notice and provide the committee with practical process changes? Obviously it is a matter of conversation in the committee that you convene, and we appreciate that.

**Ms Butler:** That is no problem.

**Mrs STUCKEY:** I would echo the sentiments of the chair and thank you very much. I was just reading the 'Who We Are' section in your submission, which says that the Queensland branch has over 2,000 members and covers the region from the southern border—which is where I live—to Rockhampton. In order to give a fulsome comment about this, do you have members further north of Rockhampton or do you have people who have experience in remote communities? I apologise if you spoke of this earlier and I missed it while I was briefly out of the room.

**Ms Beaumont:** Our region is from the southern border north to Rockhampton. Social workers within that Queensland branch do travel to regional and remote areas, but we are a member based organisation so we do just represent those 2,000 members across a broad range social work fields.

**Mrs STUCKEY:** I am genuinely interested to know where you have drawn that commentary from. Was it from people who work in remote regions?

**Ms Butler:** There were a number of people who provided commentary for our submission, and that included social policy subcommittee members and our child protection practice groups, which go up to Toowoomba as well. We have also received feedback from social workers in Indigenous communities and we seek the views of Indigenous experts as well as research.

**Ms Beaumont:** We also consulted with our national office, which is Australia-wide. There is a social policy team that was also involved with the submission.

**CHAIR:** I think the member for Maryborough had a question but he has just left the room, so I apologise. If we need any further information specifically with regard to your submission, we will write to you. Thank you both very much. Ms Butler, we look forward to receiving those practical written suggestions on how processes can be changed. If you could provide them by 4 pm on 21 January, that would be appreciated.

## GREENWOOD, Ms Kate, Policy, Early Intervention and Community Legal Education Officer, Queensland Aboriginal and Torres Strait Islander Legal Service

**CHAIR:** I welcome our final submitter from the Queensland Aboriginal and Torres Strait Islander Legal Service. Welcome, Ms Greenwood. You have been sitting there nodding along to different things and listening throughout the morning. Thank you for your patience and thank you for the submission, which we have obviously read. If you would like to make any comments to the committee then we can open for any questions?

**Ms Greenwood:** By way of background, I might add that the Aboriginal and Torres Strait Islander Legal Service has offices all over Queensland—the northernmost is up in the Torres Strait and all the way to the east, west and southern borders. Yarrabah has been batting steadily throughout this whole inquiry. I was the criminal law practitioner in Yarrabah for two years and worked extensively with the Yarrabah community justice group. During that time I also appeared in court in Innisfail, which is a more mixed regional community. There is a community justice group of one up there, so a little bit later I might unpack some of your questions about how community justice groups make decisions.

I have worked extremely closely with the community justice group over the space of two years, so I can offer some insights as to why it might be a good idea to use them in the process. More recently I have been in a different role. Despite the absence of law reform in the title, I am a law reform officer. I am also a community legal education officer. Reasonably recently I was travelling in the Gulf Country and was on Mornington Island, which is one community which has featured large in the consultation to do with the private member's bill. While I certainly did not work there, I have a little bit of exposure to the conditions there as well.

You will have noted that we only made a submission on the private member's bill. We accept that there was an election promise of no card, no start. I think a number of the other organisations have made valid points. I was here when LawRight made their initial submission to the committee, and the submissions they made were congruent with our stance on how the blue card system operates. In particular, their two examples were very recognisable amongst our client group. I might quickly go through and highlight particular bits.

ATSILS has been in existence for nearly 40 years. We did start in the south-east quarter. We now extend across the whole of the state and we have 26 officers across the state. In all of the offices we have criminal law practitioners. We also have civil law practitioners and family law practitioners. The practitioners who have the greatest to do with the implementation of the blue card are of course our civil law lawyers. Prior to attending the committee this morning I received an update/unload from our Townsville civil law lawyer as to how the blue card system is operating. All of the issues of delay and uncertainty and judgement calls are very much live.

The reason why we support the private member's bill is that this bill will operate as a safety valve on the more unfair and difficult aspects to do with the operation of the blue card system as it operates now and will operate after the implementation of no card, no start. I would also join with some of the comments of some of the other witnesses before the committee in that there are problems with obtaining the blue card to start off with, but a great number of issues arise out of the renewal of blue cards and the enormous delays and unemployment which flow from that.

I will give one further example which will highlight the impact on children if there is a refusal or nonrenewal of a blue card. There has been a lot of discussion about both employment and volunteering, but there has not been much discussion about kinship care. One aspect of Aboriginal and Torres Strait Islander families is that the nuclear family is not the default. Most commonly, especially in the communities, you have extended households. You will often have three generations living under one roof, and for cultural reasons what we call aunties and uncles will have quite a direct role in raising children as part of that family. Who I would call my aunt, if I were Aboriginal I would often refer to as mother as well as my actual biological mother. One of the concerns we have is the impact that the blue card system is having on the ability of extended families to continue to reside together. At the moment, every single adult who lives in the household must have a blue card if there is a kinship care arrangement.

That is not necessarily all bad. Like all of the other speakers, we want the safety of children to be foremost and we want children to be protected, but where our concerns lie is where in actual fact children are not necessarily protected. We have come across a few different examples. I might just very broadly describe a situation because I need to be careful not to make it too specific. You could have a situation where a grandmother, for example, is the only suitable carer for her three grandchildren. She has looked after them for 16 years. In the past she has had a blue card without

any particular issue, but a four-year-old offence is reviewed and she is considered unsuitable after a very extensive time. This is not nine days after but nine months after. Then it is a huge process for her to challenge the decision and, if the decision is unsatisfactory, take it further to QCAT. You have already heard of the length of time it can take. A year, 18 months or two years is not unusual. What happens to those three kids while that—let's just pull a figure out of the air—18-month process goes on? They cannot stay with her anymore, and they were already staying with her because they did not have other options. What happens to them? There is real damage being done to the care and safety of children. Even though what is attempted to be done is to improve their safety, it is having a deleterious effect.

**CHAIR:** I am mindful that we want to leave time for questions and that you have had a shortened time. If there is something in particular you want to put on the record, I believe that the committee would be happy to receive that in a written statement. We do appreciate that you have already made a detailed written submission. Is there any final burning point you want to make before we allow questions?

**Ms Greenwood:** I could talk a little bit about the community justice groups, because there is not a lot of knowledge about how they operate outside of the practitioners who work with them directly.

**CHAIR:** That was actually going to be my question.

**Mrs STUCKEY:** And mine.

**CHAIR:** Maybe we will put our questions to you and focus on that.

**Ms Greenwood:** Maybe it would be better if I just respond.

**CHAIR:** Thank you, and hopefully we can elicit the information that you want to put on record and we can ask a few questions before we lose our quorum. My question relates to those groups. If there was a two-tiered system and they were making decisions in effect to allow the provision of a blue card to an individual who would otherwise not meet the requirements, are they carrying a risk for that decision should something occur? Are they qualified to carry that risk when they are volunteers and members of family groups in what could conceivably be very small communities? I would be interested in your views.

**Ms Greenwood:** I will unpack several of those things. First of all, in terms of the role they already play, they have a recognition of their status in the Penalties and Sentences Act. When a magistrate is sentencing somebody, it is the role of the community justice group to describe the context of that offending within the community. Say there is a simmering family feud and someone was assaulted in the street. That person has been charged because in their response they used what was considered to be excessive force and are before the magistrate, even though in normal circumstances they might not ever raise a hand to anybody but were put in that sort of circumstance. We will just pull that out as an example. The community justice group helps explain to the magistrate the context in which that offending might have occurred, their role within the community, what sort of person they are generally, so that all of that can be taken into account when a discretion is exercised.

All of these communities are quite small. The reality is that it is a small number of families and everybody knows everybody else. It is a fish bowl. The community justice groups already walk that line in terms of being fair, being independent and providing community information. They also act as a sort of conduit of legal information back to people who have been charged, are facing court or are going through a process. They translate for members of their community what is going on and what is required of them in court, if they are applying for a blue card or a security guard licence, they are trying to get their licence back or whatever. Basically, they act as a bridge between the white justice system—if we put it that broadly and bluntly—and the community. That is the role that they play. I have seen this happen: in circumstances where a particular community justice group member feels that their independence is compromised by being involved, they will step back and not participate in that particular sentencing, for example.

There has been a lot of conversation around our office about the particular problem of what you do if you think that a particular person is being pressured about, say, Cousin Joe. We are just talking about the restricted positive notice, here. One suggestion is that there has to be a quorum, so a certain number have to agree to it. That would probably deal with the situation in 80 per cent of the circumstances. The only difficulty sometimes is, for example, in Innisfail, where there is a community justice group of one. Again, he is a very fair, very independent person and he is meticulous in the way that he carries out his responsibilities. Then the question is: do you need something more than just everything falling on one person? There it would make sense to have some sort of a review process or some sort of a requirement or challenge.

However, I understand this proposal has been put together from a whole lot of discussions in different communities. The local officer in Doomadgee, I think, has said, 'Look at these issues and maybe you can do it that way or maybe you can do it the other way.' It may be that there needs to be a little more consultation about how that gets achieved. In terms of the broad principle, there would be nothing to stop you implementing it and then gazetting each community as they come up to speed with the training and with how many people it takes to sign off on a particular restricted positive notice.

**CHAIR:** Thank you, Ms Greenwood. I will stop you there because I want to let the deputy chair ask her question before we run out of time.

**Mrs STUCKEY:** Obviously you are very passionate about the role you play. We really do value that experience. How often are the members of community justice groups changed? If legislation did come in, it would be for the certain community justice members who were currently part of that group. I cannot remember the legislation. Is there a time line?

**Ms Greenwood:** I am working off very vague memory, but I think it is something like a two-year refresh. That is my memory. However, if you like, I can make those inquiries.

**Mrs STUCKEY:** If it is not too difficult, otherwise we can ask the secretariat to have a look at that. It is probably in the legislation, but I cannot recall it. I refer to a comment made in your submission that community justice group members are used to making tough decisions.

**Ms Greenwood:** Yes.

**Mrs STUCKEY:** I do not doubt that for a moment. During the hearings that I went to in Doomadgee, Yarrabah and Hope Vale, some members did indicate that they did not really feel comfortable with that added responsibility of being seen as 'dobbing in' someone or refusing someone. I am wondering how that would be addressed and also, of course, the educational resources required to give that support and confidence.

**Ms Greenwood:** Without a doubt there would have to be some sort of education, which is why I was suggesting that it be rolled out and each one gazetted as it comes on board. I did not bring with me the transcripts of those consultations, but I understand that one community was doing it on a trial basis. I do not know how they have managed it on a trial basis, but they have some sort of process in place to do that.

From some of the transcript I do remember some of the community members were highlighting the issue about particular pressure coming from a particular family. That may be solved in a number of different ways not too dissimilar to maybe having a member of another community come in and sit and say, 'No, that's not right; veto that'. That is one way. Obviously I am thinking on my feet here in terms of the approaches that might be taken.

**Mrs STUCKEY:** They are all unique. The differences between the three was—

**Ms Greenwood:** Quite stark.

**Mrs STUCKEY:**—very stark, so we cannot put everybody in together. Thank you. I really do admire the work that you have done over the years.

**Ms Greenwood:** Thank you. If I can add one more comment, because I know there was a lot of talk about discrimination and that it would affect an urban Aboriginal or Torres Strait Islander more than someone in the communities. At the end of the day, when we are talking about a practical assessment of risk, people in the community know who does what and they can assess the risk, real or imagined, that exists in that particular community. I would not be suggesting—and, as far as I understand the private member's bill, they are not suggesting either—that decisions be made that do not affect that particular community. As I understand the proposal, the positive notice would be restricted to that particular community.

**Mrs STUCKEY:** That is my understanding, too.

**Ms Greenwood:** And that community only. Again, possibly you might also want to restrict it to that particular role in that particular community. Whether that is another gloss is another issue.

Finally, if this is implemented it could well be that valuable lessons will be learnt from this exercise, which might in turn feed out and inform the greater blue card system for non-Indigenous as well as Indigenous communities. Obviously a lot of consultation in remote and rural areas has gone on for the private member's bill. I can recognise those elements that have come in and would recommend it to the committee for serious consideration and implementation.

**Mr SAUNDERS:** Kate, we heard from the professional social workers' association. We know they are very educated and highly skilled people. What qualifications do you need to sit on a community justice group? Is there any training? What is the criteria to be a member of one of those groups?

**Ms Greenwood:** Again, I would probably have to come back to you formally. The Yarrabah community justice group is obviously one that I am familiar with. The coordinator is now a law graduate. She was still a law student in her final years when she became a coordinator. Her predecessor was a very senior member of the community who held a significant role in terms of coordinating. Again, because they are the bridge between the justice system and the community, they have some sort of role that assists them with that. Another member was a senior mental health worker. Another one continues to be a senior community worker within the local Indigenous-run rehabilitation centre. She is the senior member of that rehabilitation centre.

Probably it is a bit like parliamentarians. If you were to look at the broad group, you have all sorts of skills that are extremely relevant to your role and make you good parliamentarians, without necessarily pointing to 'you must be this' or 'you must be that' in order to be a good parliamentarian. Normally they are very senior people in the community or leaders in the community. Lerissa herself is a young but very dynamic leader within her community. There is a mix.

Obviously, they need to have a basic understanding of the justice system in order to be able to assist members. They are the ones who will go and find that information by, for example, pulling down forms from government web sites and explaining how the processes work. In turn, they will get support from others. For example, when I was a criminal law lawyer there, I was constantly on tap to the community justice group if they had questions that they wanted answered. Similarly, they would go to others; I was not the only source of information.

**Mr SAUNDERS:** Thanks, Kate. I wanted to clarify that these groups have a broad membership from across the community; it is not from just one sector.

**Ms Greenwood:** No. The Queensland government appoints them and, as I understand it, there is quite a careful choice of who is appropriate.

**CHAIR:** Thank you very much, Ms Greenwood, and the Queensland Aboriginal and Torres Strait Islander Legal Service for making a submission and taking the time to come today. That concludes this public hearing. I thank all witnesses and stakeholders who participated today for their contributions and expertise and for their patience. Thank you to the Hansard reporters and also to my fellow committee members, all of whom have remained to allow a quorum to ensure that the hearing could finish today. Thank you very much. I declare this public hearing closed.

**The committee adjourned at 2.14 pm.**