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10 December 2018

Committee Secretary
Education, Employment and Small Business Committee
Parliament House
George Street
BRISBANE QLD 4000

By email only: eesbc@parliament.qld.gov.au

Dear Committee

Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018 (Government Bill)

We value the opportunity to make a submission to the Education, Employment and Small Business Committee in response to the Working with Children Bills. This submission is in response to the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018 (**Government Bill**).

About LawRight

LawRight is an independent community legal centre and the leading facilitator of pro bono legal services in Queensland, directing the resources of the private legal profession to increase access to justice.

LawRight identifies vulnerable people with unaddressed legal need and how we can connect with them. We collaborate with the civic, community and health organisations that our clients engage with and form strategic partnerships with pro bono legal professionals at these connection points. This enables LawRight to increase access to the justice system, improve health and well-being and increase access to housing, income and legal rights.

With over 40 member law firms and 100 volunteer barristers, we deliver over 25,000 hours of pro bono assistance annually through our:

- **Self Representation Services** in the Supreme, District Court and Magistrates Court, Federal Court and Queensland Civil and Administrative Tribunal (QCAT);
- **Outreach Legal Services** at homeless, health and refugee organisations;
- **Health Justice Partnerships** at the Mater Young Adults Health Centre and Wuchopperen Health Service – a community controlled service in Cairns;
- **Advocacy and Duty Lawyer Services** at the Mental Health Review Tribunal and QCAT;

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- **Pro Bono Connect** –assessment and referrals for pro representation for vulnerable clients and matters in the public interest; and,
- **Student clinics** partnering with six Queensland law schools to host over 70 students annually in clinical legal education placements and a further 70 law students as volunteers.

About the QCAT Self Representative and Duty Law Service

LawRight operates a Self Representative Service and Duty Law Service at QCAT, which helps people who are involved in, or who are considering commencing legal proceedings in certain QCAT areas. In the 2017/2018 financial year, we assisted 39 clients with QCAT Reviews of decisions made by Blue Card Services (BCS).

‘No card, no start’ policy

A key change proposed under the amendments is a departure from the existing principle that sufficient regard be given to the rights and liberties of individuals to employment and to conduct business, as implied in section 4(2)(a) *Legislative Standards Act 1992*.

The possibility that vulnerable employees may have their employment ended on this basis is of significant concern, especially as the renewal process can be lengthy and at times, complex. The reassurance proposed under the amendments to minimise this impact is “*a suite of initiatives to streamline the blue card application process and reduce processing timeframes*” but no guarantees are provided that these initiatives will be adequate for vulnerable people who may already be in tenuous employment and do not find it easy to navigate “self-help’ and ‘stream-lined” systems. Our BCS clients include people who struggle with literacy, may not speak English as a first language, or have other impairments which reduce their capability to engage with government services.

Finality of QCAT proceedings

The current situation provides that, where QCAT overturns a decision of the Chief Executive, the Chief Executive may seek a ‘stay’ of the decision, or QCAT may order a ‘stay’ on its own initiative (section 145 of the *Queensland Civil and Administrative Tribunal Act 2009*). The effect of the ‘stay’ is that the person will be prevented from commencing regulated employment until the appeal is finalised.

The Government Bill seeks to amend the stay provisions by stating that where QCAT overturns a decision by the Chief Executive, there will be an automatic stay on the QCAT decision until the appeal period has expired or an appeal is finalised (clause 58 of the Government Bill). The impact of this amendment on our clients will be that, after navigating a lengthy and stressful QCAT process, which can in some cases take up to 12 months, they will be further prevented from commencing regulated employment notwithstanding that QCAT have made a decision in their favour. 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.

Recommendation

We submit that the current framework is sufficient to ensure the principles of the Act are upheld, and therefore the proposed amendments are unnecessary. Furthermore, our position is that the amendment has the potential to undermine the authority of QCAT's decision.

We appreciate the opportunity to provide feedback on this important draft legislation. If you have any questions about this submission or require further information, please do not hesitate to contact Sue Garlick at [REDACTED]

Yours faithfully



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