



# Impact Analysis Statement

## Summary IAS

### Details

|  |  |
|--|--|
| <b>Lead department</b>                                       | Department of Justice and Attorney-General   |
| <b>Name of the proposal</b>                                  | Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024  |
| <b>Submission type</b>                                       | Summary IAS  |
| <b>Title of related legislative or regulatory instrument</b> | <i>Working with Children (Risk Management and Screening) Act 2000; Disability Services Act 2006; Child Protection Act 1999; and Childrens Court Act 1992</i> |
| <b>Date of issue</b>   | June 2024  |

### For proposals noted in table below

| Proposal type  | Details  |
|--|--|
| <b>Regulatory proposals where no RIA is required</b> | <p><b>Amendments unrelated to report recommendations</b></p> <p>The Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024 (the Bill) proposes to amend the <i>Working with Children (Risk Management and Screening) Act 2000</i> (WWC Act) to ensure it is fit for purpose by implementing a suite of reforms recommended by the:</p> <ul style="list-style-type: none"> <li>• Queensland Family and Child Commission (QFCC) report, <i>Keeping Queensland’s children more than safe: review of the blue card system</i> (QFCC Report);</li> <li>• the Legal Affairs and Safety Committee (LASC) in Report No. 38 (LASC Report) on its examination of the Working with Children (Indigenous Communities) Amendment Bill 2021 (Private Member’s Bill), the Women’s Safety and Justice Taskforce (Taskforce), and the Youth Justice Reform Select Committee (YJRSC) highlighting the need to consider the decision-making framework; and</li> <li>• the QFCC report, <i>A thematic analysis of provisionally approved kinship carers who receive a subsequent blue card negative notice</i> (Kinship Care Report).</li> </ul> <p>However, the Bill also makes a range of amendments unrelated to the above recommendations to improve the operation of the blue card system. These amendments have been informed by the operational learnings of Blue Card Services (BCS), feedback from stakeholders, and the experience of other Australian jurisdictions and include:</p> <ul style="list-style-type: none"> <li>• refining the scope of the Queensland Civil and Administrative Tribunal’s (QCAT) review jurisdiction;</li> <li>• reframing school screening requirements to reduce overcompliance;</li> </ul> |



- removing the offence for a disqualified person or negative notice holder to make a working with children check (WWCC) application, allowing for more nuance built into the system which will, in turn, require the decision-maker to determine if a person applying is disqualified;
- clarifying the treatment of persons under 18 who commit a serious offence or a disqualifying offence to include discretion within the WWC Act to ensure juvenile offenders are not permanently excluded from the blue card system (a serious offence or a disqualifying offence will be one committed by a person aged 18 years or older at the time of committing the offence, meaning juvenile offenders are not barred from the system unless there are exceptional circumstances);
- aligning the period in which a negative notice remains in force with the term of a blue card;
- enabling the chief executive to cancel a person’s WWCC authority without issuing a negative notice;
- enabling the chief executive to withdraw an application to cancel a negative notice in scenarios where the applicant does not engage in the submission process, or if their identity cannot be established;
- updating self-disclosure requirements to streamline processes for ascertaining whether information relevant to screening exists, enabling faster processing of blue card applications;
- linking foster and kinship carers to affiliated foster and kinship care services;
- enabling the chief executive to share information with Blue Card Liaison Officers (BCLO) in First Nations’ communities;
- clarifying that a person engaging in decision-making in relation to children as a member of an executive committee of an association, church or club will be captured as regulated employment under the churches, clubs and associations involving children category;
- making clear in the WWC Act the existing requirement under the *Working with Children (Risk Management and Screening) Regulation 2020* (WWC Regulation) for responsible persons to keep a written record about matters under Chapters 7 and 8 of the Act;
- generally removing obligations applying to a ‘notifiable person’ who is not an employer; and
- allowing the chief executive to provide interstate screening units with a written summary of an *Evidence Act 1977*, section 93A transcript or recorded statement.

These amendments are intended to have a positive impact on the blue card system by creating operational and administrative efficiencies, streamlining requirements, simplifying the WWC Act, and improving information sharing arrangements. It is anticipated that the amendments will result in improved application processing and response times, as well as making the WWC Act and its requirements easier to understand for all users of the blue card system.



|   |   |
|---|---|
|   | <p>As these amendments relate to the administration of tribunals, are deregulatory, do not increase the regulatory burden and do not result in a substantive policy change, no regulatory impact analysis is required under the <i>Queensland Government Better Regulation Policy</i>.</p> <p><b>Removing the blue card requirement for kinship carers</b></p> <p>The Bill also proposes amendments to the <i>Child Protection Act 1999</i> and <i>WWC Act</i> to remove the requirement for kinship carers to hold a blue card.</p> <p>This is the first stage of amendments required for the Queensland Government response to the Kinship Care Report. The Kinship Care Report recommended removing the requirement for Aboriginal and Torres Strait Islander kinship carers to hold a blue card if they are caring for children in their family; and retaining the existing Department of Child Safety, Seniors and Disability Services (DCSSDS) assessment and approval process in relation to these carers, removing the provisional approval status.</p> <p>The Government response to the Kinship Care Report supports the recommendations in principle and expands the scope for implementing the reform to all kinship carers.</p> <p>While legislative amendments are required to remove the blue card requirement for kinship carers, it is intended that commencement be delayed to enable DCSSDS to develop a fit-for-purpose screening framework for kinship carers.</p> <p>Removing the blue card requirement for kinship carers is deregulatory, and therefore no regulatory impact analysis is required under the <i>Queensland Government Better Regulation Policy</i>.</p> <p>A deregulatory proposal not requiring impact analysis is contingent upon there being no increase in costs or burdens for other parties. Removing the blue card requirement does not increase costs or burdens on the kinship care sector.</p> <p>Once developed, a new screening framework may have regulatory impact, but it is unlikely that this impact will be greater than the current impacts of requiring kinship carers to hold a blue card in addition to being assessed for suitability by DCSSDS.</p> <p>Similarly, the development of the new screening framework will ensure there is no decrease in safety for children.</p> <p>Further consideration will be given to regulatory impact throughout the development of the new screening framework. The potential impacts of the new framework will be considered in a separate IAS which would accompany a second stage of legislative amendments.</p> <p><b>Amendments to the <i>Childrens Court Act 1992</i></b></p> <p>The Bill also amends the <i>Childrens Court Act 1992</i> to formalise an existing process for the sharing of information by the Childrens Court with other courts and tribunals.</p> <p>These amendments relate to the administration of courts and no regulatory impact analysis is required under the <i>Queensland Government Better Regulation Policy</i>.</p> |
| <p><b>Minor and machinery in nature</b></p> | <p>The Bill will also make a range of minor and technical amendments to simplify the <i>WWC Act</i>, including:</p> <ul style="list-style-type: none"> <li>• repealing historical transitional arrangements; and</li> <li>• omitting spent sections.</li> </ul>   |



|  |  |
|--|--|
|  | <p>These amendments are machinery in nature and do not result in a substantive change to regulatory policy or new impacts on business, government or the community. No regulatory impact analysis is required under the <i>Queensland Government Better Regulation Policy</i>.</p> |
|--|--|

**For all other proposals**

**What is the nature, size and scope of the problem? What are the objectives of government action?**

**Nature, size and scope of problem:**

Queensland’s blue card system regulates child-related environments which are essential to a child’s development and wellbeing, including childcare, education, sport, cultural activities and foster care. The blue card system is administered by BCS and is Queensland’s WWCC system. BCS checks and monitors people who work in these environments and helps organisations to create safe environments for children.

The WWC Act and the WWC Regulation regulate how the blue card system operates.

The system operates at a high volume of users. As at the end of June 2023, there were over 928,000 blue card holders and 895,301 current links between employers and card holders/applicants. The blue card system has a strong protective function. In 2022-23, BCS identified 3,866 cases where individuals represented a high risk and were consequently prohibited from working with children.

Over recent years, the Government has implemented a range of reforms to strengthen and streamline the blue card system. This includes introduction of the *No Card, No Start* requirement, as well as an online application process and organisation portal, both based on recommendations from the QFCC Report. However, implementation of the QFCC Report is ongoing.

The Government released the QFCC Report in 2017 and indicated its broad support for the intent of all 81 recommendations. The QFCC Report built on the earlier work undertaken by the *Royal Commission into Institutional Responses to Child Sexual Abuse* (Royal Commission) and the 36 recommendations in its *Working with Children Checks* (WWCC Report) on how WWCC systems should be administered.

The Queensland Government’s response to the WWCC Report, which was released on 15 June 2018, accepted, accepted-in-principle or noted a majority of the Royal Commission’s recommendations. This included consulting and negotiating across all jurisdictions to develop a set of National Standards for Working with Children Checks (National Standards), which received final endorsement from all States and Territories in November 2019.

The QFCC Report noted Queensland’s blue card system is one of the strongest and most longstanding in Australia but that it could benefit from reforms to further strengthen the system to meet emerging risks and streamline online service capability to better meet modern community expectations.

Accordingly, a key policy objective of the Bill is to amend the WWC Act to progress implementation of the QFCC Report. In particular, this is intended to achieve better outcomes for First Nations peoples, while remaining vigilant in keeping Aboriginal and Torres Strait Islander children more than safe.

Aboriginal and Torres Strait Islander peoples experience significant disadvantage at every stage of the WWCC process. In October 2022, the LASC Report made six bipartisan recommendations, including that the Queensland Government accelerate implementation of the QFCC Report, specifically the implementation of a new decision-making framework.

The LASC Report also highlighted the need for a recalibration of the blue card system to improve outcomes for First Nations people. Consistent feedback during public hearings on the Private Member’s Bill emphasised that the current decision-making framework is too risk averse and disproportionately impacts First Nations stakeholders.

The Queensland Government tabled its response to the LASC Report on 21 February 2023. In the response, the Government committed to urgently prioritising work on certain recommendations made in the QFCC Report. In particular, the Government committed to reviewing the decision-making framework under the WWC Act to ensure it is fit for purpose (Recommendation 6).

Similar themed recommendations about the decision-making framework were made by the Taskforce in *Hear Her Voice – Report two: Women and girls’ experiences across the criminal justice system* (recommendation 174) and the YJRSC in its *Interim Report: Inquiry into ongoing reforms to the youth justice system and support for victims of crime* (recommendation 24).

Similarly, amendments to the WWC Act are required to meet the National Standards. The National Standards were developed in response to the findings of the Royal Commission, to establish nationally consistent parameters for screening individuals who propose to engage in child-related work. Queensland endorsed the National Standards in 2018.

#### **Objectives of government action:**

The Queensland blue card system has been embraced and is an important part of our community. The current laws offer important safeguards for children in service environments. However, there are opportunities to strengthen these safeguards and improve the operation of the blue card system. Government action is required to improve the system to ensure it is fit for purpose.

Consequently, the Bill proposes to amend the WWC Act to ensure the blue card system is fit for purpose by:

- implementing, either in full or part, 12 recommendations arising from the QFCC Report; and
- implementing recommendations from the LASC Report, the Taskforce and the YJRSC.

#### Implementing the QFCC Report recommendations

Implementing, in full and part, a further 12 recommendations from the QFCC Report can only be achieved through legislative amendment. These reforms include:

- introducing a new decision-making framework (Recommendation 41) to:
  - require the chief executive to be satisfied that an applicant poses a ‘risk to the safety of children’ (which must be real and appreciable) in order to refuse a blue card;
  - adopt the specific criteria for assessing risk to children as outlined by the Royal Commission;
  - provide the chief executive with discretion to impose a suspension where there is a change in assessable information and the chief executive reasonably considers the person poses a risk to the safety of children;
- enabling the chief executive to seek the specialist knowledge, skills or experience considered necessary to help with making a decision in relation to a blue card application, including by establishing an advisory committee to review blue card matters and provide recommendations to the chief executive (Recommendation 43);
- making risk assessment guidelines a statutory instrument that will be subject to annual review at an operational level (Recommendation 45);
- including new categories of regulated employment and regulated businesses (limited to entertainment or party services, beauty or talent competitions, photography services, and overnight camps), as well as removing the exemption for amusement parks (Recommendations 12 and 15);
- removing the exemption for Australian lawyers who provide legal support services to children (Recommendation 24);
- providing a consistent exemption for parent volunteers (Recommendation 25);
- introducing a new disqualification framework by removing the eligibility declaration process, including an age qualifier (18 years and over), and retaining discretion in relation to unlawful penile intercourse offences (where there is no term of imprisonment) (Recommendation 29);
- updating offences in the WWC Act, specifically introducing a penalty for the power to compel information and rationalising the offences for updating contact and personal details with BCS (Recommendations 49 and 56);



- improving information sharing arrangements, particularly between the Queensland College of Teachers (QCT) and BCS, as well as enabling BCS to request information from an entity prescribed by regulation and for that entity to share information with BCS if the entity reasonably believes it will help BCS perform its screening functions (Recommendation 58); and
- inserting a new provision to enable genuine researchers to access data about the blue card system for approved research purposes (Recommendation 75).

**Implementing the LASC Report, Taskforce and YJRSC recommendations**

Implementation of the LASC Report, the Taskforce and YJRSC recommendations also requires amending the WWC Act, specifically to:

- introduce a new decision-making framework in accordance with the QFCC’s recommendations; and
- broaden information sharing arrangements between BCS and entities to better assist BCS in performing its screening functions.

**What options were considered?**

In view of the findings and recommendations from the QFCC and LASC Reports, the Taskforce and YJRSC recommendations, as well as the Royal Commission, two broad options were considered:

- status quo (no action)—this involves making no changes to the WWC Act and maintaining the status quo; and
- legislated response—this involves a suite of legislative measures to achieve the objectives of government action.

**Implementing recommendations**

The reviews of Queensland’s blue card system in recent years undertaken by the QFCC, LASC and Royal Commission have each been comprehensive and informed by extensive consultation with a broad range of stakeholders. Each review considered a range of options in formulating their respective findings and recommendations however, the recommendations ultimately put forward require legislative amendment to implement.

The baseline alternative of taking no action is therefore not considered feasible, given the Queensland Government committed to ensuring the blue card system is fit for purpose by implementing the recommendations from the QFCC and LASC Reports, as well as the Royal Commission. Further, establishing greater consistency between the WWC Act and the National Standards is only feasible through legislative reforms.

Accordingly, the Bill’s amendments made in response to the recommendations are considered the only viable options.

**What are the impacts?**

**Impacts:**

Given that the findings of the QFCC, the Royal Commission, the LASC, Taskforce and YJRSC Reports were all informed by extensive consultation and broadly supported by stakeholders, there are no significant adverse impacts anticipated as a result of implementing the proposed reforms.

However, due to the nature of the blue card system in regulating child-related environments, any legislative changes, especially to the decision-making framework and to the scope of who requires a blue card may impact the ability of certain people to undertake work in regulated activities, specifically entertainment, beauty and photography services, if they are unable to apply for, or hold, a blue card.

DJAG acknowledges that changes to the scope of regulated employment and regulated businesses to capture entertainment, beauty and photography services directed at children will have impacts for small businesses and others operating within the sector. Impacts will primarily occur by way of costs for compliance with the WWC Act’s requirements, as well as one-off blue card application fees for employees (\$101.30). However, transitional arrangements and communication with the public will ensure newly captured businesses are aware of the new requirements and are afforded sufficient time to comply. The



intention of the transitional arrangements is to avoid, to the greatest extent possible, delays in recruiting staff or delays in staff being able to work while they wait for their blue card application to be processed.

DJAG is also aware anecdotally and has been advised by several stakeholders throughout consultation on the draft Bill that a range of entertainment, beauty and photography businesses currently operating services directed to children are already complying with blue card requirements. This will mitigate the Bill's impact on the sector to some extent.

However, any legislation that regulates the ability of members of the community to undertake work will naturally require a balancing of competing rights and interests. The proposals contained within the Bill are consistent with the principles for administering the WWC Act and specifically take into account that the welfare and best interests of the child are paramount and that every child is entitled to be cared for in a way that protects the child from harm and promotes the child's wellbeing (section 6).

Importantly, the proposed new decision-making framework is the crucial component of the Bill's amendments that will likely have the greatest impact due to the inherent use of the framework in deciding whether someone is eligible for a blue card and therefore eligible to undertake their chosen employment. However, the new decision-making framework has been recalibrated to better balance the competing rights and interests in undertaking suitability assessments and to further uphold the WWC Act's guiding principles. The new decision-making framework applies a risk-based threshold that requires a more transparent and evidence-based assessment to demonstrate a clear nexus between a person's conduct, or alleged conduct, and the risk of harm to children.

This is intended to result in more nuance and a better understanding of an applicant's circumstances in the decision-making process, including by enabling BCS to access specialist advice in relation to the complexities of a particular case, where BCS considers such advice would be valuable in determining whether to refuse a blue card application or cancel a negative notice.

The new decision-making framework will impact the ability of people to undertake work regulated by the WWC Act, particularly those working in entertainment, beauty and photography services that will be captured by the expanded scope and required to undergo screening, if not already a blue card holder. However, impacts on the ability of certain persons to undertake regulated employment already exist under the current framework, with consistent feedback from stakeholders highlighting that the current statutory test is too risk averse and disproportionately impacts First Nations and other marginalised stakeholders.

Accordingly, by refining the decision-making requirements, improving transparency in the process, and better enabling evidence-based assessments, the new decision-making framework proposes to achieve better outcomes and ameliorate disproportionate impacts, particularly for First Nations stakeholders.

Not only will this act on feedback from stakeholders, but it will bring the WWC Act into broad alignment with other jurisdictions, the National Standards, Royal Commission recommendations, and other comparable frameworks, such as disability worker screening.

Ultimately, on balance, any impacts are considered appropriate and proportionate in the broader context of the protective nature of the WWC Act. The WWC Act's purpose is to protect children from harm by preventing those who pose a risk to children from working in child-related environments and the Bill will further support this purpose by implementing the QFFC, LASC, Taskforce and YJRSC recommendations, as well as through targeted enhancements to the blue card system designed to create efficiencies, simplify the Act, and improve outcomes.

**Consistency with Clause 5 of the Competition Principles Agreement (CPA):**

The Bill is consistent with Clause 5 of the CPA, as it is not anticipated to have any competition impacts.

**Who was consulted?**

The QFCC undertook a significant amount of consultation in formulating its findings.

Between 30 October 2016 and 23 February 2017, the QFCC completed 2,267 consultation activities (comprised of 124 forums with 640 participants; 108 meetings and 1,389 emails, letters and phone calls). The majority of stakeholders supported adopting the recommendations of the Royal Commission with respect to the roles and activities which required a blue card.

On 10 March 2017, the QFCC released an options paper seeking responses to a range of potential options for reforms of the blue card system. The QFCC held a stakeholder forum on 20 March 2017, where 43 participants attended the forum and provided feedback on the options for reform identified in the options paper. A range of organisations and individual stakeholders also provided a collective 28 submissions responding to the options paper. Such stakeholder feedback and consultation was critical to the recommendations ultimately made by the QFCC.

Similarly, the recommendations of the Royal Commission were informed by an extensive policy and research program that drew upon the findings made in public hearings and private sessions, as well as those generated by new research evidence and written submissions. The Royal Commission also produced and hosted a range of issues papers, roundtables and consultation papers to consult with government and non-government representatives, survivors, institutions, experts, academics and advocacy and support groups.

Extensive consultation was also undertaken by the LASC in formulating its recommendations. The LASC received submissions from stakeholders including:

- Aboriginal and Torres Strait Islander Legal Service;
- Queensland Aboriginal and Torres Strait Islander Child Protection Peak;
- Queensland Council of Social Service;
- QFCC;
- Queensland Human Rights Commission;
- Queensland Mental Health Commission; and
- Sisters Inside Inc.

During September and October 2022, LASC also held public hearings in Mount Isa, Palm Island, Yarrabah and Brisbane.

Further targeted consultation was also undertaken in April 2024 on a consultation draft version of the Bill, supported by a consultation paper to explain the proposed amendments. Stakeholders consulted included:

- government departments;
- First Nations and cultural organisations;
- legal sector stakeholders;
- child advocacy groups;
- recreation, organised events, overnight camps and amusement parks stakeholders;
- commercial services; and
- and non-government members of the *Safe children and strong communities* Implementation Reference Group.

While stakeholders were generally supportive of the proposals contained within the Bill, specific drafting, operational or unintended consequence issues were raised in relation to certain aspects of the Bill.

**What is the recommended option and why?**

The recommended option is to implement a legislated response.

Ultimately, the suite of legislative reforms proposed by the Bill to simplify the blue card system and ensure it is fit for purpose broadly align with the approaches in other jurisdictions, the QFCC, LASC, Taskforce and YJRSC recommendations, Royal Commission recommendations and the National Standards.

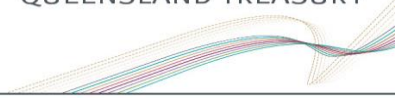
The proposed legislative amendments will result in Queensland moving closer to a nationally consistent approach to worker screening, while reducing uncertainty about regulated activities and services. Greater consistency with the National Standards will ensure children, wherever they are located in Australia, are provided an appropriate level of protection.

As highlighted by the Royal Commission, a national approach to WWCCs will:



- strengthen the capacity of WWCCs to prevent institutional child sexual abuse;
- ensure children receive equal legal protection against the risk of sexual abuse in institutional contexts by people engaged in child-related work;
- eliminate the risk of potential offenders ‘forum shopping’ across jurisdictions;
- lessen compliance challenges, including for people and services operating in more than one jurisdiction; and
- streamline and reduce the complexity of current WWCC schemes.

The Bill also seeks to address consistent stakeholder feedback that the current decision-making framework under the WWC Act is too risk averse and is disproportionately impacting First Nations stakeholders. Consequently, the proposals in the Bill have been guided and driven by consideration of the impacts and outcomes for First Nations people, as well as other marginalised groups.



**Impact assessment**

**All proposals**

|   | <b>First full year</b>   | <b>First 10 years**</b>                            |
|---|--|--|
| <b>Direct costs – Compliance costs*</b> | Unable to be quantified but expected to be minimal [noting, as at July 2023, a blue card costs \$101.30 (there is no cost for volunteers, student blue cards or exemption cards)]. | Unable to be quantified but expected to be minimal |
| <b>Direct costs – Government costs</b>  | Unable to be quantified but expected to be minimal   | Unable to be quantified but expected to be minimal |

**Signed**

**Jasmina Joldić PSM**  
 Director-General  
 Date: 31/05/2024

**Yvette D'Ath MP**  
 Attorney-General and Minister for Justice  
 Minister for the Prevention of  
 Domestic and Family Violence  
 Date: 04/06/2024