

**Submission by**  
**YOUTH ADVOCACY CENTRE INC**  
**to the**  
**Queensland Family and Child Commission**  
**in relation to**  
***The Review of the Blue Card System Options Paper***



**MARCH 2017**

The Youth Advocacy Centre Inc (YAC) regrets that it was unable to attend the day's forum on Monday 20 March. The meeting was notified at short notice and we were already committed to an NDIS related event for the day and court commitments.

### **Submissions in response to the Discussion Paper**

The Options Paper does not seem to address issues which YAC raised in its response to the Discussion Paper which have a significant and unwarranted impact on young people:

- children turning 18 year old living in their family home where a parent is a foster parent and children turning 18 who wish to remain with their foster parent should be exempt from the need for a blue card
- blue card problems as a result of the inappropriate criminalisation of children under 16 in Queensland whose involvement in the production, distribution or possession of child exploitation material in circumstances which clearly about mimicking adult behaviour in sending pictures of themselves
- blue card problems as a result of normal adolescent exploration of sexuality.

Neither the second or third points create offences in other jurisdictions such as Victoria. Option 3.2.4 therefore is problematic. The issue could be resolved by changes to the Criminal Code but the Government has chosen to rely on the police using their discretion. In our experience, police do not properly contextualise events which leads to young people being charged under laws and processes which are supposed to protect them.

### **Other comments**

- Could you clarify the reference "the Royal Commission supports the automatic exclusion of people with a conviction or pending charges as an adult for: murder or manslaughter of a child, etc, etc" (page 21) as it could be read in different ways. Does it mean: all offenders with a conviction; and pending charges only for an adult?
- Services for young people are not homogenous and maybe regulation could be more conversant of that: the risks may be greater in some agencies, activities or operations than others but all are required to fit the same regime. This aligns with the observation that there should be more proper risk assessment by organisations rather than too much reliance on the Blue Card system.

We would consider it entirely appropriate for the expansion described in Option 1.2: it is not reasonable that YAC, with young people's wellbeing core to its Mission, having to be Blue Card compliant yet commercial operations not required to be when their focus is not on children per se – children simply present a "market opportunity".

For the protection of children well beyond the public view, it is imperative that those working in immigration detention have Blue Cards.

- In line with a recent issue we have encountered, administrative staff who have access to children's records as part of their work or have contact with them in taking phone calls, or when they come to reception, should be subject to Blue Card checks as much as the casework staff they support. Having access to children's personal information could be a gift to the wrong person – particularly if that information indicates some issues a young person is having in terms of sexuality or sexual activity. The fact that a person is not actually in contact with the child, does not prevent personal information being used in an inappropriate manner (refer 3.1.2, for example).
- Alternatively, the ability for an individual organisation to decide that holding a Blue Card is appropriate for the work to be carried out would be helpful (3.1.3).

- We would also support people who believe that they are likely to need a Blue Card in the near future (say 6 months) for work they are seeking or to participate in some activity, for example, to be able to apply for a Blue Card and have that at any interview. The organisation could then check its currency and advise the authorities of that the person is employed by, volunteering with them, etc. if that should then occur.
- A photo would be appropriate or some other way of being sure that the card relates to the presenting person.
- We would think that an ability to provide guidance as proposed in 1.4 would be useful, particularly for organisations.
- Clearly a negative notice holder cannot be exempted: it makes a nonsense of the system.
- We note that YAC works with its clients confidentially: information is only divulged with the consent of the client (aside from where the law requires it or there is a serious risk of serious and imminent harm to the client or someone else). The view of the Royal Commission that “Families and communities are informed and involved” could be problematic in this context.
- Some of the options really require proper implementation of the United Nations Convention on the Rights of the Child. We would recommend that any Blue Card regime makes this fundamental commitment. Elements of Option 2.1, for example, must flow from this.
- YAC would agree that duplication of screening should be avoided: the system already requires significant resources.
- We do not believe the conclusion can be drawn that young people in home care environments are more vulnerable (Option 3.3.1) – the need for the Royal Commission into Institutional Responses to Child Sexual Abuse and the concerns for children in immigration detention would argue strongly that children are equally vulnerable in residential and organisational settings.
- Option 3.3.8: “any information to **suggest** an applicant had caused harm to a child” is a very low threshold. As noted, this will require someone who can review the relevant material to test its relevance and appropriateness.
- Establishing an online portal would be useful.
- Keeping websites updated with relevant information is really “business as usual” as are having interpreters accessible and targeting education to culturally and linguistically diverse communities. There would be an expectation that these things happen or are being planned for: they cannot be considered “options”.
- Options relating to Aboriginal and Torres Strait Islander communities are for their organisations to provide comment on: YAC would support the views of Indigenous peoples as to what is appropriate for their circumstances.
- Three years is not, in reality a very long time: we would suggest a review after five years when the impacts of any system or process can be properly seen, unless something occurs which shows a clear problem earlier than this.
- We would suggest that significant thought be given to setting up another advisory body. This is a favoured government response but such bodies do not, of themselves, instil public confidence. In some instances it simply provides an illusion because the reality does not live up to the expectation for those put on to the group. The QFCC could take the review role and should be able to provide relevant advice from time to time with some periodic consultation with the broader community as per this process.

However, if there was to be such a group, the number of Aboriginal and Torres Strait Islander people should reflect the impact of the Blue Card system on these communities and individuals: the requirement that there should be “at least one” appears tokenistic.

**March 2017**