

6 June 2017

Our ref WD NFP Committee

Committee Secretary  
Education, Tourism, Innovation and Small Business Committee  
Parliament House  
George Street  
Brisbane Qld 4000

By email: ETISBC@parliament.qld.gov.au

Dear Committee Secretary

### **Education (Accreditation of Non-State Schools) Bill 2017**

Thank you for the opportunity to provide comments on the Education (Accreditation of Non-State Schools) Bill 2017. Queensland Law Society (QLS) appreciates being consulted on this important issue.

This response has been compiled with the assistance of the QLS Not for Profit Law Committee who have substantial expertise in this area.

The Queensland Law Society (QLS) is the peak professional body for the State's legal practitioners. We lead a profession of nearly 10,000 members throughout Queensland. The QLS is comprised of several specialist committees who provide policy advice to the QLS Council on law reform and areas of concern to the profession.

QLS wishes to comment in particular on the definition of "operated for profit" in clause 7 of the Education (Accreditation of Non-State Schools) Bill 2017 (Bill).

By not commenting on the full scope of the provisions to the Bill, QLS does not express its endorsement of these.

Clause 7 of the Bill defines "Meaning of ***operated for profit***" as:

"A school is ***operated for profit*** if any part of the income arising from the school's operation is used for any purpose other than the operation of the school."

QLS is concerned by the overly broad scope of this definition which appears to have a potential impact well beyond what was intended.

The current draft definition will have an adverse impact particularly for those charitable organisations that have a number of schools operating through a single entity. This is close to the dominant model in Queensland.

## Education (Accreditation of Non-State Schools) Bill 2017

Those school systems, through permitted cross-subsidisation of non-direct Government funding, have facilitated the growth of the education sector in Queensland. The current draft of the definition of “*operated for profit*” will have the effect of silo-ing resourcing in single schools.

QLS considers that the model adopted in the *Australian Education Regulations 2013* (Cth) (specifically regulation 26 as considered in the case of *Malek Fahd Islamic School Limited v Minister for Education and Training* [2016] AATA 1087 (23 Dec 2016)) is a better model. The Commonwealth regulations were sufficient to deal with the mischief identified in that fact situation.

Given that the Commonwealth regulations have now been considered judicially, QLS suggests that this would be a more desirable model and would have the benefit of a harmonised approach at the Commonwealth and State level.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Policy Solicitor, Wendy Devine on (07) 3842 5869 or [w.devine@qls.com.au](mailto:w.devine@qls.com.au)

Yours faithfully



Christine Smyth  
President