

22 July 2020

Our ref: MC-LP

Committee Secretary
Health, Communities, Disability Services and Domestic and
Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary

Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020

Thank you for the opportunity to appear at the public hearing for the inquiry into the Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020 ('Bill'). The Queensland Law Society ('QLS') appreciates the opportunity to contribute to this inquiry.

At the hearing, we were asked to provide further particulars on an issue we raised regarding disciplinary information that could be obtained by the chief executive under Division 8 of the new Part 5 to be inserted into the *Disability Services Act 2006* ('Act').

Proposed section 138O limits 'disciplinary information', for the purposes of the new Part 5, to information about disciplinary action taken against a person in respect of certain certificates, approvals or notices listed in that section. These all relate to the care or education of children. The section does not list information about disciplinary action taken under other regulatory schemes.

Proposed section 138P then allows the chief executive to obtain this disciplinary information from a list of entities, described as a 'State entity'. These entities are again limited to those dealing with child safety and education.

As the Bill seeks to impose a new comprehensive screening process on relevant persons engaged to carry out disability work listed in the Act, it is prudent for other relevant disciplinary information to be obtained from other relevant entities such as, for health practitioners, from the Australian Health Practitioner Regulation Agency and the Office of the Health Ombudsman.

We recommend the Committee review the types of workers and work that is to be covered by this legislation and ensure the Bill allows for the appropriate information to be obtained.

This recommendation is made subject to the requisite confidentiality and privacy provisions being in place and subject to the information only being used for the purpose for which it is

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obtained.

Interaction with the domestic and family violence system

We take this opportunity to raise a further related issue with respect to the provision of 'domestic violence' information under this Bill.

In Queensland, domestic violence orders may be made by consent without admission as to the content of the application. This is to encourage the making of an order where the respondent agrees to an order, but not to the content of the application. This provides additional protection for applicants in many cases where they may otherwise have to go through a contested application and give evidence in a hearing.


Some consideration should be given to the potential for adverse impacts from employment screening relating to domestic violence orders. For example, it may not be in the best interests of a person protected under a domestic violence order if the application for the order was contested because the respondent was concerned about the information being provided to the chief executive and used to make an employment decision under the Act.

Domestic violence proceedings are heard in closed court. Presently, the making of a domestic violence order does not typically jeopardise a person's future employment (unless their employment requires a firearms or explosives licence). While the rights of people with disability and the character and behaviour of the person who cares for them is important, the development in this Bill may mean that an allegation of domestic violence in a civil proceeding could affect whether a person is permitted to engage in an occupation even when the order is consented to on an 'without admission' basis.

As stated in our earlier submission, the right balance needs to be struck between protecting vulnerable people who are receiving disability support services and the rights of workers and providers. Appropriate safeguards to ensure privacy, confidentiality, and natural justice are critical.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully



Luke Murphy
President