

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



**JANUARY 2017**

The Youth Advocacy Centre Inc (YAC) is a community legal and social welfare agency for young people generally aged 10-18 years in the greater Brisbane region who are involved in, or at risk of involvement in, the youth justice and/or child protection systems and/or are homeless or at risk of homelessness. YAC has been operating for nearly 35 years.

YAC's comments in relation to the Review relate to the impact of the Blue Card on young people.

### **Impact of the Blue Card system on some young adults**

In its response to the public consultation for the review of the *Child Protection Act 1999*, YAC noted:

The *Working with Children (Risk Management and Screening) Act 2000* should be amended to ensure that young people who turn 18 can stay in their care situation with other children in care even though they may have been charged with, convicted of or investigated by police about matters which might otherwise exclude them from obtaining a blue card. The history and background of the young person is known and if they are still living with their carer who has full knowledge of this, then there seems to be no reason why they can live there when they are 17 years and 364 days of age but the moment they turn 18 they need a blue card to stay.

Similarly, 18 year olds who are the birth children of the carer who have been living at home should not be required to obtain a blue card to stay in their own home.

YAC continues to advocate for this position. In terms of stability of placement, this goes beyond turning 18 and is relevant to both foster children and birth children. They should not be made to suddenly feel unwelcome in what they understand to be their home.

### **Consideration of youth offending history**

Extreme care needs to be taken in relation to a person's youth offending history. A significant concern to YAC at the moment is the ongoing practice by police in Queensland of charging a child under 16 with the creating and distributing child exploitation material by taking a picture of themselves and sending to a boy/girlfriend or someone they want to be their boy or girlfriend. If the child was 16, they could not be prosecuted under State law. The recipient who does not delete the picture is charged with possession of child exploitation material.

Children see adults around them indulging in this behaviour and have no reason to believe that they are doing the wrong thing. They are criminalised by a law which is meant to protect them because of their age at the time. Even a caution will lead to a negative working with children check which will therefore potentially impact on their employment options – or at least the embarrassment of having to appeal a decision.

Similarly, in Queensland, young people who engage in sexual activity can be charged with indecent dealing with a minor or unlawful carnal knowledge when engaging in consensual activity which could be considered quite appropriate in the context of adolescent behaviour and exploration, because of their age. Where both young people are under 16, both can be charged.

In either situation, these "offenders" do not pose any risk to children. Their actions are part of normal adolescent development.

The legal situation in Victoria, for example, in relation to both "sexting" and sexual activity, is significantly more nuanced. This also means that young people can have an offending history in one jurisdiction which would make them ineligible to hold a Blue Card but not in another. The system becomes inequitable and unjust.

### **General comments**

The Blue Card system is costly and it must be effective to justify that cost. We note the observation on page 3 of the Discussion Paper:

There is no large-scale research to assist in understanding the effectiveness of WWCCs in reducing risks of harm to children.

If we are serious about protecting children, this research should be resourced by State and Territory Governments, through the national forum for Community Services Ministers. It is important that the limitations of the system are well understood and whether there are additional or better ways to ensure children's safety.

It is also arguable that the safety of some children is compromised as the result of each jurisdiction having its own system. The Community Ministers forum should investigate a national scheme where the "backroom" activities could be streamlined and savings in cost used for frontline services to support children and their families. Harmonisation is not sufficient and will not necessarily result in any cost savings.

**January 2017**