

Department of Justice and the Attorney-General

Blue Card Services

Guidelines for dealing with information
obtained under Chapter 8 of the
*Working with Children (Risk Management
and Screening) Act 2000*

Prepared pursuant to section 346 of the
Working with Children (Risk Management and Screening) Act 2000 (Qld)

NB: These guidelines may be subject to change as a result of future legislative and policy amendments.

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1 Introduction

The Blue Card Services division of the Department of Justice and the Attorney-General (“Blue Card Services”) promotes and protects the rights, interests and wellbeing of children and young people in Queensland.

The work of Blue Card Services is regulated by the *Working with Children (Risk Management and Screening) Act 2000* (“the Act”).

Blue Card Services has responsibility for administering the blue card system. The blue card system regulates essential and developmentally focused service environments for children. Specifically, the Act:

- prohibits a disqualified person from applying for a blue card;
- requires regulated organisations to apply for a blue card check for a person who they are engaging to provide regulated services to children; and
- requires decision makers of regulated organisations and sole operators providing regulated services to undergo a blue card check.

The purpose of these guidelines is to:

- explain how decisions relating to a person's eligibility to obtain a blue card are made;
- ensure that only relevant information is considered in making the decisions;
- ensure that decisions are made consistently; and
- that natural justice is afforded to the persons about whom information is obtained.

2 Disqualified persons

2.1 Who is a disqualified person?

A person is a disqualified person if they;

- have been convicted of a disqualifying offence (including a child-related sex offence, a child pornography offence or murder of a child); or
- are subject to a child protection offender prohibition order; or
- are subject to a disqualification order made by a Court; or
- are a reportable offender with current reporting obligations; or
- are subject to a sexual offender order.

It is an offence, punishable by up to 5 years imprisonment, for a disqualified person to apply for a blue card. A regulated organisation is required to warn an individual that it is an offence for a disqualified person to sign a blue card application. Additionally, a person making an application for a blue card is required to declare they are not a disqualified person on the application form.

A person is not a disqualified person if they have been issued with an eligibility declaration and it is valid.

2.2 Application for an Eligibility Declaration

A disqualified person may apply to Blue Card Services to be declared eligible to apply for a blue card (an eligibility declaration).

2.3 The assessment process and decision making framework

An eligibility declaration cannot be issued to a person if Blue Card Services is informed by the Queensland Police Service that the person is a relevant disqualified person. The Queensland Police Service will notify Blue Card Services that a person is a relevant disqualified person if they:

- have been convicted of a disqualifying offence and sentenced to imprisonment (including wholly or partially suspended sentences or intensive correction orders); or
- are subject to a child protection offender prohibition order; or
- are subject to a disqualification order made by a Court; or
- are a reportable offender with current reporting obligations; or
- are subject to a sexual offender order.

There is a discretion to issue an eligibility declaration to a person who has a conviction for a disqualifying offence but was not sentenced to imprisonment. However, the Act requires that an application for an eligibility declaration be refused unless it is an exceptional case in which it would not harm the best interests of children for the person to be issued with a blue card.

In determining whether an exceptional case exists, the same factors which apply to the assessment of a blue card application must be considered (as set out in section 4.2.4 below).

Where the decision requires consideration of an exceptional case, Blue Card Services may request a submission from the applicant (refer to the process outlined in section 4.2.5 below). If a submission is provided, this information is considered as part of the assessment process. However, if no response is received by the due date the assessment process will continue in accordance with the Act.

The applicant may withdraw their eligibility application at any time before a decision is made.

A flowchart outlining the decision making process in relation to an eligibility application is attached at Appendix 1.

2.4 Outcome

If an eligibility application is approved, the person is issued with an eligibility declaration entitling them to make a blue card application, provided the eligibility declaration is valid.

An eligibility declaration is no longer valid if the person:

- is charged with a *disqualifying offence*; or
- is convicted of a *serious offence*; or

- becomes a relevant disqualified person; or
- is issued with a negative notice; or
- has been issued with a positive notice and blue card which were subsequently cancelled.

If the person with an eligibility declaration makes a blue card application, they must be issued with a positive notice and blue card unless there is new police information or disciplinary information which was not known at the time the eligibility declaration was issued, in which case a negative notice must be issued unless it is an exceptional case.

If an eligibility application is refused, the person must not sign a blue card application or apply for, start or continue to provide regulated services. There is no right of review to the Queensland Civil and Administrative Tribunal in relation to a decision to refuse an eligibility application.

3 Exemption Cards

Police officers with the Queensland Police Service ('QPS') and teachers registered with the Queensland College of Teachers ('QCT') are able to apply for an exemption from holding a blue card when providing regulated services to children which are outside of their professional duties. Once an application for an exemption card is received, Blue Card Services will liaise with QPS or QCT to confirm the applicant's professional status and whether further employment screening is required.

An exemption card will be granted unless the person has a criminal history that requires a further assessment of their eligibility. If a further assessment is required, there is discretion to issue the applicant with either a positive exemption notice or a negative exemption notice. The Act requires consideration of whether the circumstances of the person's particular case are "exceptional". In determining whether an exceptional case exists, the same factors which apply to the assessment of a blue card application must be considered (as set out in section 4.2.4 below).

4 The Blue Card Check

4.1 What information does the blue card check consider?

Under the Act the following assessable information can be considered as part of the blue card check:

- any conviction for an offence (including spent convictions and regardless of whether or not a conviction was recorded);
- any charge for an offence;
- investigative information provided by Queensland Police Service in relation to disqualifying offences where a charge was not laid because the child

- was unwilling or unable to proceed;
- child protection prohibition orders (whether a person is a respondent or subject to an application)
- disqualification orders
- whether a person is subject to reporting obligations under the *Child Protection (Offender Reporting) Act 2004* or *Dangerous Prisoners (Sexual Offenders) Act 2003*; and
- disciplinary information held by certain professional organisations including:
 - teachers
 - child care licensees; and
 - foster carers.

When signing a blue card application an applicant consents to Blue Card Services obtaining additional information from police, courts, prosecuting authorities and other relevant bodies to assist in the decision making process. If a person's assessable information is considered relevant to an assessment of the person's eligibility to be issued with a blue card, such information will be sought from these bodies.

Additionally, the applicant's consent may also be sought to allow other relevant records to be obtained, including some mental health information.

4.2 The assessment process and decision making framework

Any assessable information and other relevant information is considered to determine whether or not a person is eligible to be issued with a blue card.

The process for deciding whether or not a person is eligible to hold a blue card is governed by Chapter 8 of the Act.

The most important consideration when making an employment screening decision is the safety and wellbeing of children, and in particular a child's entitlement to be cared for in a way that protects them from harm and promotes their wellbeing.

Generally the test to be applied to the assessment process is determined by the type of assessable information provided to the Blue Card Services in relation to the applicant. The following table outlines the different tests which apply.

Type of information	Assessment process
Assessable information of the following nature: <ul style="list-style-type: none"> • conviction for a serious offence; • the person was previously a relevant disqualified person but is no longer (other than a person who was a relevant disqualified person by reason of a conviction, sentence or order that was set aside on 	A negative notice must be issued unless the decision maker is satisfied that there is an exceptional case in which it would not harm the best interests of children to issue a positive notice and blue card.

Type of information	Assessment process
appeal).	
Assessable information of the following nature: <ul style="list-style-type: none"> • Investigative information; • Disciplinary information; • Charge (other than a current charge for a disqualifying offence where the application will be withdrawn); • Conviction for an offence other than a serious offence. 	A positive notice and blue card must be issued unless the decision maker is satisfied that there is an exceptional case in which it would not be in the best interests of children to issue a positive notice and blue card.
No police information or disciplinary information	A positive notice and blue card must be issued.

2.1 Offences particularised in the Act

Serious offences

Serious offences are defined in the Act to include:

- a range of offences of a sexual or violent nature, including expired or repealed offences and offences which have been amended, which were committed in Queensland or interstate;
- child pornography offences; and
- offences of counselling, procuring the commission of, or attempting or conspiring to commit, one of those offences.

The definition of serious offence and a list of the relevant offences are contained in Appendix 2.

Disqualifying offences

Disqualifying offences are defined in the Act to include:

- a range of offences of a sexual nature, including expired or repealed offences and offences which have been amended, which were committed against a child in Queensland or interstate,
- child pornography offences, and
- murder of a child.

The definition of disqualifying offence and a list of the relevant offences are contained in Appendix 3.

2.2 Child-related offences

There are a range of offences which do not fall within any of the categories of offences specifically particularised in the Act (as listed in 4.2.1 above), but which nevertheless raise concerns about a person's eligibility to hold a blue card.

In particular, this category includes offences or alleged offences under any Act, which:

- involve a child, directly or indirectly;
- are directed at a child;
- are committed in the presence of a child; or
- are committed in circumstances where a child was likely to become involved or be present.

Further information on this category of offences, including examples, is contained in Appendix 4.

2.3 Other offences impacting upon eligibility

These are offences which do not fall within any of the categories of offences specifically particularised in the Act (as listed in 4.2.1 above) or which have been identified as child-related offences (as listed in 4.2.2 above), but which nevertheless raise concerns about a person's eligibility to hold a blue card.

In particular, this category includes offences committed under any Act which falls within specified criteria, namely:

- offences of harm and violence, actual or threatened;
- offences which breach community standards of decent and appropriate behaviour; or
- any other offences impacting upon a person's eligibility to hold a blue card.

Further information on this category of offences, including examples, is contained in Appendix 5.

2.4 Exceptional case

In many cases where a person has police information or disciplinary information, the Chief Executive has discretion to issue the applicant with either a positive notice and blue card, or a negative notice.

The Act requires consideration of whether the circumstances of the person's particular case are "exceptional".

The Act does not define the term "exceptional case". Whether a case is "exceptional" is determined by looking at the circumstances of each individual case and the legislative intent of the Act, which is to protect children from harm.

In deciding whether a case is “exceptional”, regard must be had to the factors set out in the Act¹ which are outlined in the following table.

Type of information	Factors to be considered
Criminal history information (i.e. charges or convictions)	<p>In relation to the commission or alleged commission of an offence by the person, the decision maker must have regard to:</p> <ul style="list-style-type: none"> (a) (i) whether it is a conviction or a charge; (ii) whether the offence is a serious offence and, if it is, whether it is a disqualifying offence; and (iii) when the offence was committed or is alleged to have been committed; and (iv) the nature of the offence and its relevance to employment, or carrying on business, that involves or may involve children; and (v) in the case of a conviction – the penalty imposed by the court and if it decided not to impose an imprisonment order for the offence, or decided not to make a disqualification order under section 357, the court’s reasons for its decision; (b) any information about the person given to Blue Card Services about the circumstances of a charge or conviction or relating to a sexual offender order; and (c) any report about the person’s mental health given to Blue Card Services following an examination by a registered health practitioner; and (d) any information about the person given to Blue Card Services by the Mental Health Court or Mental Health Review Tribunal; and (e) anything else relating to the commission, or alleged commission, of the offence that is reasonably considered to be relevant to the assessment of the person.
Investigative information	(a) when the acts or omissions constituting the alleged offence to

¹ Sections 226, 227 and 228

Type of information	Factors to be considered
	which the investigative information relates were committed; (b) anything else relating to the commission of the acts or omissions that is reasonably considered to be relevant to the assessment of the person.
Disciplinary information	(a) the decision or order of the decision maker relating to the disciplinary information and the reasons for the decision or order; (b) any decision or order of an entity to which the decision or order mentioned in paragraph (a) is appealed and the reasons for the decision or order; (c) the relevance of the disciplinary information to employment, or carrying on a business, that involves or may involve children; (d) anything else relating to the disciplinary information that is reasonably considered to be relevant to the assessment of the person.

Any information which is relevant to making a decision about a person's eligibility to hold a blue card may also be considered. This may include:

- type and number of convictions and/or charges;
- recency of any offending or alleged offending;
- relevance of past criminal or concerning behaviour to child-related activities;
- penalty imposed for relevant offences;
- veracity of the evidence available;
- seriousness of relevant offending or concerning behaviours;
- any evidence of identifiable attempts to change behaviour and address triggers for initial offending;
- whether there is a pattern of behaviour;
- whether there is a breach of trust or particularly vulnerable victims; and
- any identified risk or protective factors relating to past police information or concerning behaviour.

4.2.5 The submission process and natural justice

The principles of natural justice require that:

- any person adversely affected by a decision should be given notice of the decision and the opportunity to participate in the decision making process. The information provided must be sufficient for the person to be involved meaningfully in the decision; and

- a decision maker should provide persons adversely affected by a decision with the chance to comment on relevant issues before the decision is made.

The assessment process ensures that applicants to whom it is proposed to issue a negative notice are afforded natural justice through the submission process. The submission process is the applicant's opportunity to respond to any adverse information of which Blue Card Services is aware before a final decision is made.

Where the the applicant's assessable information is considered to affect their eligibility to hold a blue card, Blue Card Services will write to the applicant and invite them to make a submission, within a reasonable time about why they should not be issued with a negative notice.

The applicant is at this time provided with details of all police information or disciplinary information and other material held by Blue Card Services which is relevant to a determination of their eligibility to hold a blue card. This includes police information, court brief material, court transcripts, information from certain government departments and disciplinary bodies.

As part of their submission, an applicant should address all the information forwarded to them. This may include:

- whether they agree with the details contained in the information received by Blue Card Services;
- any background on any offence or alleged offence relating to their police information;
- any background relating to their disciplinary information;
- their personal circumstances and any other relevant events at the time that the conduct occurred;
- what steps they have taken to address their behaviour since the conduct occurred (including details of any courses or programs they have completed, the organisations providing them, dates attended and a copy of the certificate of completion if available);
- their previous experiences or interactions with children; and
- anything else which may be relevant.

They should also include any other information or material they think is relevant to the assessment process, including written references (such as references from employers or supervisors who have observed the applicant in child-related employment or who can verify the applicant's claims in relation to the assessable information and remedial action taken to address triggers or success of remedial action). Recent references and those which evidence knowledge of the assessable information will be given greater weight in the decision-making process. Applicants should also consider providing other information where relevant, such as medical, psychological or other reports.

Where a submission or other material is received from the applicant on or before the due date in the letter inviting submissions, this will be considered as part of the assessment process. However, if no response is received by the due date the application will continue to be finalised in accordance with the Act. This may be done by continuing the assessment based on the information available to Blue Card Services at that time, or by deeming that consent to the screening process has been withdrawn.

The applicant may expressly choose to withdraw their consent to employment screening at any time before a decision is made on their application.

4.3 Outcome

A person whose blue card application is approved is issued with a positive notice and a blue card. This will allow them to provide regulated services.

If a person's blue card application is refused, they are issued with a negative notice which prohibits them from providing regulated services.

A positive notice and blue card remains current for three years (unless cancelled earlier), after which time they must be renewed to remain valid.

Where a negative notice is issued, the applicant must be provided with written reasons as to why the notice was issued. Additionally, where the person has a right to apply to the Queensland Civil and Administrative Tribunal for a review of the decision the applicant must be provided with information about how to apply to have the decision reviewed.

A negative notice remains current until it is cancelled.

4.4 Rights of Review

4.4.1 Queensland Civil and Administrative Tribunal

A person who has been issued with a negative notice who is not a disqualified person², may apply to the Queensland Civil and Administrative Tribunal for a review of the blue card decision within 28 days of the notice being given. The Queensland Civil and Administrative Tribunal considers the decision afresh, having regard to any and all relevant material before it.

If the Queensland Civil and Administrative Tribunal confirms the decision to issue a negative notice, the applicant may further appeal to the Queensland Civil and Administrative Tribunal Appeals Tribunal (such appeal is restricted to issues of law unless the Tribunal allows an appeal on both the facts and law.).

If the Queensland Civil and Administrative Tribunal sets aside the decision to issue a negative notice, the applicant is issued with a positive notice and blue card but the decision may be appealed to the Queensland Civil and Administrative Tribunal Appeals Tribunal (such appeal is restricted to issues of law unless the Tribunal allows an appeal on both the facts and law).

4.4.2 Review by a Magistrates Court

In very limited circumstances, an applicant may apply to a Magistrates Court with respect to decisions about the provision of investigative information by the Queensland Police Service to Blue Card Services.

Where an applicant receives a negative notice which includes consideration of investigative information, the applicant may appeal to a Magistrates Court about whether or not the investigative information should have been released to Blue Card Services.

An appeal must be lodged within 28 days after the negative notice is issued.

² If a person becomes a disqualified person after making an application for review to the Queensland Civil and Administrative Tribunal or the Queensland Civil and Administrative Tribunal Appeals Tribunal the application must be dismissed by the Tribunal.

If, on appeal, a Magistrates Court decides that the investigative information should not have been provided to Blue Card Services, the applicant may then apply to Blue Card Services for the negative notice to be cancelled.

If the decision to provide investigative information is confirmed by the Magistrates Court, the person may apply within 28 days to the Queensland Civil and Administrative Tribunal to review the decision to issue the negative notice.

5 Ongoing monitoring of Blue Card applicants and Blue Card holders

5.1 Changes in police information

5.1.1 Information provided to Blue Card Services

There are obligations on blue card applicants and blue card holders to immediately notify their regulated organisation of any changes to their police information (although they do not have to disclose specific details of the change). A regulated organisation must subsequently notify Blue Card Services.

Decision makers of regulated organisations and sole operators providing regulated services must notify Blue Card Services of any change in their police information.

In both cases, this is done by lodging a Notification – Change in Police Information form. Failure to comply with these obligations is an offence and penalties may apply.

Additionally, Blue Card Services is notified daily by the Queensland Police Service of relevant changes to certain information relating to a blue card applicant or blue card holder.

This can include where:

- the person's criminal history has changed;
- the Police Commissioner decides that information about the person is investigative information; or
- the person becomes a relevant disqualified person.

If the person has a blue card at the time of the notification and the change in police information is considered to be relevant to the child-related activities, the employer will be notified. Blue Card Services will also undertake a further assessment of the person's blue card status as outlined above.

5.1.2 Action taken by Blue Card Services

The following tables outline what will occur where Blue Card Services receives information that a person has had a change in their police information.

Status	Relevant change	Impact	Other relevant information
Blue card applicant	The applicant: <ul style="list-style-type: none"> • is charged with a <i>disqualifying offence</i> • is named as a respondent in an application for an child protection offender prohibition order and the proceeding has not ended; or • becomes subject to a temporary offender prohibition order or interim sexual offender order 	<ul style="list-style-type: none"> • The applicant is deemed to have withdrawn their consent to employment screening and their blue card application will be discontinued. • A withdrawal notice will be issued to the applicant and any relevant regulated organisation or governing body. • The person is prohibited from providing regulated services. 	<ul style="list-style-type: none"> • There is no right of review to the Queensland Civil and Administrative Tribunal in relation to the withdrawal.
	The applicant becomes a relevant disqualified person	<ul style="list-style-type: none"> • A mandatory negative notice will be issued. 	<ul style="list-style-type: none"> • There is no right of review to the Queensland Civil and Administrative Tribunal in relation to the issue of a negative notice.
	The applicant is charged or convicted of an offence other than a <i>disqualifying offence</i>	<ul style="list-style-type: none"> • If the change is considered to be relevant to child-related activities written notice will be provided, as necessary, to any relevant regulated organisation or governing body about the change as provided for under the Act. • Blue Card Services will continue to make a decision about the person's eligibility to be issued with a blue card in accordance with section 4.2. 	<ul style="list-style-type: none"> • A person, other than a disqualified person, can apply to the Queensland Civil and Administrative Tribunal in relation to the issue of a negative notice.

Status	Relevant change	Impact	Other relevant information
Blue card holder	The blue card holder is charged with a <i>disqualifying offence</i> ; or becomes subject to a temporary child protection offender prohibition order; or becomes subject to an interim sexual offender order	<ul style="list-style-type: none"> • The blue card is immediately suspended. • A suspension notice will be issued to the applicant and any relevant regulated organisation or governing body. • The person is prohibited from providing regulated services. • Blue Card Services will reassess the person's eligibility to hold a blue card and issue a further positive notice and blue card or a negative notice. • Blue Card Services is not required to undertake a reassessment while: <ul style="list-style-type: none"> - the charge remains pending; or - the temporary child protection offender prohibition order is in place; or - the interim sexual offender order is in place; or - there are outstanding appeal rights, or ongoing appeals, in relation to a conviction, the making of a child protection offender prohibition order or the making of a sexual offender order. 	<ul style="list-style-type: none"> • A person can request cancellation of their blue card if it has been suspended. • The person is prohibited from providing regulated services. • A person, other than a disqualified person, can apply to the Queensland Civil and Administrative Tribunal in relation to the issue of a negative notice.
	The blue card holder becomes a relevant disqualified person	<ul style="list-style-type: none"> • The blue card is immediately cancelled and a mandatory negative notice is issued. • The applicant and any relevant regulated organisation or governing body will be notified of the cancellation and issue of a negative notice. • The person is prohibited from providing regulated services. 	<ul style="list-style-type: none"> • There is no right of review to the Queensland Civil and Administrative Tribunal in relation to the issue of the negative notice.
	The blue card holder is charged or convicted of an offence other than a <i>disqualifying offence</i>	<ul style="list-style-type: none"> • If the change is considered to be relevant to child-related activities written notice will be provided, as necessary, to any relevant regulated organisation or governing body about the change as provided for under the Act. • Blue Card Services will reassess the person's eligibility to hold a blue card in accordance with section 4.2 and issue a further positive notice and blue card or a negative notice. • The applicant and any relevant regulated organisation or governing body will be notified of the outcome of the reassessment. 	<ul style="list-style-type: none"> • A person, other than a disqualified person, can apply to the Queensland Civil and Administrative Tribunal in relation to the decision in relation to the issue of a negative notice.

5.2 Other information

Blue Card Services may receive additional information about a blue card holder which impacts on the person's eligibility to continue to hold a blue card, for example, disciplinary information or information which indicates that the decision to issue a positive notice and blue card was based on wrong or incomplete information.

Blue Card Services will reassess a person's eligibility to continue to hold a blue card in accordance with section 4.2 and issue a further positive notice and blue card or a negative notice.

A person, other than a disqualified person, can apply to the Queensland Civil and Administrative Tribunal in relation to the decision to issue a negative notice.

6 Applications to cancel a negative notice

Generally, a person may not apply for a negative notice to be cancelled until a period of two years has expired. A relevant disqualified person cannot apply for the cancellation of a negative notice.

However, a person may apply before the two year period has expired if the negative notice was issued on wrong or incomplete information, or on the basis that the applicant was a relevant disqualified person and they are no longer a relevant disqualified person.

Additionally, a negative notice can be cancelled if the decision maker is satisfied that it is appropriate to do so having regard to information which was not known to Blue Card Services at the time the negative notice was issued.

After deciding to cancel a negative notice, a positive notice and blue card must be issued unless there is new police or disciplinary information which was not known at the time the negative notice was cancelled, in which case a negative notice must be issued unless it is an exceptional case.

A person, other than a disqualified person, can apply to the Queensland Civil and Administrative Tribunal for a review of a decision to refuse to cancel a negative notice.

7 Information Privacy

7.1 The Queensland Privacy Scheme

The *Information Privacy Act 2009* ("IP Act") contains 11 Information Privacy Principles which requires Blue Card Services to responsibly manage the collection, use, storage and disclosure of 'personal information'.

Personal information is defined as:

"information or an opinion (including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion."

7.2 Information about an applicant

When a person makes a blue card application they consent to Blue Card Services gathering information about them in order to assess their eligibility to provide regulated services.

Personal information supplied on a blue card application form or eligibility application form is provided to police services and may also be provided to courts, state reporting entities and prosecuting authorities throughout Australia in order to obtain police information and material associated with the police information.

This information may also be supplied to certain professional bodies in order to obtain disciplinary information.

In certain circumstances, applicants may be requested to provide consent to undergo an examination by a registered health practitioner, and/or for a report or information about the person's mental health to be obtained from registered health practitioners, the Mental Health Court or Mental Health Review Tribunal, to assist in assessing an application. Personal information may be provided to these persons, courts or tribunals in order to obtain information and material about the person.

Only Blue Card Services staff have access to the personal information records of individuals who are applying for a blue card or eligibility declaration. Personal information records of individuals may also be disclosed to the DJAG's Director-General, Deputy Director-General, (Justice Services) or the Executive Director (Community Justice Services) for decision-making purposes. In certain circumstances personal information can also be provided to Queensland Police Service, the Attorney-General or the Premier.

Information may also be provided to:

- the Queensland Civil and Administrative Tribunal in circumstances where an applicant applies for a review of a blue card decision,
- appropriate higher courts or the Queensland Civil and Administrative Tribunal Appeal Tribunal in the event of subsequent appeals against decisions of the Queensland Civil and Administrative Tribunal, or a Magistrates Court in the event of an appeal about a decision to provide investigative information to Blue Card Services.

A regulated organisation or governing body is notified of the outcome of the person's blue card application, but any personal, police or disciplinary information is kept confidential. However, limited information may be provided in accordance with the Act to a regulated organisation or governing body about a relevant change in police information, for example, if the person has been charged or convicted of a serious offence.

The Act imposes penalties for Blue Card Services staff who unlawfully disclose personal information about a person, unless the disclosure is permitted under the Act.

In the event that it is proposed to issue a negative notice or refuse an eligibility declaration to a person, the Act requires that the applicant be provided with a copy of the information on which the preliminary decision is based. The individual is also invited to make a written or oral submission about the information and about why they should not be issued with a negative notice or refused an eligibility declaration.

Individuals can obtain further information regarding access to their personal information by contacting the Department of Justice and the Attorney-General's Right to Information and Privacy Unit (07 3227 7618).

8 More information

More information about the blue card system or screening requirements can be obtained from the Blue Card Services website at www.bluecard.qld.gov.au or by calling us on (07) 3211 6999, or 1800 113 611.

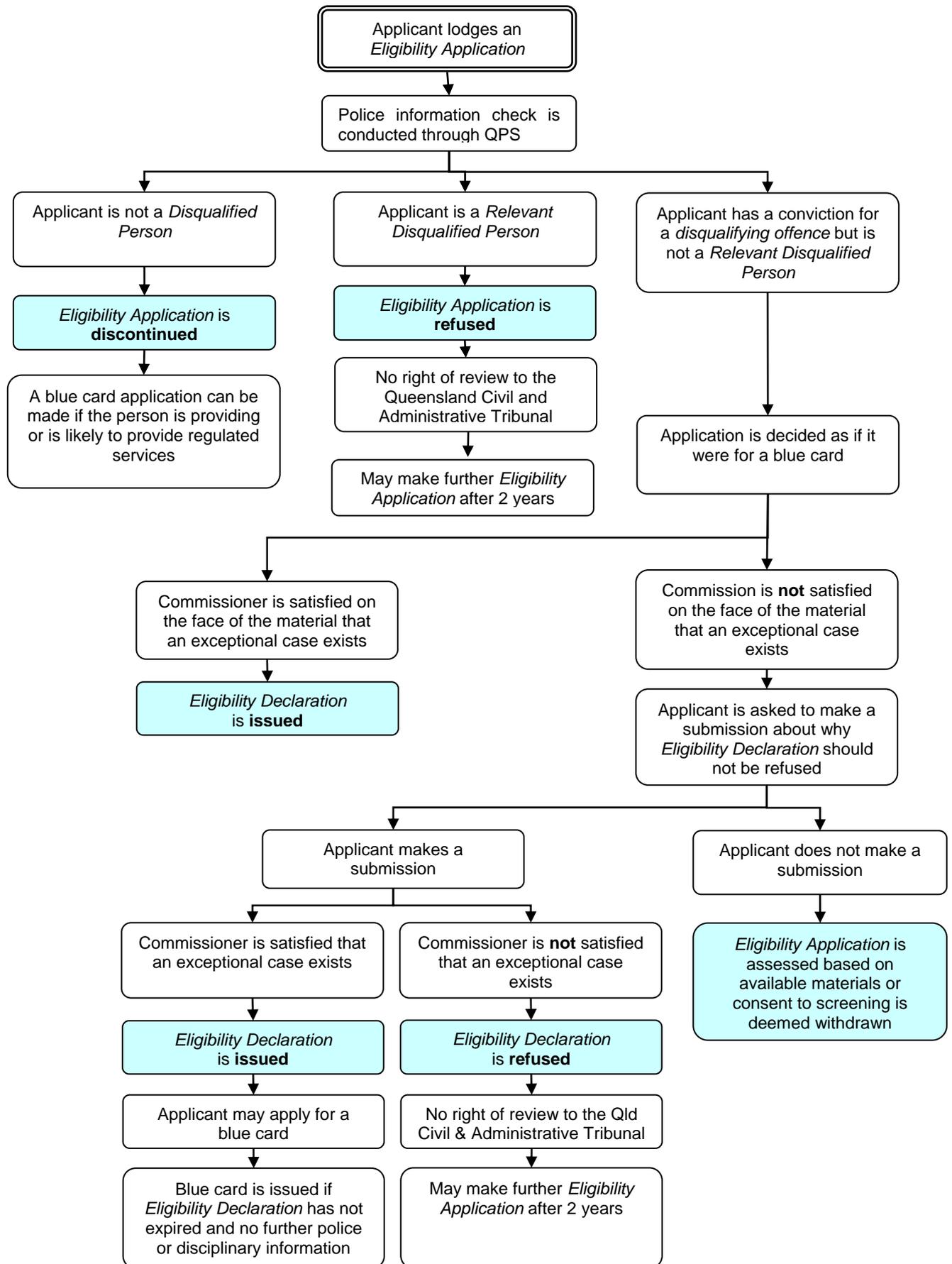
The address of Blue Card Services is:

53 Albert Street
Brisbane
Queensland 4000

The mailing address of Blue Card Services is:

PO Box 12671
Brisbane George Street
Queensland 4003

Appendix 1 – Eligibility Application Assessment Flow Chart



Appendix 2 – Serious offences

Section 167 of the *Working with Children (Risk Management and Screening) Act 2000* defines a “serious offence” and is extracted as follows:

167 What is a serious offence

- (1) A **serious offence** is—
- (a) an offence against a provision of an Act mentioned in schedule 2 or 3, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
 - (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
 - (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
 - (d) an offence that has, as an element, an intention to commit an offence of a kind mentioned in paragraph (a); or
 - (e) an offence that, at the time it was committed, was an offence of a kind mentioned in paragraph (a); or
 - (f) another offence that is a class 1 offence or a class 2 offence under the Offender Reporting Act that is not otherwise a serious offence under this Act; or
 - (g) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (f).

Note—

Column 2 in schedules 2 and 3 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

- (2) For this section, it is immaterial if a provision mentioned in schedule 2 or 3, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

Schedule 2 – Current serious offences

Classification of Computer Games and Images Act 1995

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	—
26(3)	Possession of objectionable computer game	—
27(3) and (4)	Making objectionable computer game	—
28	Obtaining minor for objectionable computer game	—

Classification of Films Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
41(3)	Possession of objectionable film	—
42 (3) and (4)	Making objectionable film	—
43	Procurement of minor for objectionable film	—

Classification of Publications Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
12	Sale etc. of prohibited publication or child abuse photograph	only if an offender was or could have been liable as mentioned in section 12, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)
13	Possession of prohibited publication	only if an offender was or could have been liable as mentioned in section 13, penalty, paragraph (c) (ie. only if it relates to a child abuse publication)
14	Possession of child abuse publication or child abuse photograph	—
15	Exhibition or display of prohibited publication or child abuse photograph	—
16	Leaving prohibited publication or child abuse photograph in or on public place	only if an offender was or could have been liable as mentioned in section 16, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)
17(1)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(1), penalty, paragraph (c) (ie. only if it relates to a child abuse publication)
17(2)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(2), penalty, paragraph (c) (ie. only if it relates to a child abuse publication)
17(3) and (4)	Producing prohibited publication	—
18	Procurement of minor for RC publication or child abuse photograph	—
20	Leaving prohibited publication or child abuse photograph in or on private premises	only if an offender was or could have been liable as mentioned in section 20, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	—
210	Indecent treatment of children under 16	—
211	Bestiality	—
213	Owner etc. permitting abuse of children on premises	—
215	Carnal knowledge with or of children under 16	—
216	Abuse of persons with an impairment of the mind	—
217	Procuring young person etc. for carnal knowledge	—

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
218	Procuring sexual acts by coercion etc.	—
218A	Using internet etc to procure children under 16	—
218B	Grooming children under 16	—
219	Taking child for immoral purposes	—
221	Conspiracy to defile	—
222	Incest	—
228	Obscene publications and exhibitions	only if an offender was or could have been liable as mentioned in section 228(2) or (3) (ie. only if the person depicted or appearing in the exhibition is or is represented to be under 16 years)
228A	Involving child in making child exploitation material	—
228B	Making child exploitation material	—
228C	Distributing child exploitation material	—
228D	Possessing child exploitation material	—
229B	Maintaining a sexual relationship with a child	—
229G	Procuring engagement in prostitution	only if an offender was or could have been liable as mentioned in section 229G(2) (ie. only if the procured person is a child or an intellectually impaired person)
229H	Knowingly participating in provision of prostitution	only if an offender was or could have been liable as mentioned in section 229H(2) (ie. only if the person engaged in the provision of prostitution is a child or an intellectually impaired person)
229I	Persons found in places reasonably suspected of being used for prostitution etc.	only if an offender was or could have been liable as mentioned in section 229I(2) (ie. only if a child or an intellectually impaired person is in the place at the time of the offence)
229L	Permitting young person etc. to be at place used for prostitution	—
300	Unlawful homicide	only if the unlawful killing is murder under section 302
306	Attempt to murder	—
309	Conspiring to murder	—
313	Killing unborn child	—
315	Disabling in order to commit indictable offence	—
316	Stupefying in order to commit indictable offence	—
317	Acts intended to cause grievous bodily harm and other malicious acts	—

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
320A	Torture	—
322	Administering poison with intent to harm	only if an offender was or could have been liable for a penalty as mentioned in section 322, penalty, paragraph (a) (i.e if the poison or other noxious thing endangers the life of, or does grievous bodily harm to, the person to whom it is administered or by whom it is taken – 14 years imprisonment)
323A	Female genital mutilation	—
323B	Removal of child from State for female genital mutilation	—
324	Failure to supply necessaries	—
326	Endangering life of children by exposure	—
349	Rape	—
350	Attempt to commit rape	—
351	Assault with intent to commit rape	—
352	Sexual assaults	—
354	Kidnapping	—
354A	Kidnapping for ransom	—
363	Child-stealing	—
363A	Abduction of child under 16	—
364	Cruelty to children under 16	—
409	Definition of <i>robbery</i>	only if an offender was or could have been liable as mentioned in section 411(2) (ie. only if the offender is or pretends to be armed or in company or uses personal violence)
419	Burglary	only if an offender was or could have been liable as mentioned in section 419(3)(b)(i) or (ii) (ie. only if the offender uses or threatens to use actual violence or is or pretends to be armed)
427	Unlawful entry of vehicle for committing indictable offence	only if an offender was or could have been liable as mentioned in section 427(2)(b)(i) or (ii) (ie. only if the offender uses or threatens to use actual violence or is or pretends to be armed)

Drugs Misuse Act 1986

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
5	Trafficking in dangerous drugs	—
6	Supplying dangerous drugs	Only if the offence is one of aggravated supply as mentioned in section 6(2) (ie. only if the offender is an adult and the person to whom supply is made is a child, an intellectually impaired person, within an educational or correctional institution, or does not know they are being supplied)
8	Producing dangerous drugs	Only if an offender was or could have been liable for a penalty as mentioned in section 8, penalty, paragraph (a) or (b) (ie. only if the offender produces a drug in Schedule 1 of the <i>Drugs Misuse Regulation 1987</i> in excess of the Schedule 3 quantity)
9D	Trafficking in relevant substances or things	—

Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8 (ie. only if committed against a child)
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8 (ie. only if committed against a child)
272.8	Sexual intercourse with child outside Australia	
272.9	Sexual activity (other than sexual intercourse) with child outside Australia	—
272.10	Aggravated offence - child with mental impairment or under care, supervision or authority of defendant	—
272.11	Persistent sexual abuse of child outside Australia	—
272.12	Sexual intercourse with young person outside Australia - defendant in position of trust or authority	—
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia - defendant in position of trust or authority	—
272.14	Procuring child to engage in sexual activity outside Australia	—
272.15	"Grooming" child to engage in sexual activity outside Australia	—
272.18	Benefiting from offence against this Division	—
272.19	Encouraging offence against this Division	—
272.20	Preparing for or planning offence against this Division	—

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia	—
273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia	—
273.7	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people	—
471.16	Using a postal or similar service for child pornography material	—
471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service	—
471.19	Using a postal or similar service for child abuse material	—
471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service	—
471.22	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people	—
471.24	Using a postal or similar service to procure persons under 16	—
471.25	Using a postal or similar service to "groom" persons under 16	—
471.26	Using a postal or similar service to send indecent material to person under 16	—
474.19	Using a carriage service for child pornography material	—
474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	—
474.22	Using a carriage service for child abuse material	—
474.23	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service	—
474.24A	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people	—
474.25A	Using a carriage service for sexual activity with person under 16 years of age	—
474.25B	Aggravated offence - child with mental impairment or under care, supervision or authority of defendant	—
474.26	Using a carriage service to procure persons under 16 years of age	—
474.27	Using a carriage service to "groom" persons under 16 years of age	—
474.27A	Using a carriage service to transmit Indecent communication to person under 16 years of age	—

Customs Act 1901 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
233BAB	Special offence relating to tier 2 goods	If the offence involved child pornography or child abuse material

Schedule 3 – Repealed or expired serious offences

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
212	Defilement of Girls under Twelve	As the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
214	Attempt to Abuse Girls under Ten	As the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
218A	Using internet etc to procure children under 16	As the provision was in force from time to time before its repeal by the <i>Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013</i>
220	Unlawful Detention with Intent to Defile or in a Brothel	As the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
223	Incest by adult female	As the provision was in force from time to time before its repeal by the <i>Criminal Law Amendment Act 1997</i>
325	Endangering life or health of apprentices or servants	As the provision was in force from time to time before its repeal by the <i>Training and Employment Act 2000</i>
344	Aggravated assaults	As the provision was in force from 20 December 1946 to 30 June 1997 if – (a) the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined in the <i>Criminal Law Amendment Act 1945</i> , section 2A.

Crimes Act 1914 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	As the provision was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>
50BB	Inducing child under 16 to engage in sexual intercourse	As the provision was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BC	Sexual conduct involving child under 16	As the provision was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	As the provision was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DA	Benefiting from offence against this Part	As the provision was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DB	Encouraging offence against this Part	As the provision was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)

Appendix 3 – Disqualifying offences

Section 168 of the *Working with Children (Risk Management and Screening) Act 2000* defines a “disqualifying offence” and is extracted as follows:

168 What is a *disqualifying offence*

- (1) A **disqualifying offence** is—
- (a) an offence against a provision of an Act mentioned in schedule 4 or 5, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
 - (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
 - (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
 - (d) an offence that has, as an element, intention to commit an offence of a kind mentioned in paragraph (a); or
 - (e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or
 - (f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (e).

Note—

Column 2 in schedules 4 and 5 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

- (2) For this section, it is immaterial if a provision mentioned in schedule 4 or 5, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

Schedule 4 – Current disqualifying offences

Classification of Computer Games and Images Act 1995

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	—
26(3)	Possession of objectionable computer game	—
27(3) and (4)	Making objectionable computer game	—
28	Obtaining minor for objectionable computer game	—

Classification of Films Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
41(3)	Possession of objectionable film	—
42 (3) and (4)	Making objectionable film	—
43	Procurement of minor for objectionable film	—

Classification of Publications Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
12	Sale etc. of prohibited publication or child abuse photograph	only if an offender was or could have been liable as mentioned in section 12, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)
13	Possession of prohibited publication	only if an offender was or could have been liable as mentioned in section 13, penalty, paragraph (c) (ie. only if it relates to a child abuse publication)
14	Possession of child abuse publication or child abuse photograph	—
15	Exhibition or display of prohibited publication or child abuse photograph	Only if an offender was or could have been liable as mentioned in section 15, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)
16	Leaving prohibited publication or child abuse photograph in or on public place	only if an offender was or could have been liable as mentioned in section 16, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)
17(1)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(1), penalty paragraph (c) (ie. only if it relates to a child abuse publication)
17(2)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(2), penalty, paragraph (c) (ie. only if it relates to a child abuse publication)
17(3) and (4)	Producing prohibited publication	—
18	Procurement of minor for RC publication or child abuse photograph	—
20	Leaving prohibited publication or child abuse photograph in or on private premises	only if an offender was or could have been liable as mentioned in section 20, penalty, paragraph (c) (ie. only if it relates to a child abuse publication or child abuse photograph)

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	For an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
210	Indecent treatment of children under 16	—
213	Owner etc. permitting abuse of children on premises	—
215	Carnal knowledge with or of children under 16	—
216	Abuse of persons with an impairment of the mind	
217	Procuring young person etc. for carnal	

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
	knowledge	
218	Procuring sexual acts by coercion etc.	if the offence was committed against a child
218A	Using internet etc to procure children under 16	—
218B	Grooming children under 16	—
219	Taking child for immoral purposes	—
221	Conspiracy to defile	if the offence was committed against a child
222	Incest	if the offence was committed against a child
228	Obscene publications and exhibitions	only if an offender was or could have been liable as mentioned in section 228(2) or (3) (ie. only if the person depicted or appearing in the exhibition is or is represented to be under 16 years)
228A	Involving child in making child exploitation material	—
228B	Making child exploitation material	—
228C	Distributing child exploitation material	—
228D	Possessing child exploitation material	—
229B	Maintaining a sexual relationship with a child	—
229G	Procuring engagement in prostitution	only if an offender was or could have been liable as mentioned in section 229G(2) (ie. only if the procured person is a child or an intellectually impaired person)
229H	Knowingly participating in provision of prostitution	only if an offender was or could have been liable as mentioned in section 229H(2) (ie. only if the person engaged in the provision of prostitution is a child or an intellectually impaired person)
229I	Persons found in places reasonably suspected of being used for prostitution etc.	only if an offender was or could have been liable as mentioned in section 229I(2) (ie. only if a child or intellectually impaired person is in the place at time of the offence)
229L	Permitting young person etc. to be at place used for prostitution	—
300	Unlawful homicide	only if the unlawful killing is murder under section 302 and was committed against a child
349	Rape	if the offence was committed against a child
350	Attempt to commit rape	if the offence was committed against a child
351	Assault with intent to commit rape	if the offence was committed against a

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
		child
352	Sexual assaults	if the offence was committed against a child

Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8 (ie. only if committed against a child)
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8 (ie. only if committed against a child)
272.8	Sexual intercourse with child outside Australia	—
272.9	Sexual activity (other than sexual intercourse) with child outside Australia	—
272.10	Aggravated offence - child with mental impairment or under care, supervision or authority of defendant	—
272.11	Persistent sexual abuse of child outside Australia	—
272.12	Sexual intercourse with young person outside Australia - defendant in position of trust or authority	—
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia - defendant in position of trust or authority	—
272.14	Procuring child to engage in sexual activity outside Australia	—
272.15	"Grooming" child to engage in sexual activity outside Australia	—
272.18	Benefiting from offence against this Division	—
272.19	Encouraging offence against this Division	—
272.20	Preparing for or planning offence against this Division	—
273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia	—
273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia	—
273.7	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people	—
471.16	Using a postal or similar service for child pornography material	—
471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service	—
471.19	Using a postal or similar service for child	—

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
	abuse material	
471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service	—
471.22	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people	—
471.24	Using a postal or similar service to procure persons under 16	—
471.25	Using a postal or similar service to "groom" persons under 16	—
471.26	Using a postal or similar service to send indecent material to person under 16	—
474.19	Using a carriage service for child pornography material	—
474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	—
474.22	Using a carriage service for child abuse material	—
474.23	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service	—
474.24A	Aggravated offence - offence involving conduct on 3 or more occasions and 2 or more people	—
474.25A	Using a carriage service for sexual activity with person under 16 years of age	—
474.25B	Aggravated offence -child with mental impairment or under care, supervision or authority of defendant	—
474.26	Using a carriage service to procure persons under 16 years of age	—
474.27	Using a carriage service to "groom" persons under 16 years of age	—
474.27A	Using a carriage service to transmit indecent communication to person under 16 years of age	—

Customs Act 1901 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
233BAB	Special offences relating to tier 2 goods	if the offence involved child pornography or child abuse material

Schedule 5 – Repealed or expired disqualifying offences

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
212	Defilement of Girls under Twelve	As the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
214	Attempt to Abuse Girls under Ten	As the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
218A	Using internet etc to procure children under 16	As the provision was in force from time to time before its repeal by the <i>Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013</i>
220	Unlawful Detention with Intent to Defile or in a Brothel	As the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i> only if, at the time of the offence, the person in relation to whom the offence was committed was a child
223	Incest by adult female	As the provision was in force from time to time before its repeal by the <i>Criminal Law Amendment Act 1997</i> only if, at the time of the offence, the person in relation to whom the offence was committed was a child
344	Aggravated assaults	As the provision was in force from 20 December 1946 to 30 June 1997 if – (b) the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined in the <i>Criminal Law Amendment Act 1945</i> , section 2A; and (c) at the time of the offence, the person in relation to whom the offence was committed was a child

Crimes Act 1914 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	As the provisions was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>
50BB	Inducing child under 16 to engage in sexual intercourse	As the provisions was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BC	Sexual conduct involving child under 16	As the provisions was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	As the provisions was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DA	Benefiting from offence against this Part	As the provisions was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DB	Encouraging offence against this Part	As the provisions was in force from time to time before its repeal by the <i>Crimes Legislations Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)

Appendix 4 – Child-related offences

Child-related offences include offences or alleged offences under any Act which:

- (a) involve a child, directly or indirectly; or
- (b) are directed at a child; or
- (c) are committed in the presence of a child; or
- (d) are committed in circumstances where a child was likely to become involved or be present.

Categories of child-related offences	Examples
Offences involving a child – directly or indirectly	Excessive discipline of a child resulting in injuries
Offences directed at a child	Wilful exposure to a particular child
Offences committed in the presence of a child	Violence against a spouse, which was witnessed by a child
Offences committed in circumstances where a child was likely to become involved or be present	Wilful exposure in the vicinity of a school, even if not directed toward a particular child
Like offences of other jurisdictions: An offence under any Act, which if it was an offence in Queensland, would be classified as a child-related offence.	An offence of violence against a spouse which was committed in another State and witnessed by a child.

Appendix 5 – Other offences impacting upon eligibility

Other offences impacting upon eligibility include offences committed under any Act which are:

- (a) offences of harm and violence, actual or threatened; or
- (b) offences which breach community standards of decent and appropriate behaviour; or
- (c) any other offence which impacts upon a person's eligibility to hold a blue card.

Categories of other offences impacting upon eligibility	Examples
<p>Offences of harm – actual or threatened</p> <ul style="list-style-type: none"> • An offence of actual violence where a significant injury was sustained by a complainant. • An offence, other than an offence of actual violence, where a significant physical injury was sustained by any party. • An offence of actual or threatened personal violence, where a weapon was involved. • An offence of actual or threatened personal violence, where more than one offender was involved. • An offence, the circumstances of which have an overtone of a sexual or violent nature 	<ul style="list-style-type: none"> • A violent assault in a domestic violence context where the complainant was seriously injured. • An offence of going armed in public, where a person sustained significant injury as a result of taking steps to avoid the applicant. • An offence of wounding in which a knife was used. • An offence of assault occasioning bodily harm whilst in company. • The making of unwanted phone calls which involved sexually explicit suggestions, or threats to injure. • An offence involving persistent stalking of another person over a period of time which included behaviour such as threats, intimidation or unwanted sexual advances.
<p>Offences of indecency</p> <ul style="list-style-type: none"> • An offence, the circumstances of which breach community standards of decency or appropriateness. 	<ul style="list-style-type: none"> • An offence involving masturbating at a school or other place in view of others.

Categories of other offences impacting upon eligibility	Examples
<p>Offences affecting eligibility</p> <ul style="list-style-type: none"> An offence, the circumstances of which affect the applicant's eligibility to hold a blue card. 	<ul style="list-style-type: none"> A series of offences which demonstrate a pattern of continuing or escalating behaviour of concern. A recent significant violent or drug-related offence. Dangerous conduct with a weapon, such as reckless behaviour with a loaded firearm in a public place. Involvement in the large scale manufacture and/or sale of drugs.
<p>Like offences of other jurisdictions</p> <ul style="list-style-type: none"> An offence under any Act, which if it was an offence in Queensland, would be classified as other offences which impact upon eligibility to hold a blue card. 	<ul style="list-style-type: none"> A violent assault committed in another State.

Appendix 6 – Investigative Information

Section 305 of the *Working with Children (Risk Management and Screening) Act 2000* defines “investigative information” and is extracted as follows:

Information will be “investigative information” if:

- (a) there is or was evidence of acts or omissions that, at the time of the acts or omissions, constituted a schedule 6 or schedule 6A offence (*the alleged offence*) by the investigated person against a person (the complainant); and
- (b) the police investigated the alleged offence and the investigated person was formally notified about the investigation, including—
 - (i) by participating in an interview, or by being asked to participate in an interview, about the alleged offence; or
 - (ii) by otherwise being given an opportunity to answer allegations about the alleged offence; and
- (c) there was sufficient evidence available that was capable of establishing each element of the alleged offence but a decision was made not to charge the alleged offender because—
 - (i) the complainant died before the charge was brought; or
 - (ii) either or both of the following applied—
 - (A) the complainant was unwilling to proceed;
 - (B) an adult who, at the relevant time, was the complainant’s parent or guardian decided that, in the interests of the complainant, the matter should not proceed.

A “schedule 6 or 6A offence” is defined in section 305(3) as follows:

- (3) For this section, a *schedule 6 or 6A offence* is –
 - (a) an offence against a provision of an Act mentioned in schedule 6 or 6A, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
 - (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
 - (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
 - (d) an offence that has, as an element, intention to commit an offence of a kind mentioned in paragraph (a);
 - (e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or
 - (f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a), (b), (c), (d) or (e).
- (4) For subsection (3), it is immaterial if a provision mentioned in schedule 6 or 6Ak, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

Schedule 6 – Offence that may form the basis of investigative information

Classification of Computer Games and Images Act 1995

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	—

28	Obtaining minor for objectionable computer game	—
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Classification of Films Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
43	Procurement of minor for objectionable film	—

Classification of Publications Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
18	Procurement of minor for RC publication or child abuse photograph	—

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	For an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
210	Indecent treatment of children under 16	—
213	Owner etc. permitting abuse of children on premises	—
215	Carnal knowledge with or of children under 16	—
216	Abuse of persons with an impairment of the mind	—
217	Procuring young person etc. for carnal knowledge	—
218	Procuring sexual acts by coercion etc.	If the offence was committed against a child or a person with a disability—
218B	Grooming children under 16	—
219	Taking child for immoral purposes	—
221	Conspiracy to defile	If the offence was committed against a child or a person with a disability—
222	Incest	If the offence was committed against a child or a person with a disability
228A	Involving child in making child exploitation material	—
229B	Maintaining a sexual relationship with a child	—
229G	Procuring engagement in prostitution	only if an offender was or could have been liable as mentioned in section 229G(2) (ie. only if the procured person is a child or an intellectually impaired person)
229H	Knowingly participating in provision of prostitution	only if an offender was or could have been liable as mentioned in section

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
		229H(2) (ie. only if the person engaged in the provision of prostitution is a child or an intellectually impaired person)
229L	Permitting young person etc. to be at place used for prostitution	—
300	Unlawful homicide	only if the unlawful killing is murder under section 302 and was committed against a child or a person with a disability
349	Rape	If the offence was committed against a child or a person with a disability
350	Attempt to commit rape	If the offence was committed against a child or a person with a disability
351	Assault with intent to commit rape	If the offence was committed against a child or a person with a disability
352	Sexual assaults	If the offence was committed against a child or a person with a disability

Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence was committed against a child or a person with a disability
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence was committed against a child or a person with a disability
272.8	Sexual intercourse with child outside Australia	—
272.9	Sexual activity (other than sexual intercourse) with child outside Australia	—
272.10	Aggravated offence-child with mental impairment or under care, supervision or authority of defendant	—
272.11	Persistent sexual abuse of child outside Australia	—
272.12	Sexual intercourse with young person outside Australia defendant in position of trust or authority	—
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia defendant in position of trust or authority	—
272.14	Procuring child to engage in sexual activity outside Australia	—
272.15	"Grooming" child to engage in sexual activity outside Australia	—

Schedule 6A – Repealed or expired offences that may form basis of investigative information

Crimes Act 1914 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	As the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>
50BB	Inducing child under 16 to engage in sexual intercourse	As the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>
50BC	Sexual conduct involving child under 16	As the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>
50BD	Inducing child under 16 to be involved in sexual conduct	As the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010 (Cwlth)</i>

Appendix 7 - Dictionary

Assessable information includes:

- any conviction for an offence (including spent convictions and regardless of whether or not a conviction was recorded);
- any charge for an offence;
- investigative information provided by Queensland Police Service in relation to *disqualifying offences* where a charge was not laid because the child was unwilling or unable to proceed;
- whether a person has previously been a relevant disqualified person;
- disciplinary information held by professional organisations for:
 - teachers;
 - education and care service providers;
 - foster carers; and
 - certain health practitioners.

Blue card is the plastic card that is issued by Blue Card Services once any assessable information about a person has been considered and it has been determined that the person is eligible to work with children.

Blue card application means an application made under section 199 or 211 of the Act for the blue card.

Charge of an offence, means a charge in any form, including, for example, the following:

- a charge on an arrest;
- a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;
- a complaint under the *Justices Act 1886*;
- a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act; and
- an indictment.

Child protection offender prohibition order is an offender prohibition order made under the *Child Protection (Offender Prohibition Order) Act 2008*.

Child protection risk management strategy is a written document which regulated organisations are required to develop and implement each year. The purpose of a child protection risk management strategy is to identify and assess possible sources of harm, and take steps to decrease or prevent it from occurring. It must include evidence of procedures, processes and documents which show an organisation's commitment to maintaining the safety and wellbeing of children and young people. The full requirements of child protection risk management strategies can be accessed on the Blue Card Services website.

Conviction means a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

Criminal history means:

- every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of the Act; and
- every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of the Act.

Disciplinary information means information received by Blue Card Services under any of the following:

- under the repealed *Child Care Act 2002*, sections 50A or 107A;
- under the *Education and Care Services Act 2013*, section 91 or 200;
- under the *Education and Care Services National Law (Queensland) Act 2011*, section 20 or 21;
- under the *Education and Care Services National Law*, section 271;
- under the *Child Protection Act 1999*, section 140A;
- under the *Education (Queensland College of Teachers) Act 2005*, section 285 or the repealed *Education (Teacher Registration) Act 1998*, section 71B;
- under the *Education (Queensland College of Teachers) Act 2005*, section 285A in relation to a matter mentioned in subsection (1)(a)(ii) to (v) of that section; or
- under the *Health Practitioners (Disciplinary Proceedings) Act 1999*, repealed section 384A.

Disqualifying offence is an offence against a provision of an Act mentioned in schedule 4 or 5, column 1 of the Act, subject to any qualification relating to the provision mentioned opposite in column 3. These offences are listed in Appendix 3.

Disqualification order means a disqualification order under section 357 of the Act or a disqualification order made under section 25 of the *Child Protection (Offender Prohibition Order) Act 2008*.

Disqualified person is defined in section 2.1 of these guidelines.

Eligibility application is an application made under section 178 of the Act for an eligibility declaration.

Eligibility declaration is a declaration made under section 180 of the Act that the person is not a disqualified person and is eligible to apply for a blue card.

Imprisonment is the penalty for an offence that includes imprisonment (including a wholly or partially suspended term of imprisonment) or an intensive correction order. It does not, however, include an order of imprisonment which was imposed as a consequence for a breach of a community based order.

Investigative information is information gathered by the Queensland Police Service as part of an investigation into particular child-related offences. For more information, and a list of relevant offences, see Appendix 6.

Negative notice is the notice issued by Blue Card Services prohibiting a person from engaging in or providing regulated services.

Police information about a person means:

- the person's criminal history;
- investigative information about the person;
- information as to whether the person is or has been a relevant disqualified person;
- information as to whether the person is or has been the subject of an application for a disqualification order; and
- information as to whether the person is or has been named as a respondent to an application for a child protection offender prohibition order.

Positive notice is the letter provided to a person that notifies them of their eligibility to work with children and encloses their blue card.

Regulated business is the carrying on of a business of a type mentioned in schedule 1,

part 2 of the Act.

Regulated employment is employment of the type mentioned in schedule 1, part 1 of the Act

Relevant disqualified person is a person who:

- has been convicted of a disqualifying offence and sentenced to imprisonment (including wholly or partially suspended sentences or intensive correction orders); or
- is subject to a child protection offender prohibition order; or
- is subject to a disqualification order made by a Court; or
- is a reportable offender with current reporting obligations; or
- is subject to a sexual offender order.

Reportable offender is someone who is subject to reporting obligations under the *Child Protection (Offender Reporting) Act 2004*.

Regulated organisations are organisations which:

- carry on a regulated business, and/or
- engage persons in regulated employment.

Regulated services is a service regulated by the Act as regulated employment or regulated business.

Serious offence is defined by section 167 of the Act. These offences are listed in Appendix 2.