



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
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SOCIAL POLICY SCRUTINY COMMITTEE

Public Briefing Transcript
Teacher Registration (Northern Territory) Legislation Amendment Bill 2019

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Litchfield Room, Level 3, Parliament House, Darwin

Members: Ms Ngaree Ah Kit MLA, Chair, Member for Karama
Mrs Robyn Lambley MLA, Deputy Chair, Member for Araluen
Mrs Lia Finocchiaro MLA, Member for Spillett
Ms Sandra Nelson MLA, Member for Katherine

Witnesses: Maree Garrigan: Director, Teacher Registration Board of the Northern Territory
Amy Ireland: Senior Manager Legislation Services, Strategic Service, Department of Education

**TEACHER REGISTRATION (NORTHERN TERRITORY) LEGISLATION AMENDMENT BILL
2019**

**Teacher Registration Board of the Northern Territory
Department of Education**

Madam CHAIR: Good afternoon, everyone, thank you for joining us. I am Ngaree Ah Kit, the Member for Karama and Chair of the Social Policy Scrutiny Committee.

On behalf of the committee I welcome everyone to this public briefing into the Teacher Registration (Northern Territory) Legislation Amendment Bill 2019. I acknowledge that this public briefing is being held on the land of the Larrakia people and I pay my respects to Larrakia elders past, present and emerging. I also acknowledge my fellow committee members in attendance today: Deputy Chair, Robyn Lambley, Member for Araluen; Sandra Nelson, Member for Katherine on the line; and Lia Finocchiaro, Member for Spillett.

I welcome to the table to give evidence to the committee Maree Garrigan, Director, Teacher Registration Board of the Northern Territory and Amy Ireland, Senior Manager Legislation Services, Strategic Services, Department of Education. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public briefing and is being webcast through the Assembly's website. A transcript will be made for use by the committee and may be put on the committee's website.

If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private. I will ask each witness to state their name for the record and the capacity in which they appear. I will then invite you to make a brief opening statement before proceeding to the committee's questions. Could each of you please state your name and the capacity in which you are appearing this afternoon.

Ms GARRIGAN: Maree Garrigan, Director of the Teacher Registration Board.

Ms IRELAND: Amy Ireland, Senior Manager Legislation Services, Strategic Services, Department of Education.

Madam CHAIR: Thank you very much. Maree, would you like to make an opening statement to the committee?

Ms GARRIGAN: Yes, thank you, I would. Good afternoon. Thank you for providing the opportunity to talk to you about the Teacher Registration (Northern Territory) Legislation Amendment Bill 2019 that was introduced to the Legislative Assembly in the February sittings.

I will start by giving you some background of the Teacher Registration Board of the Northern Territory and then provide an overview of key features that may be of interest to you and members of the public.

Anyone who wishes to be a teacher in the Northern Territory must be registered or under an authorisation to teach. The board administers the scheme for teacher registration and grants authorisation to employ an unregistered person as a teacher in both government or non-government schools and education settings in the Territory.

The current Act provides for teacher registration and authorisation to employ an unregistered person as a teacher. This position is maintained in the bill, meaning that when the bill refers to an authorised person it is simply referring to a person in relation to whom an authorisation is in effect. A person is able to teach in a Territory school if they are registered or under an authorisation.

Authorisations are relevant when a person does not hold the required qualifications in a teacher education course for registration. An employer applies for, and is granted, an authorisation to employ an unregistered person, not an individual. To grant an employer an authorisation, the board must be satisfied that the unregistered person is fit and proper to teach and will be appropriately supervised to safeguard learning outcomes. Authorisations are granted within a calendar year.

The review process for the amendments: the *Teacher Registration Act (Northern Territory)* and *Teacher Registration (Northern Territory) Regulations* were assented to in 2004 and were last amended in 2010. By way of background, the *Education Act* was amended in 2016. During this consultation process policy issues were identified in relation to the registration of teachers and the operations of the board. The review of the *Teacher Registration (Northern Territory) Act* and regulations was to be progressed as a separate body of work.

The board has continued to work with stakeholders, including committees which advise the board on policy matters, to identify policy and operations gaps and develop proposals for legislative reform, which are informed by consultation.

I will now turn to some of the key features in the amendments. However, I am more than happy to come back to the consultation process if you require additional information. We can table the consultation materials that were released to stakeholders by the board, should that be of interest to the committee.

A key benefit of the bill is that it strengthens the disciplinary framework of the board. The bill strengthens the board's disciplinary framework by ensuring the operations of the board are responsive to changing needs to protect the safety and wellbeing of students. An example of how the bill achieves this is by clarifying when the board is mandated or permitted to hold disciplinary proceedings, especially in relation to a teacher's involvement in criminal matters and, therefore, when the teacher has to notify the board.

Currently, one of the triggers for disciplinary proceedings is that a person is committed for trial for an indictable offence or found guilty of such an offence. Terms like 'committed for trial' and 'indictable offence' have led teachers to be confused about what information they have to tell the board and when. The bill, therefore, removes uncertainty and makes it clear that the board is mandated to hold a preliminary investigation or inquiry if a teacher is charged with a sexual offence and is permitted to do so if a teacher is charged with a notifiable offence.

The bill also mandates the board to hold disciplinary proceedings when a person is found guilty of a notifiable offence, and the teacher's registration or authorisation will still be automatically cancelled upon the person being found guilty of a sexual offence.

The concept of sexual offence already exists in the legislation. However, the needs and expectations of society have changed over time and new sexual offences have been legislated which are not captured in the current Act. As it stands, the Act does not capture a raft of Commonwealth sexual offences, including those which have developed to keep up with changing technology, like cybercrime.

The bill updates the prescribed list of sexual offences ensuring that it is contemporary and reflective of both Commonwealth and Territory offences regarding child sex and sex related offences.

Notifiable offence is a new concept in the bill and means an offence where the penalty that may be imposed includes imprisonment for a period of 12 months or more. The definition captures offences that are committed both inside and outside of the Territory.

As such, a person has to notify the board and the board has discretion to hold disciplinary proceedings when a person is charged with such an offence. This policy places the importance on the penalty that the offence carries, that being 12 months or more imprisonment rather than the offence classification—that is whether it is an indictable offence—or which court the matter is heard in, for example, it was committed to trial in the Supreme Court. It is acknowledged that the bill therefore broadens the circumstances in which a person is to notify the board and when the board can and must hold disciplinary proceedings.

The policy surrounding teacher notification has evolved throughout the review process in response to the needs and views of stakeholders. Feedback was received that a person may not understand the technical aspects of, or terminology used in the current Act, being committed to trial for an indictable offence. Requiring the person to notify to the specific point in their criminal proceedings may then be impracticable and potentially unjust, especially given that an offence applies for a failure to notify.

As such, the policy was revised to provide that a registered teacher or authorised person would have to notify the board when the person is charged with a notifiable offence, and again, if the person is found guilty—so it is much clearer.

A further key benefit is that the bill increases openness and transparency. The board's operation's and decision-making has been the subject of recent attention. There is currently a level of uncertainty regarding when and with whom the wider or more general dissemination of information by the board is authorised under the legislation.

Consultation over November and December 2018, as part of the review of the Act and Regulations, provide an opportunity to canvas the views of stakeholders about increased public awareness of the board's role, and availability of information regarding the board's operations and decision-making.

One way the bill achieves openness and transparency is by providing that the board may publish information in the annual report by way of case studies or case histories about the subject of an inquiry and the board's decision in relation to the inquiry.

Stakeholder feedback was particularly influential in shaping the proposal for the board to publish the findings of disciplinary decisions. The bill responds to stakeholder feedback and safeguards an individual's privacy by limiting the information that can be published. This aims to ensure that those involved in disciplinary matters including students, teachers, employers and schools cannot be identified.

The position of the board has always focused most importantly on protecting the privacy of students and families involved in the proceedings of the board. The board often considers matters that are very sensitive for the students and families involved. For example, when working with teenagers and families, in those rare cases of inappropriate relationships between the teacher and a student.

In consultation with stakeholders, the board has very carefully considered the need to balance openness and transparency with protecting the privacy of students and families in a very small jurisdiction like the Northern Territory.

To this end, the bill recognises that the proposals for increased information sharing and availability of information must be considered in tandem.

Three specific proposals for reform regarding the information that should be published by the board were canvassed with stakeholders and others were discussed during consultation. By adopting a holistic and considered approach to the release of information about students and teachers, harm to an individual's privacy is mitigated.

Consideration was therefore given to the information made publicly available on the teacher register. For instance, a person's identity may be compromised if the details contained on the register are read in conjunction with the information published in the annual report.

Such concerns were raised by stakeholders who argued that if the board were to make teacher registration statuses publicly available on the register, the information could easily be matched to identify persons mentioned in the case summaries, even when de-identified—and we are dealing with quite small numbers, so it would be easily able to be linked.

The bill confirms that the only information that is accessible on the public register is the name of the teacher, the teacher registration number, the date to which the registration fees have been paid, and whether the person's registration is full or provisional.

The bill further provides a mechanism for additional information to be prescribed by regulation. As such, further policy development is proposed in relation to legislating for publicly-available details on the register, with the final policy position to be informed by a nationally consistent approach, particularly in light of the national review of teacher registration and the Royal Commission into Institutional Responses to Child Sexual Abuse. When there is a national position as to type and level of information that should be disclosed by teacher registration authorities, the board is well positioned to capture such information in the regulations.

Another benefit of the bill is demonstrated through increased information sharing. The bill not only considers what information the board can make publicly available, but it also clarifies the information that the board must be notified of by individuals, employers and other government agencies. Evidence and information before the Royal Commission into Institutional Responses to Child Sexual Abuse

illustrated the risks to children that arise when information about child sexual abuse by teachers is not shared.

The bill establishes clear avenues for open communication with the working with children clearance screening authority—commonly known as Safe NT—police and the prosecuting authority, and strengthens the board's ability to share information with other teacher regulatory authorities. The bill clarifies the information that can be shared between these related agencies and the board, and remedies a number of legislative barriers to information sharing.

In addition, the bill responds to feedback from teachers' employers that the existing wording in the Act relating to when an employer must notify the board is unclear and ambiguous. Significant consultation occurred regarding employer notifications, including with the employer reference committee of the board and union representative bodies.

The bill provides that in addition to dismissal or when a teacher leaves employment in circumstances that call into question their competence or fitness to teach, an employer must also notify the board when it:

- starts assessing or requests another person to start assessing, a teacher or authorised person in relation to serious misconduct or fitness to teach;
- ends an assessment in relation to serious misconduct or fitness to teach; or
- ends an assessment into a teacher or authorised person's competence; and the assessment calls into question the teacher's or authorised person's competence.

This listens to feedback that a teacher should have an opportunity to work with their employer through the performance management process to resolve concerns regarding competence, with an employer only having to notify about competence matters when an assessment has taken place and a final decision made that calls into question a teacher's or authorised person's competence.

However, in cases of serious misconduct or where there are serious issues impacting on a person's fitness to teach, an employer must notify the board when they commence assessing the issues. This means that the board is aware and able to commence disciplinary proceedings at an early stage.

The bill also clarifies the board's authority to share information with others. The bill provides that following an inquiry, the board is able to notify a person or body with a legitimate interest in the decision about the decision and the reasons for it. This allows the board discretion to engage with those people who have a legitimate interest in any inquiry decision—for example, this may include students and families that have provided information during an inquiry. Now, under the current legislation, they do not know the outcome of those inquiries.

The concept of someone having a legitimate interest in a disciplinary decision may also extend to other organisations in a community—for instance, if the board is aware that a teacher who also works as a swimming instructor has gone through a disciplinary proceeding and had their registration cancelled, the board may decide that it is necessary to inform the swimming club where the person is a coach.

This recognises that if a person is not suitable to work teaching children in a school, they may not be suitable to teach swimming at the local pool. If this situation were to occur, the board would again work closely with Safe NT regarding those who work in child-related employment.

I will make reference to national reforms. Throughout this review, the board has always been conscious of the national reform initiatives that are under discussion that concern the teaching profession. This includes *One Teaching Profession: Teacher Registration in Australia* report that was published in September 2018 and the Royal Commission into Institutional Responses to Child Sexual Abuse.

As such, in addition to concentrating on local needs and expectations, the bill is future focussed. It is flexible enough to accommodate a range of potential changes that may result from these national initiatives. However, the board was cautious that bill not encroach upon matters that had been discussed nationally, such as through the Education Council—and some of those things may take a quite a period of time to be finalised.

Registration of teachers in the early childhood setting is one such area where there have been calls for national consistency, yet there is currently no definitive national approach or agreement. The bill

does not therefore directly address a category of teacher registration for those working in the earlier years sector. However, it recognises curriculums taught in the sector, such as the early years learning framework.

The bill ensures that the Territory is well placed as we work towards a national agreed approach for teacher registration.

Madam CHAIR: Thank you very much for that Maree. I will now open it up to committee members for any questions they may have.

Mrs FINOCCHIARO: Thank you very Ms Garrigan. I wanted to just make note—you mentioned that the type of detail that would be publicly available on the register—and you said the registration number, the status of the teacher—I was wondering if you could restate that—I apologise.

Ms GARRIGAN: I could give you those details once again. It is the person's name, their registration number, whether they are provisionally registered or fully registered, and the date of their fees paid—and details prescribed by the regulations—if there is going to be additional things required we can do that through the regulations.

Mrs FINOCCHIARO: That might be if they are required supervision or—what examples might be noted in?

Ms GARRIGAN: I can give an example from another jurisdiction, but once again it is varied. In fact, New South Wales and the ACT do not even have a public register. There is not even consistency in that space.

An example might be, in Queensland some matters go to QUCAT and they might make a determination that a teacher's registration is to be cancelled. For a period of three months it is noted on the Teacher Register that that teacher has had their registration cancelled. They are dealing with much bigger numbers, so it is much more difficult to link those sort of cancellations to actual incidents.

As we have stated the board has always been very conscious of the very small size of the Northern Territory, and not a lot of separation really in the education community and the broader community.

Mrs FINOCCHIARO: This bill would sort of be a live record of teachers who are registered, and then may or may not have some other form of ...

Ms GARRIGAN: Once there is a nationally agreed approach—and that has not yet been determined, the Royal Commission, in their recommendations—we have certainly strengthened our information sharing and available information—but was also very cautious that children cannot be identified. It is balancing the transparency with the privacy.

Mrs LAMBLEY: How many teachers are there in the Northern Territory?

Ms GARRIGAN: At the moment approximately—and I did not look at the database today—but there is approximately 5300, which is not a big—for the information of the committee, the number of teachers registered in the Northern Territory does not necessarily mean that they are here. There is a group of teachers who might have multiple registrations. They might be registered also in Queensland and somewhere else and be teaching somewhere else. We have a transient teacher population.

Mrs FINOCCHIARO: Do you mind just going in to a bit more detail about the process proposed in the bill about—you gave the example of the swimming trainer—and correct me if I am wrong or perhaps I will just leave you to flesh it out a bit more—if a teacher was under an investigation, the board then, under this bill, would have authority to approach the swimming club?

Ms GARRIGAN: If the inquiry finding was to cancel the teacher registration, then at the end of that process, this bill allows the board, if they are aware that that person is working in a sporting group, or if it is to do with fraud, is the treasurer of a school council or something like that, they would have—school council is probably not a good example, but of a sporting community or something—the opportunity to advise them.

Madam CHAIR: So it is not specifically that teachers have to disclose what other roles they play in the community, it is just if the Teacher Registration Board or perhaps the school is aware that this teacher undertakes these other roles in their spare time?

Ms GARRIGAN: Sometimes the notification identifies—it could be through a complaint—that person is working in a sporting organisation and has, for example, inappropriate dealings with students. That may be how it comes. Because of our relationship and police notifications if that becomes a police matter, it comes to us.

Mrs LAMBLEY: Are these changes coming into line with other states? Do other states have similar provisions?

Ms GARRIGAN: It varies around the country. I would like to be able to say that the Northern Territory probably has the most progressive legislation. One of the issues always for the board is because we have such transient teacher population we need to ensure, where possible, we have national consistency.

Seventy percent of our teachers, in the last 12 months for example, came to us under mutual recognition. So, they are not new graduates and they have been teaching elsewhere. It is really important, where it is possible, that there is consistency.

There is a lot of work happening. The Northern Territory Teacher Registration Board is part of the Australasian Teacher Regulatory Authority group. We meet by teleconference at least once a month and have two face-to-face meetings per year, and sometimes more with groups like AITSL, the Australian Institute for Teaching and School Leadership, which is developing and driving and facilitating some of the major reforms. We work very closely together. New Zealand is part of that.

Mrs FINOCCHIARO: You mentioned that this bill strengthens the board's disciplinary framework. Moving forward, if passed, is it that the board must then conduct an investigation into the teacher if they have been charged where the penalty includes imprisonment for more than 12 months or if it is a sexual offence? Is it that they must?

Ms GARRIGAN: May I defer to Amy.

Ms IRELAND: The bill breaks down the disciplinary proceedings in relation to what the board is mandated to do and is permitted to do. If someone was charged with a sexual offence, then the board must commence an inquiry or a preliminary investigation. If someone was charged with a notifiable offence, the board has discretion to commence disciplinary proceedings subject to what the offence may be, the circumstances and the particulars of the alleged offending.

Mrs FINOCCHIARO: How would the board know about that? Is there a requirement for the teacher to notify the board that they have been charged with a notifiable offence?

Ms IRELAND: Yes, there is.

Mrs FINOCCHIARO: That is a positive requirement that the individual do that?

Ms IRELAND: Yes.

Mrs FINOCCHIARO: Then it is a matter for the board to exercise its discretion on whether or not it commences the inquiry?

Ms GARRIGAN: If the matter is with police, the police make notifications to us. We have a very close relationship with the police regarding those notifications. Sometimes it might be through the employers as well. But ...

Ms IRELAND: Equally, if it came to light that the person was a teacher halfway through the prosecution, the DPP or police, subject to who is prosecuting the matter, would also be under a positive obligation to notify. Maybe it would not become apparent at the point of investigation, as the police just would not know to notify. If it became apparent at a later point, the prosecution would then be required to notify the board.

Mrs FINOCCHIARO: Who would exercise that discretion? Does it go to the full board for a decision, or is it an administrative process within the Teacher Registration Board?

Ms GARRIGAN: It goes to the board.

Mrs FINOCCHIARO: Okay.

Ms GARRIGAN: The board makes the decision.

Mrs FINOCCHIARO: So, once a notification arrives, either via the individual who has been charged or via police or some other avenue, it goes to the Teacher Registration Board and the board must determine whether or not they proceed with their own investigation or they ...

Mrs LAMBLEY: Who is on the board?

Ms GARRIGAN: The members of the board—we can provide you with a copy of this. The board consists of 12 members nominated by organisations that are representative of the diverse education sector in the Territory.

The organisations that nominate members to the board include:

- teacher employer groups, such as the Catholics and the Association of Independent Schools of the Northern Territory—that is inclusive of the Christian schools;
- teacher representative groups including unions and professional association;
- the NT Council of Government School Organisations who represent parents, families and school communities of children that are attending Northern Territory public schools; and
- tertiary institutions, such as Charles Darwin and Batchelor Institute. Membership also includes an Indigenous teacher at a government school and a teacher based in a remote community.

Mrs LAMBLEY: At the moment you do not do these type of assessments? The board does not assess disciplinary issues of teachers?

Ms GARRIGAN: Yes, they do.

Mrs LAMBLEY: They do—but this is a strengthened model?

Ms GARRIGAN: Yes.

Mrs LAMBLEY: Okay.

Ms GARRIGAN: Yes. They absolutely do. In terms of process, if the board receives a notification, we have a manager of professional conduct, we review that, we might get more information, and then we put a paper to the board and it will be discussed at board.

There will be recommendations if we have had information from police or whatever, we present that information to the board and then we make recommendations to the board or we provide them with a list of what their options might be. Depending on the matter, if it is urgent then there are ways that we can deal with urgent matters as well.

Mrs FINOCCHIARO: How often does the board meet?

Ms GARRIGAN: Ten times per year.

Mrs FINOCCHIARO: If you received a notification, would that go to the next board meeting or would the staff of the board have to assess the severity of whether or not a board meeting needs to be called out of the usual schedule?

Ms GARRIGAN: In the bill there is an out of session power given to the board. An out of session meeting can be called. Board members attend and respond through that mechanism. That is how it is managed.

Mrs FINOCCHIARO: There is no ability for the decision itself of whether or not to investigate must lie with the board then? It cannot be dismissed through an administrative process, it must go up and come back down?

Ms GARRIGAN: Yes. Even if we had a matter where there was some concern about it being frivolous or vexatious, one of those things, we would still take that to the board and the board would make a decision to dismiss based on the information that we provide. We provide that secretariat service to the board, but the board actually are the decision-makers.

Mrs LAMBLEY: Currently, how many disciplinary issues would you have to deal with, say in a 12 month period—of this sort of calibre?

Ms GARRIGAN: Of this sort of calibre, probably not as many, but overall like through preliminary investigations and through to inquiries in the last year we had approximately 60.

Mrs LAMBLEY: Sixty.

Ms GARRIGAN: Yes. Some of them take a long time and go over more than one year because there might be matters, for example, with OCPE. We rely on other agencies to do their work as well. We might have a request from the person who is the person against whom a complaint or notification has been made—it actually is a case by case scenario as to how they are dealt with, but in the last 12 months approximately 60.

Mrs LAMBLEY: Will this new process, or change of legislation, will that generate more cases?

Ms GARRIGAN: We expect so.

Mrs LAMBLEY: What is your estimate around that—do not know?

Ms IRELAND: It is difficult to say how many teachers might be engaged in different types of offending or they might see a change in circumstances: that is difficult to gauge.

Mrs LAMBLEY: But there will definitely be an increase?

Ms IRELAND: At the moment a person is required to notify and the board can commence disciplinary proceedings when a person is committed to trial for an indictable offence. The bill changes that to a person being charged with a notifiable offence and this also applies in relation to sexual offences.

It is being moved from the point of being committed to trial to the point of charge.

Mrs FINOCCHIARO: Ms Garrigan, you mentioned that there is the opportunity built into the bill for the board, where they may be able to share back to the students of families who provided information for an investigation of an outcome. Can you talk through how that works? I imagine it is because of those privacy considerations. There is no public report tabled about, 'This is the outcome of our investigation'.

Ms GARRIGAN: No.

Mrs FINOCCHIARO: How would that work then, if it is the complainant—say, it is the student complainant—who helped with the investigation, would it be the board's discretion to report back to that student or family?

Ms GARRIGAN: Yes.

Mrs FINOCCHIARO: And the level of detail?

Ms GARRIGAN: Absolutely, yes. They are still managing the privacy. Also in our matters currently we do not go back to families and say, 'this was the outcome'. So they ...

Madam CHAIR: Because you are not able to?

Ms GARRIGAN: That is right, yes. This allows the board to have discretionary power to do that, and how much information they would give.

Madam CHAIR: So, it is not like the board would actually go to all and sundry and share all of the details, it is those people who were specifically involved with that matter receiving perhaps an update or outcome of what happened?

Ms GARRIGAN: Absolutely, yes.

Ms IRELAND: The bill provides that the person has to have a legitimate interest in the decision, and it is appropriate for the board to share. The board can exercise discretion relative to that person's interest and whether it is legitimate in the circumstances at hand.

Madam CHAIR: Thank you very much. I note we have gone over by one minute. It was very nice to have you here this afternoon sharing that information on this important legislation. Thanks again for appearing before the committee this afternoon.

Ms GARRIGAN: Thank you all.

Mrs FINOCCHIARO: Thank you.