

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *FBN v Director-General, Department of Justice and Attorney-General* [2020] QCAT 260

PARTIES: **FBN**
(applicant)

v

DIRECTOR-GENERAL, DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL
(respondent)

APPLICATION NO/S: CML048-20

MATTER TYPE: Childrens matters

DELIVERED ON: 15 July 2020

HEARING DATES: 15 June 2020; 16 June 2020

HEARD AT: Brisbane

DECISION OF: Member Kanowski

ORDERS:

- 1. The decision made by the chief executive under section 221(2) of the *Working with Children (Risk Management and Screening) Act 2000 (Qld)* that the applicant's is an exceptional case is confirmed.**
- 2. The publication of information that may identify the applicant is prohibited.**

CATCHWORDS: FAMILY LAW AND CHILD WELFARE – CHILD WELFARE UNDER STATE OR TERRITORY JURISDICTION AND LEGISLATION – GENERALLY – where applicant seeks blue card for working with children – where applicant had committed offences of possessing cannabis – where applicant's drug use had then continued – whether exceptional case in which it would not be in best interests of children for applicant to have a positive notice

Working with Children (Risk Management and Screening) Act 2000 (Qld), s 221, s 226, s 360

Commissioner for Children and Young People and Child Guardian v Maher & Anor [2014] QCA 492

CW v Chief Executive, Public Safety Business Agency [2015] QCAT 219

APPEARANCES &

REPRESENTATION:

Applicant: R O’Gorman instructed by Gilshenan & Luton Legal Practice

Respondent: D Taylor, in-house lawyer

REASONS FOR DECISION**Introduction**

- [1] FBN is aged 26. He wishes to obtain a blue card so that he can undertake the remaining practical placements required to complete his studies to become a high school teacher.
- [2] A blue card is required in Queensland for working with children. Before a person can obtain a blue card, they must first be issued with a positive notice under the *Working with Children (Risk Management and Screening) Act 2000* (Qld) (*Working with Children Act*).
- [3] After FBN applied for a blue card in June 2019, the respondent (‘Blue Card Services’) decided to issue a negative notice. Such a notice precludes a person from holding a blue card while the notice remains in force. Blue Card Services had regard to FBN’s criminal history, which included some recent drug offences. While FBN has not been convicted of any ‘serious offences’ as defined, Blue Card Services decided that FBN’s is an exceptional case in which it would not be in the best interests of children for him to be issued with a positive notice.
- [4] FBN has applied to the Tribunal for a review of that decision.

History

- [5] FBN was born in September 1993. He was issued with a positive notice and blue card in July 2016, when he was 22. Blue Card Services was aware of FBN’s criminal history. However, after considering his explanations and the other information at its disposal, Blue Card Services decided to issue the notice and the card.
- [6] In December 2018 Blue Card Services was informed that FBN had been charged with drug offences that month. It started a process to consider whether the notice and card should be cancelled, but they expired in July 2019 while that process was incomplete. Meanwhile, on 3 June 2019, FBN had applied for renewal of his blue card. Blue Card Services invited submissions on the updated criminal history and related matters. FBN’s lawyers, Gilshenan and Luton, advised Blue Card Services that FBN relied on their submissions, provided in relation to the proposed cancellation, dated 19 March 2019.
- [7] On 23 January 2020 Blue Card Services decided to issue a negative notice. On 12 February 2020, FBN applied to the Tribunal for a review.
- [8] The documents before the Tribunal consist of a bundle (page-numbered BCS1-60) prepared by Blue Card Services. This includes the 19 March 2019 submissions prepared by Gilshenan and Luton. FBN gave oral evidence at the hearing. On 7 May 2020 FBN’s lawyers had filed written submissions prepared by Ms O’Gorman.

However, Ms O'Gorman at the hearing asked me to put the written submissions aside and instead have regard to her oral submissions.

Legislative framework

- [9] The *Working with Children Act* is designed to promote and protect the rights, interests and wellbeing of children and young people, including by the screening of persons engaged in particular employment or business.¹ The Act is to be administered under the principle that the welfare and best interests of a child are paramount, and the principle that every child is entitled to be cared for in a way that protects the child from harm and promotes the child's wellbeing.²
- [10] In a case such as the present, where the applicant has not been convicted of a 'serious offence', Blue Card Services must ordinarily issue a positive notice.³ However, if Blue Card Services (and, in turn, the Tribunal) is satisfied that it is an exceptional case in which it would not be in the best interests of children for a positive notice to be issued, a negative notice must instead be issued.⁴
- [11] Matters to be considered in deciding whether there is an exceptional case are, relevantly and in summary:
- (a) whether an offence or alleged offence committed by the person is a 'serious offence' or a 'disqualifying offence';
 - (b) when the offence or alleged offence was committed;
 - (c) the nature of the offence and its relevance to employment, or the carrying on of a business, that involves or may involve children;
 - (d) the penalty imposed by the Court;
 - (e) if the Court did not impose an imprisonment order, the reasons for the Court's decision; and
 - (f) anything else relating to the commission or alleged commission of the offence that is relevant to the assessment of the applicant.⁵
- [12] The Tribunal must conduct a fresh hearing on the merits, with the aim of arriving at the correct and preferable decision.⁶ The principle that the welfare and best interests of a child are paramount is to be applied.⁷

FBN's criminal history

- [13] There are two charges on FBN's criminal history which the prosecution discontinued. One was a charge of being drunk or disorderly in licensed premises in July 2013. The other was 'assault or obstruct police officer' in May 2014, though it is apparent from the police outline of facts that the incident involved obstruction rather than assault. According to that outline, FBN was in a shop late at night with a friend. The friend began swiping objects off a counter onto the floor. The friend and

¹ *Working with Children Act*, s 5.

² *Ibid*, s 6.

³ *Ibid*, s 221(1).

⁴ *Ibid*, s 221(2).

⁵ *Ibid*, s 226.

⁶ *Queensland Civil and Administrative Tribunal Act 2009* (Qld), s 20 ('*QCAT Act*').

⁷ *Working with Children Act*, s 360.

FBN began verbally abusing the shop attendant, who challenged them and then chased them down the street. Police intervened and pursued FBN and his friend. FBN eventually tripped and was apprehended.

- [14] FBN would have been 19 and 20 years of age respectively at the times of those incidents. The available material does not indicate why the charges were dropped, and FBN says he does not remember. FBN says he was drunk on those occasions and does not recall what happened. When Blue Card Services asked him about the obstruction incident in 2016, he said that he was highly intoxicated at the time. He added that he had had binge drinking issues when he got together with friends, and this had resulted in him getting into trouble.
- [15] There is no reason to doubt that FBN engaged in the conduct that gave rise to these charges. I will proceed on the basis that he did notwithstanding that the charges were discontinued for reasons unknown.
- [16] The other entries on FBN's criminal history are for cannabis offences. In October 2013, at the age of 20, he committed the offence of possessing a dangerous drug. In December 2018, at the age of 25, he committed the same offence again, along with associated offences relating to the possession of a water pipe and a set of digital scales. On each occasion he pleaded guilty, and convictions were not recorded. He was placed on good behaviour bonds. On the first occasion he was also required to attend a 'drug assessment and education session'.⁸
- [17] The police outline of facts in relation to the 2013 offence indicates that police attended an apartment in the early hours of the morning in response to a noise complaint. FBN was variously aggressive, irrational, upset, and cooperative. Police formed the impression that he was under the influence of drugs. He eventually disclosed that he had a clip seal bag of cannabis in his shorts. The bag was found to contain 44.4 grams, which police noted to be a considerable quantity. FBN told police that he needed cannabis and used it for treating anxiety.
- [18] FBN's evidence to the Tribunal is that he was affected by alcohol at the time, rather than drugs. He says he had that much cannabis in his possession because quite a number of people at the social gathering that evening had contributed money to buy and share it.
- [19] The police outline of facts in relation to the 2018 offences indicates that police had apprehended a drug trafficker. They then carried out searches of the homes of people identified as associates or customers. One of these searches was of FBN's home. Police found two clip seal bags containing a total of between 10 and 11 grams of cannabis, a pipe, and a set of scales. FBN told police he used the scales to ensure he received the weight of cannabis he paid for. FBN was cooperative with police.

FBN's evidence about his personal circumstances and substance use

- [20] FBN's evidence may be summarised as follows.

Family, education and employment

- [21] He grew up in a loving household consisting of his parents and older siblings. Drugs were not used at home, and they were not condoned.

⁸ Blue Card Services' bundle of documents, BCS3.

- [22] FBN's high schooling was somewhat disrupted. He left his first high school after middle school. He was not enjoying the strong academic focus of the school. He then tried one high school and then another in year ten, but he still did not find a good fit. He ended up finding a small school which he liked. He finished his last two years of schooling there.
- [23] He then took a break from study for a couple of years before starting university studies. He left his first course after one year because he was not enjoying it. He started a restaurant job in December 2013, which he kept until the restaurant closed in January 2019. Meanwhile, in 2014 he started an education degree, which he has enjoyed. He has taken leave of absence since the middle of 2019 because he needs a blue card to undertake the two remaining practical placements required to finish his course. Since February 2019 he has had employment at a bottle shop. He increased his hours after he ceased studying. He works five days per week.
- [24] He lives alone. He has maintained a close relationship with his parents and siblings. His parents, while disapproving of his offending, are compassionate enough to remain supportive of him.

Mental health and substance use

- [25] When he was in year nine at school, he saw a psychiatrist several times over a period of about three months. The psychiatrist diagnosed anxiety. FBN did not require medication or time off school.
- [26] When he was in year 10, the police found him and some friends smoking cannabis. They took him home and informed his parents, but did not charge him. He attended a drug diversion session.
- [27] When he was about 18, he discovered that cannabis could help reduce anxiety. However, treating anxiety has not been the 'primary component' of his use. He used cannabis sporadically or in social interactions. Between October 2013 (when the first drug charge was laid) and December 2018 (when the later drug charges were laid), his pattern of cannabis use was as follows. After the first charge, he attended a drug education session as part of his good behaviour bond and then abstained from consumption for several months before resuming use. There were then further periods of abstinence, variously of several weeks or several months, until 2018. When he was not abstinent, he was smoking cannabis two or three times per week. There might have been some weeks when he smoked up to five times. Usage increased prior to the 2018 charges in the sense that he was smoking at about the two to three times per week level and he did not have those periods of abstinence.
- [28] After the second set of charges, and before he was sentenced, he attended a session with a psychologist, Associate Professor James Freeman. He learned mindfulness strategies including a breathing technique that helps with anxiety and sleep. After he was sentenced, he attended another drug education session, with a different practitioner, as part of his good behaviour bond. He avoided members of his peer group who were a negative influence. However, there have been approximately ten occasions since the December 2018 charges when he has smoked cannabis. These occasions have not been at home, and they have not involved cannabis that he has purchased. Rather, they have been at private social gatherings when someone has handed around a joint. This use has not been for controlling anxiety.
- [29] He is not addicted to or otherwise reliant on cannabis. His use of the drug has not impacted on his studies, practical teaching placements, or work. He would not use

cannabis in a way that would affect his work performance or his care of children. He did not, for example, need time off during the practical placements. He cannot recall if he was totally abstinent during those periods.

- [30] He has not used other illegal drugs, but he has used alcohol. He started drinking socially at 18, though he had tried alcohol before that. He continues to drink socially and will sometimes have a beer or two after work. There have been occasions when he has consumed large amounts of alcohol, such as on the evening when he was charged with the obstruction offence.
- [31] He would not drink excessively on a night before he was to teach, because he knows that his performance would be affected.
- [32] On Australia Day in 2020 he drank an excessive amount. This was soon after he learnt that his blue card application had been rejected. He became argumentative with friends. He felt ashamed of his behaviour. He discussed with his girlfriend whether he should see a counsellor about anxiety and to guard against the possibility of alcohol addiction, and he decided to see one. He then saw a psychologist for three sessions. The psychologist assisted him with wellbeing techniques which were useful. The psychologist did not recommend ongoing therapy, but made it clear that the clinic is available to assist again if required.
- [33] After the experiences of being charged with drug offences and participating in the current proceeding, he realises that further drug use is not worth it, as it can jeopardise his goal of becoming a teacher.

FBN's response to a hypothetical scenario

- [34] I asked FBN how he might handle a hypothetical situation where he was a volunteer supervisor at a church youth camp and, alone, discovered some teenage children smoking cannabis at night. FBN said that because cannabis is illegal, he would have to involve the police. He would pass on to them any information or cannabis. He also would inform the parents and the camp organisers.
- [35] I then asked FBN why he would involve the police, as he had been at parties where there was cannabis but not informed police. He responded that by going through the current Tribunal proceeding, he has now realised the impact of cannabis use. So he would, in future, remove himself from such a situation, or involve police.

Other evidence about FBN's circumstances

- [36] FBN has provided detailed assessment reports about his performance in the three practical placements he has undertaken at high schools as part of his university course. The first two placements were in 2017, and they were each of two weeks' duration. The third was for four weeks, ending in November 2018. The reports are highly favourable, describing for example excellent preparation, adaptability, professionalism, and ability to handle any challenging student behaviours in a calm and appropriate manner. In the vast majority of the areas of competency that were assessed, FBN achieved the most favourable score, 'Well Developed'. He always achieved that score in the area 'Managing Effectively – Create safe and supportive learning environments'.
- [37] There is no suggestion in the reports that FBN was affected by intoxicating substances, or that he displayed signs of demotivation or other possible side-effects of drug use. Indeed, the results would not have been achieved by someone so

affected. Descriptions such as being ‘most professional in his dealings with students’⁹ indicate that FBN must have been a good role model for students.

- [38] FBN also provided a reference from a restaurant owner, addressed to the magistrate sentencing FBN on the December 2018 drug offences. According to the reference, FBN was a restaurant manager who had worked for the company for five years and was an ‘exemplary employee’.
- [39] The reference is unsigned, but I accept it as genuine in light of my overall favourable assessment of FBN’s integrity, as discussed below, and the consistency, in broad terms, between the content of the reference and the content of the practical placement reports.

Should FBN’s evidence be accepted?

- [40] Mr Taylor acknowledges that FBN has provided some supporting evidence, but he notes the lack of other supporting evidence such as a report from a psychologist or statements by family members. Mr Taylor submits that in the absence of such supporting evidence, I should not accept evidence given by FBN on matters such as whether he is drug dependent and whether he has good family support. Mr Taylor also points to some lack of clarity and consistency in FBN’s oral evidence about the frequency of his drug use at various times.
- [41] Mr Taylor also points to previous indications given by FBN that he had put his drug use behind him. In response to a question from Blue Card Services in May 2016 about whether he still used drugs, FBN said that he does not use drugs, adding that he was too busy with university and work. In the March 2019 submissions it was said that the December 2018 charges had been an ‘enormous “wake-up” call’¹⁰ for FBN. Further:

He is acutely aware that involvement with illicit substances is entirely inconsistent with the standards of professionalism and responsibility appropriately expected of him as an education student (and the standards that will be expected of a qualified teacher).

...

[FBN] used the negative experience of being charged with offences as a catalyst for his ‘line in the sand’ with regard to cannabis.¹¹

...

[FBN] regrets his previous use of cannabis. He appreciates that drugs are a scourge on society, and that his former life is inconsistent with his career ambition.¹²

- [42] Mr Taylor notes that it is apparent from FBN’s oral evidence that the line in the sand has been repeatedly breached.
- [43] I accept that there was some lack of clarity, and possible inconsistencies, in FBN’s account of his drug use. However, taking into account that FBN may have been confused by some of the questions, and that precision would be difficult in

⁹ Blue Card Services’ bundle of documents, BCS49.

¹⁰ Ibid, BCS40.

¹¹ Ibid.

¹² Ibid, BCS41.

describing variable frequency of drug use over an extended period, I do not regard him as having been evasive in his answers.

- [44] It is notable that FBN gave evidence of drug use well beyond what he has been charged with. While he might have been unable to plausibly deny past habitual drug use in light of some of the comments made in the March 2019 submissions, the same cannot be said of any use since December 2018. FBN gave evidence of such use, even though he could have denied it with probably little risk of detection. Alternatively, he could have claimed privilege against self-incrimination, which he knew was an option, but he did not. This frankness reflects well on his credibility. FBN's candour about other topics, such as his struggles at high school and his unsociable behaviour on Australia Day, is also impressive.
- [45] Having regard to his candour, and the responsive way in which FBN answered questions in his oral evidence, I accept his account of his upbringing, family, employment and studies. I also accept his evidence about the frequency of his alcohol and drug use, and his participation in drug awareness sessions and counselling.
- [46] In evaluating FBN's responses to questions about how he might handle a situation involving children using drugs, some caution must of course be exercised. FBN was asked about a hypothetical situation, and he has not yet been put to real tests of this nature. Nonetheless, as Ms O'Gorman submits, it is commonplace for people to adhere to social norms in their professional roles, where they are subject to legal or ethical obligations, even though they may be more relaxed in their private lives. She cited the example of young teachers who drink excessively on the weekend but would unhesitatingly enforce consequences at a school camp for students found with alcohol.
- [47] While FBN has demonstrated a persistent disregard for the law against cannabis, I do not consider that he has a generalised disregard for the law and social norms. His other charges were matters of youthful indiscretion. In the current proceeding, he demonstrated respect for the law by giving evidence about his drug use that was against his interests. I do not consider that there is a risk that he would encourage or turn a blind eye to drug use or other illegal activity by children.
- [48] FBN says that he is not dependent on cannabis. His more recent use has been only occasional: consistent with recreational rather than dependent use. It may therefore be reasonable to accept FBN's self-assessment that he does not have a dependency problem. On the other hand, he has a history of quite frequent use up to late 2018. Since then, he has continued to use cannabis from time to time. He also became concerned enough about the risk of alcohol addiction in early 2020 to seek professional assistance. A future relapse into increased cannabis use, particularly at times of stress, cannot be ruled out as fanciful. Greater confidence in FBN's resolve to lastingly put cannabis behind him could only come after some sustained period of abstinence, perhaps coupled with a psychological or similar assessment.

Submissions on behalf of FBN on whether there is an exceptional case

- [49] Ms O'Gorman submits that FBN's case is not exceptional. The scheme of the *Working with Children Act* is that a conviction for a 'serious offence' will result in a negative notice unless there is an exceptional case, reflecting the inherent risk to children in those offences. One example is supplying dangerous drugs, as drugs once supplied could end up anywhere including in the hands of children or being

consumed in front of children. Convictions for offences such as possession of dangerous drugs, in contrast, are ones in respect of which a person is nonetheless entitled to a positive notice unless an exceptional case exists. This reflects a recognition by Parliament that such offences are not inherently risky to children. For there to be an exceptional case, something extraordinary removing the case from the normal rule would have to exist: *Commissioner for Children and Young People and Child Guardian v Maher & Anor*.¹³ There would have to be some real link between the offending and a risk of harm to children, not merely some remote or fanciful link.

- [50] Nothing in FBN's past offending, or even any future similar offending, presents a risk to children. He has a close and supportive family in which drug use is not condoned: this is a prosocial, protective factor. He has been frank and forthright in his evidence. He is highly motivated to achieve his goal of becoming a teacher. Like many young people, he has used intoxicating substances, including an illegal drug, but not to an extent that has impacted on his work, his studies, or the practical placements. His more recent use of cannabis has been only occasional, and during a period when he has mainly been engaged in casual employment in a bottle shop. There is no reason to suppose that in any work with children he would be affected by substances or that he would model inappropriate conduct. His experience in the present proceeding has brought into sharp focus that continued use of cannabis can jeopardise his career.

Submissions on behalf of Blue Card Services on whether there is an exceptional case

- [51] Mr Taylor submits that FBN's case is exceptional. Blue card holders occupy a position of trust and authority over children, who are reliant on their judgment. Children have a right to be cared for in a way that promotes their wellbeing.
- [52] The Tribunal should be cautious in extrapolating from the practical placement reports. The placements constitute short periods during which FBN 'could keep it together', but in a heavily-supervised, high-stakes setting where FBN was aware he was being monitored and assessed. With a blue card, FBN could work in a totally unsupervised setting with children of any age or vulnerability. Blue cards cannot be issued with conditions.
- [53] FBN's offending includes recent offences, but he has used drugs much more than his criminal history indicates. His drug offending has continued even after the 2018 offences. FBN has previously said that he had stopped using drugs, but he then returned to using them. There is no evidence of successful treatment preventing relapse. Children have the right not to be exposed to drugs and to be cared for by people whose judgment is not impaired by drugs. A person who uses drugs is an inappropriate role model for children. The Tribunal observed in *CW v Chief Executive, Public Safety Business Agency*¹⁴ that it can be harmful for children to become aware that people whom they respect do not obey the law. This is confusing for children as they try to develop a sense of right and wrong.

¹³ [2004] QCA 492, [35].

¹⁴ [2015] QCAT 219, [67].

Human rights

- [54] Mr Taylor also drew my attention to the *Human Rights Act 2019 (Qld)*, commenting that there may be rights of FBN that are relevant, as well as the right of a child to the protection needed by the child, and which is in the child's best interests, because of being a child.¹⁵ The only relevant right of FBN that I can discern is his right to have the current proceeding decided by a competent, independent and impartial tribunal after a fair and public hearing.¹⁶ However, there is a specific provision in the *Working with Children Act* which requires a hearing in a child-related employment review to be held in private.¹⁷ A child's right to protection is reflected in the provisions of the *Working with Children Act* which are summarised in paragraphs 9 to 12 above.

Other cases involving drug use

- [55] Ms O'Gorman and Mr Taylor also discussed some decided cases where people who had been convicted of drug offences were, or were not, successful in gaining blue cards. I do not propose to canvass those cases in these reasons. The factual circumstances were different, and any relevant statements of principle in those cases are not dissimilar to observations made in these reasons.

Is FBN's an exceptional case?

- [56] In relation to FBN's criminal history, I have earlier described the offending behaviours that resulted in charges, some of which were discontinued and the others of which resulted in pleas of guilty. None of the offences were 'serious' or 'disqualifying' as defined in the *Working with Children Act*. The penalties imposed by the Courts were good behaviour bonds, with a requirement to attend drug diversion on at least one of the occasions. I am required to consider the reasons why the Court did not impose an imprisonment order.¹⁸ I do not have the sentencing remarks, but they are the sort of offences for which imprisonment would never be contemplated except in the case of very persistent reoffending. The earlier offending conduct occurred when FBN was quite young, but the 2018 offending is relatively recent and it was committed when FBN was in his mid-20s.
- [57] Drunkenness, disorderliness, and illicit drug use, especially heavy drug use, can have relevance to child-related employment, as articulated by Mr Taylor.
- [58] FBN's offending behaviour that resulted in the drunk and disorderly charge and the obstruction charge does not, in my view, have any enduring relevance to child-related employment. It was immature behaviour similar to that engaged in by many people who go on to have responsible careers. Similarly, occasional past use of illegal drugs by a young person would not necessarily give rise to significant concern about how that person would interact with children.
- [59] FBN, however, was not merely an occasional user. He used quite frequently over several years. Even after the 2018 charges, he continued to use occasionally. FBN has a supportive family, and he has been prepared to seek professional assistance in times of need. However, those factors were also present in the past when he chose to use drugs. It may be that now, facing the real risk of his career plans being halted or

¹⁵ *Human Rights Act 2019 (Qld)*, s 26(2).

¹⁶ *Ibid*, s 31(1).

¹⁷ *Working with Children Act*, s 361(1).

¹⁸ *Ibid*, s 226(2)(a)(v).

at least delayed, he can and will stick to a resolve to discontinue use. He may be able to do this without ongoing counselling. However, until such time as he has demonstrated sustained abstinence, the risk remains of relapse into heavier use. While I accept that even then he would not encourage children to use drugs, or use drugs in front of them, I consider that there is a risk of impaired judgment.

- [60] Further, I am mindful that a blue card would enable work in any child-related field in any place in Queensland. FBN could, for example, work in a small community. If drug use by FBN— even if only a one-off instance of recreational consumption in that community – was discovered by police, it is likely that he would be charged and that his offending would become well-known within the community including to some of the children in his care.
- [61] I am therefore satisfied that FBN’s is an exceptional case in which it would not be in the best interests of children for a positive notice to be issued.

Request for non-publication order

- [62] A non-publication order may be made by the Tribunal if such an order is necessary, relevantly, in the interests of justice.¹⁹
- [63] Ms O’Gorman seeks a non-publication order on the basis that convictions were not recorded for any of FBN’s offending. Accordingly, for most purposes, he is not required to disclose his offending. This protection would be removed if his case could receive publicity that identifies him.
- [64] As mentioned earlier, a hearing of a child-related employment review must be held in private. This acknowledges the sensitive nature of information often considered in such hearings, and lends some support to the idea that the privacy of applicants should generally be protected.
- [65] A consideration not raised by Ms O’Gorman but which I consider relevant is that reasons issued by the Tribunal are displayed on the internet. They are available for search by anyone. There is a real prospect that FBN will, in time, achieve his goal of becoming a teacher. If his identity is published, many future students would easily discover by an internet search that FBN had habitually used drugs as a young person. That is information which should not be shared with students, except perhaps in a controlled way in consultation with the school. Accordingly, I consider it would not be in the interests of justice for FBN’s identity to be published.
- [66] Ms O’Gorman requested that the prohibition extend to searches of the Tribunal’s file. However, the likelihood of widespread searches is remote. I am not satisfied that prohibition to that extent is required in the interests of justice.

Conclusion

- [67] I confirm the decision of Blue Card Services, and make a non-publication order.

¹⁹ *QCAT Act*, s 66(2)(e).