

Frequent Asked Questions -

Blue Cards and 'Private' Homestay Arrangements (as approved by CRICOS-registered schools under the ESOS Act 2000)

Question:

A mother (who holds a 'guardian visa') needs to return overseas for 3 months. While she is away, she has requested that her daughter remain studying at our school, but would like her to live with a family friend.

- 1. In this situation, does our school have to accept welfare responsibility for the child and issue a CAAW for 3 months while the mother is away?*
- 2. If the school does accept welfare for the child, are blue cards still required for the homestay family - even though the arrangement is temporary, and the parent has nominated who the child is to live with?*

Answer:

1. The decision of whether or not to accept welfare responsibility for an under 18 child is at the school discretion.

If the school does not wish to accept welfare responsibility, then the child would need to return home with the mother until such a time as she can return to Australia with the same (or a different) DIBP-approved parent/guardian. Alternatively, if there is a family member in Australia, the parent can apply to DIBP to have that person approved as the legal guardian while the mother is away. In this case, the guardian is legally responsible for the welfare of the child (not the school) and no CAAW is issued.

If the school is willing to support the parent's request for the student to live with a family friend, then the school would need to show its acceptance of this welfare responsibility by issuing a CAAW for the child. However, before doing this, the school must follow its procedures to ensure that it is first satisfied that the accommodation and welfare arrangements are appropriate. It is important for the school to recognise that even if the parent says the arrangements are ok, this doesn't remove the responsibility of the school to ensure that it is satisfied with the arrangements. A CAAW, once issued in PRISMS, means that it is now the school's principal who is accepting responsibility for the suitability of the child's accommodation and welfare, not the parent.

2. Two pieces of legislation are relevant to this question: the *Working with Children (Risk Management and Screening) Act 2000* and the *ESOS Act 2000*.

To apply for a blue card, an individual must be employed (either in a paid or voluntary capacity) or carry on a business that falls under one of the categories of 'employment' or 'business' regulated by the *Working with Children (Risk Management and Screening) Act 2000*. All CRICOS-registered providers offering homestay (of any kind) to children under the age of 18 years fit within the regulated 'employment' category, ***Child accommodation services including home stays***.

Under the *ESOS Act 2000*, any provider which issues a CAAW for an under 18 student remains responsible for approving and monitoring the suitability of the child's accommodation in accordance with conditions specified under [Standard 5 of the National Code 2007](#). This includes homestay situations where the parent nominates the person/s with whom they wish their child to live.

Many CRICOS providers refer to parent-nominated homestays as 'private arrangements'. The wording is helpful for schools when distinguishing this type of arrangement from other homestay options that may be available - including homestays which are organised by the school itself, or those that are operated through a commercial homestay company (but for which the school still holds welfare responsibility).

Under the *Working with Children (Risk Management and Screening) Act 2000* there are certain situations where a person will not be required to hold a blue card. One such situation is "relatives or friends caring for a child as part of a *private arrangement*". It is important for CRICOS providers to understand that the homestay arrangements that they typically refer to as 'private' (i.e. those that are parent-nominated) are not considered to be private under the *Working with Children (Risk Management and Screening) Act 2000*. Under the umbrella of approval which must first be given by the CRICOS provider, such homestays involve an agreement between the student and the family friend to carry out work. Accordingly, each adult residing in a home where the child accommodation service is provided would be required to hold a blue card under the '*Child accommodation services including home stays*' category of regulated employment. This is because they are taken to be a volunteer who is engaged in regulated employment.

Note: employment under this category is not 'regulated employment' if the home stay provider is a relative of the child who receives the child accommodation service to which the employment relates. So while this means that a blue card is not required for a homestay provider who is also a relative, it is strongly recommended that CRICOS providers never accept welfare for any overseas child if there is a relative available in Australia. In such circumstances, providers should direct the parent to DIBP to have the relative approved for legal guardianship while the parent is offshore.

Volunteers, students and people operating a business must hold a blue card prior to commencing their child-related work. Paid employees may commence child-related work once their application has been lodged with Blue Card Services.

Generally, applications for blue cards are processed within 28 business days unless further information or assessment is required. If further information is required, applicants will be contacted by letter.

For further information about the blue card process, please telephone Blue Card Services on **1800 113 611** or **07 3211 6999** between **8am – 5pm** on **Monday to Thursday** and between **9am-5pm** on **Friday**. Alternatively, please access their website at www.bluecard.qld.gov.au for general information and application forms.

For questions regarding this advice, please contact the International Quality (Schools) Unit at cricosreg@det.qld.gov.au or via telephone on **(07) 3513 6748**