

Title	Consultation Paper – Best practice principles in responding to complaints of child sexual abuse in institutional contexts
Originating Department:	Queensland Corrective Services (QCS) on behalf of Royal Commission into Institutional Responses to Child Sexual Abuse
Date:	20 April 2016

Youth Justice Feedback

Youth Justice within the Department of Justice and Attorney-General (YJ) notes and supports the identified principles as detailed in the Consultation paper – *Best practice principles in responding to complaints of child sexual abuse in institutional contexts*. Specific feedback on the principles and issues raised in the report are provided below for further consideration.

The identified principles align with Youth Justice’s current policies and practices for preventing and responding to complaints and concerns in relation to child sexual abuse.

The *Youth Justice Act 1992* (the YJ Act), Youth Justice Regulation 2003 and policies and procedures take into account international obligations to take all appropriate legislative, administrative, social and educational measures to protect children in the justice system.

These safeguards for children and young people within the youth justice system reflect YJ’s commitment to ensuring that young people in youth detention and their advocates have access to a robust, transparent and responsive complaints management system.

YJ is committed to continually considering new mechanisms and strategies to strengthen young people’s confidence in the complaints management system. YJ acknowledges that feedback provided through the complaints process is necessary to ensure that services to young people in youth detention centres continue to improve with respect to safety, wellbeing, and rehabilitation outcomes.

In addition, Queensland youth detention centres are also monitored by the following oversight mechanisms:

- Monthly visits and advocacy by Community Visitors from the Office of the Public Guardian – this entails direct reporting between the Manager Monitoring and Compliance and the Community Visitors about local issues and complaints management.
- Quarterly reporting to the Public Guardian regarding alleged instances of harm, potential breaches of principles 3, 15, 19 or 20 of the youth justice principles, and the results of any investigation into these matters in accordance with section 37 of the Youth Justice Regulation 2003.
- Quarterly inspections of each youth detention centre by the Youth Detention Inspectorate, an internal independent oversight mechanism established under section 263 of the Youth Justice Act 1992. As part of this process, the inspectors speak directly with young people, staff and management to identify and examine potential service delivery issues.
- Annual performance reporting in the Report on Government Services which examines the occurrence of critical issues such as self-harm, suicide, assault, escapes.
- Information sharing and comparative analysis with the Australian Juvenile Justice Administrators regarding youth detention service delivery nationwide.

The Queensland Ombudsman also plays an oversight role in Queensland youth detention centres:

- The Ombudsman conducts annual visits of Queensland youth detention centres and makes a number of recommendations to improve service delivery.
- The Ombudsman is provided with copies of the regular proactive audits that are completed for each youth detention centre and the quarterly inspection reports completed by both the Youth Detention Inspectorate and the Operational Inspector.
- YJ and the Ombudsman discuss any issues of concern identified in these documents at a quarterly meeting and propose areas to be investigated and addressed by the Operational Inspector as part of their next quarterly inspection process.
- The outcomes of the Operational Inspector's review of these issues is then addressed and provided to the Ombudsman in the next quarterly report for consideration and discussion.

Operational practices in responding to complaints

Youth Justice operates two youth detention centres in Queensland, one in Brisbane and one in Townsville. Both centres are designed to accommodate young people (10 to 17 years old). The Brisbane Youth Detention Centre is located on the western outskirts of Brisbane at Wacol and the Cleveland Youth Detention Centre is located in Townsville. Ensuring the safety, wellbeing and rehabilitation of all young people within youth detention centres is of paramount importance to the department. Accordingly, YJ has a comprehensive framework of policies, procedures, staff training and oversight to ensure that young people in youth detention are provided with a safe and secure environment that assists them with their rehabilitation and reintegration into the community. This includes a comprehensive complaints management system that is accountable and transparent and is administered in a way that ensures young people can have confidence in the system to be responsive to their concerns.

Responding to complaints raised by young people is a critical component of the complaint management system in youth detention. Young people are assisted to make complaints:

- Directly to the youth detention centre about any matter relating to their experience of youth detention. Queensland youth detention centres have a designated role that investigates and actions complaints relating to service delivery to/experiences of young people in youth detention.
- To the Queensland Police Service if they are the victim of an alleged criminal offence.
- To the Office of the Public Guardian about anything they may be concerned about. Community Visitor mailboxes are present throughout the youth detention centre to allow young people the opportunity to write to Community Visitors for advocacy on a number of issues, including complaints. Community Visitors also visit Queensland youth detention centres on a regular basis to meet with and advocate for young people in youth detention. Young people are also able to call their Community Visitor if they wish.
- To the Office of the Queensland Ombudsman if they are unhappy about how their complaint has been handled.

A young person's family member, care provider or members of the public can make a complaint by:

- Completing a related COM2 complaints form (available online).
- Advising the centre of their complaint verbally.
- Advising the centre, the Director-General or the Attorney-General of their complaint in writing.
- Emailing YJ via the public complaints page.

In support of this, all youth detention staff must also be able to explain the complaints management processes available to young people, their families and advocates and be able to help them make a complaint.

YJ also takes the following action in relation to complaints:

- If the complaint relates to alleged staff misconduct, YJ will refer the matter to the Department of Justice and Attorney-General's (DJAG's) Ethical Standards Unit, which will investigate the matter and on forward the matter to the Crime and Corruption Commission and the Queensland Police Service (QPS) as relevant.
- If the complaint relates to an allegation or suspicion of harm that is alleged to have occurred while the young person was in a youth detention centre, or an alleged breach of principles 3, 15, 19 or 20 of the youth justice principles contained in the Youth Justice Act (<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/Y/YouthJustA92.pdf>), YJ will report the harm to the Office of the Public Guardian in accordance with section 37 of the Youth Justice Regulation 2003.
- If the complaint relates to a child protection matter, YJ will notify child safety services and other relevant stakeholders, including the young person's parents/care providers.
- If the complaint relates to a potential criminal offence that is alleged to have occurred to a young person and the young person does not wish to make a complaint to the QPS, YJ is required to refer the matter to the QPS (regardless of the young person's wishes).

Combined, these mechanisms provide a comprehensive framework by which complaints can be raised and actioned for young people in youth detention in Queensland. It also provides several points of contact and oversight by external agencies.

Detailed feedback on principles and issues raised in report

Grooming type behaviour (p3)

- YJ queries whether there should also be mention of opportunistic sexual offences under this section.
- Current research highlights that some sexual offences, even those that occur within an institutional type setting, are opportunistic in nature. The term "grooming", although used extensively, lacks clear consistent definitions that can at times cloud the discussion and identification of behaviours.

- A number of behaviours that are commonly thought of as “grooming” type behaviours could be also seen as caregiving type behaviours and there could therefore be misunderstandings by utilising the term “grooming”. Should there be more focus on establishing and maintaining professional boundaries and the dynamics of the victim-offender relationship to develop a one size fits all model of appropriate behaviour.

Assessment of the complaint/ risk of assessment (p4 & 18)

- YJ recommends that this section be more explicit that the “assessment of the complaint” or “risk assessment” does not require the organisation to gather conclusive evidence or determine “guilt” before notifying appropriate authorities such as police or child safety agencies. Possible information could be provided about the utilisation of other professionals in ascertaining a response to concerns
- Opportunity may exist to identify general prevention strategies that institutions could put into place as a response to reducing risks for sexual abuse to occur. There is increasing research available with regard to child abuse, which highlights the importance of crime prevention strategies, including the effectiveness of utilising these strategies across prevention and intervention to address opportunity afforded by situations. As with what is sometimes referred to “grooming” the evidence suggests that perpetrators in institutions may manipulate situations and look for opportunities to offend. These types of responses should form part of agencies’ ongoing response to child sexual abuse and be reviewed regularly to ensure any associated risks are managed effectively.
- One of the principles highlights the importance of training about the complaint handling process. Although this is critical to ensuring that staff are aware of their obligations and how the process works, there probably needs to be included a focus on understanding sexual abuse, risk factors and understanding consequences for young people. This would assist in the ongoing identification of abuse and assist in the ongoing discussions and use of narrative that is supportive of professional boundaries and appropriate behaviours.

Oversight of complaints handling

YJ is committed to ensuring the safety, wellbeing and rehabilitation of young people in youth detention. Over the past 12 months, YJ has commenced extensive work to streamline and strengthen internal youth detention oversight, governance and accountability. This work includes the development of:

- A performance framework to assist YJ to identify and build on positive aspects of youth detention service delivery, as well as highlighting areas of service delivery that require further improvement.
- A quarterly performance review process that involves the Assistant Director-General, Youth Justice, and a panel of experts meeting with senior management at each youth detention centre to monitor and assess quarterly performance in accordance with the performance framework.
- Regular proactive audits of youth detention services and practices – this occurs on a quarterly basis and addresses the continuum of youth detention service delivery.

- A new Operational Inspector and support team that conduct quarterly inspections of the youth detention centres, review and assess the proactive audits conducted by the youth detention centres, and facilitate investigations into emerging issues as required.
- Service Level Agreements between the Executive Directors of each youth detention centre and the Assistant Director-General, Youth Justice, which clearly stipulate the required performance standards for youth detention centres.
- Quarterly corporate reporting on complaints in Youth Justice, which appears on the department's website <https://publications.qld.gov.au/dataset/c84c2dee-fc76-4502-ad28-fe58420295ab/resource/ae7c26f2-4d1a-46c7-975d-e9377d977761/download/djagclientcomplaintsannualreport.pdf> .

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