



Custodial Operations Practice Directive

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and Specialist Operations

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Scope

1. Human Rights
2. Limitation of Human Rights
3. Overview
4. Facilitate Case Planning
5. Service Delivery Coordination
6. Information Sharing

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1. Human Rights

To ensure corrective services officers act or make decisions in a way that is compatible with human rights, officers must give proper consideration to human rights relevant to the decision including but not limited to:

- recognition and equality before the law, including the right to equal and effective protection against discrimination;
- the right to privacy and to reputation;
- cultural rights – generally and for Aboriginal peoples and Torres Strait Island peoples;
- protection of families as the fundamental group of society and the protection of children; and
- the right to humane treatment when deprived of liberty.

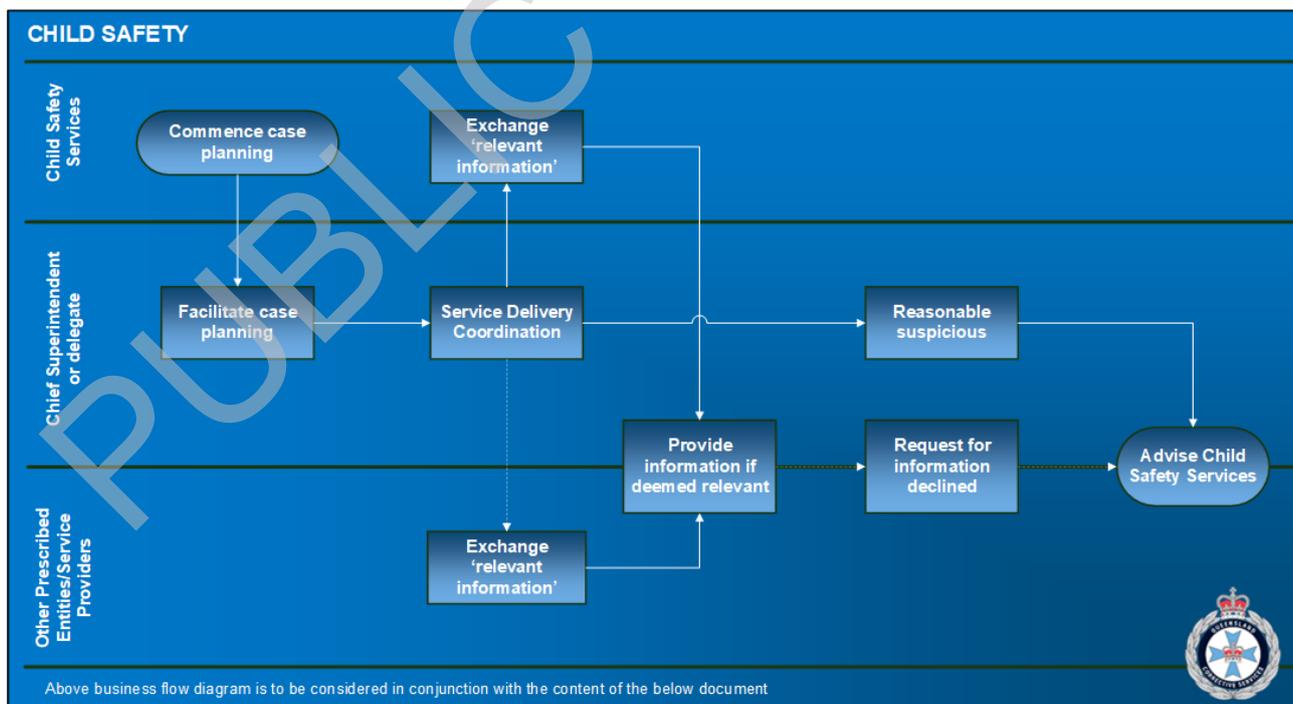
2. Limitation of Human Rights

Human rights can be limited if certain conditions are present:

- the limit must be provided under law;
- the limit must be reasonable; and
- any imposition on the human rights must be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

A person's human rights should only be limited to the extent that is reasonably and demonstrably justified.

3. Overview





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A Chief Superintendent must ensure a corrective services facility meets its responsibilities to children under the *Child Protection Act 1999* (CPA) where children come into contact with QCS, including:

- a) pre-school aged children accommodated with approved female prisoners in corrective services facilities;
- b) unborn children of female prisoners;
- c) child visitors to corrective services facilities;
- d) children who live with or may have associations with prisoners who are likely to be associated with offenders upon discharge; and
- e) children who are substantially at risk because of the release of a child sex offender.

4. Facilitate Case Planning

For the purposes of case planning or reviewing a case plan for a child, Child Safety Services can require QCS to:

- a) facilitate access to a prisoner; and
- b) participate in case planning for a child related to a prisoner.

Child Safety Services must write to the Chief Superintendent of a corrective services facility who must cooperate fully with the request.

A copy of a case plan provided to a Chief Superintendent of the corrective services facility must be placed on the prisoner's file.

For visits by Child Safety Officers to a corrective services facility for the purpose of case planning, refer to the Custodial Operations Practice Directive (COPD) Visitors to a Facility: Interview Prisoner.

Refer to sections 51D(1)(c)(d), 51L(1)(g), 51N(d), 51W(1)(g) and 51Y(2)(c) of the CPA.

5. Service Delivery Coordination

QCS must adhere to the principles for coordinating service delivery to children as set out in sections 159B, 159B(c), (e) and (f) of the CPA.

Child Safety Services can request QCS to provide services to a child or to a prisoner who is a member of the child's family to help meet the child's protection and care needs.

In addition, Child Safety Services can request a service to a pregnant woman to help meet the child's protection and care needs and promote the well-being of the child after it is born.

For example, Child Safety Services may request that QCS ensure that a prisoner undertakes a drug and alcohol program or participate in counselling. Child Safety Services must write to the Chief Superintendent of the corrective services facility (as delegate) to make the request under section 159H of the CPA.

If the Chief Superintendent is unable to provide the service requested or is unable to provide all of the services requested, the Chief Superintendent must correspond with Child Safety Services advising of the reasons.





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Copies of all correspondence must be kept on the relevant prisoner's file.

Refer to sections 159A(a), 159B, 159F and 159H of the CPA and Appendix CE2 Guide for Government Entities in Relation to Information Exchange and Service Delivery Coordination.

6. Information Sharing

6.2 Other prescribed entities/service providers

The information sharing provisions of the CPA allow prescribed entities to share information in their possession or control with service providers and vice versa.

Refer to section 159M of the CPA.

A "child in need of protection" is a child who has suffered harm, is suffering harm, or is at an unacceptable risk of suffering harm and who does not have a parent able and willing to protect the child from harm.

Refer to section 10 of the CPA.

For the definition of "service provider", refer to section 159M of the CPA. A service provider is defined broadly to capture any person, organisation or prescribed entity providing a service to children or families.

For information sharing, under section 159M of the CPA, "prescribed entity" includes but is not limited to:

- a) the Chief Executive of a department that is mainly responsible for the following:
 - i. adult corrective services;
 - ii. community services;
 - iii. disability services;
 - iv. education;
 - v. housing services;
 - vi. public health; and
- b) the Commissioner of the Queensland Police Service.





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QCS may share information with other prescribed entities/service providers, including Child Safety Services. Refer to sections 159A(b), 159M-159NA, 149, 152 and 153 of the CPA and Appendix CE2 Guide for Government Entities in Relation to Information Exchange and Service Delivery Coordination.

Requests for other information may also be considered in accordance with section 341 of the *Corrective Services Act 2006*.

Refer to Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

6.3 Information requested by Child Safety

All requests by Child Safety Services to QCS delegates for information under section 159N of the CPA, or under section 159M of the CPA, should be made in writing.

In emergency situations a request may be made via telephone but must be followed as soon as practicable by a confirmation letter or e-mail.

The request must include sufficient details to identify the relevant child, person or family about whom information is being sought. Information provided may include:

- a) name and age of the child;
- b) cultural identity;
- c) disabilities;
- d) siblings;
- e) school attended by the child;
- f) name and address of parent and/or carer;
- g) nature of QCS' current or proposed intervention (e.g. whether a child has been assessed as being in need of protection (Intensive Family Support or Child Protection Order in place));
- h) nature of the information sought and how information is 'relevant' (e.g. if investigating concerns in relation to a pregnant woman the request may seek details on any known mental health history, imminence of delivery); and
- i) urgency of the request and preferred response time, including the reason for the urgency.

Where a request for information relates to aspects of a prisoner's engagement with QCS while they were accommodated at or supervised by another QCS location, the current managing location (corrective services facility or Community Corrections) as recorded in IOMS is responsible for the collation of all relevant requested information. The current managing location is to provide a response to all elements of the request, which may require the office to liaise with previous managing locations (corrective services facilities and/or Community Corrections) to obtain relevant information. This information may also be readily available on IOMS for officers to access.

For decisions relating to prisoners who are no longer accommodated or supervised by QCS all correspondence should be emailed to

6.3.1 Confidential information

Refer to sections 13G, 159Q, 159R, 186, 187 and 188 of the CPA and Appendix CE2 Guidelines for Government Entities in Relation to Information Exchange and Service Delivery Coordination. Sections 13G and 159Q of the CPA provide protection from liability for notification of, or information given about, alleged harm or risk of harm.





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These sections apply if a person, acting honestly, notifies or gives information to the Chief Executive of Department of Families, Seniors, Disability Services and Child Safety, another officer of Child Safety Services or police officer. This information relates to the reasonable suspicion that a child has been, is being or is likely to be, harmed or that an unborn child may be at risk of harm after birth. The person is not liable, civilly, criminally or under an administrative process, for giving the report. In doing so, the person cannot be held to have breached professional etiquette or ethics or departed from accepted standards of professional conduct. Section 186 of the CPA protects the identity of a person who reports a reasonable suspicion of harm to Child Safety Services.

Subject to sections 181 and 188 of the CPA, if an officer is in receipt of information related to a Child Safety Services investigation, the officer must not disclose the information or document to anyone else.

Subject to section 186, the information may be disclosed for the purposes directly related to a child's protection or welfare.

6.4 Notify agency of reasonable suspicion

All persons must notify Child Safety Services of any suspicion that a child is at risk of being harmed.

Under section 9 of the *Child Protection Act 1999* (CPA):

- a) harm to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional well being;
- b) it is immaterial how the harm is caused;
- c) harm can be caused by:
 - i. physical, psychological or emotional abuse or neglect; or
 - ii. sexual abuse or exploitation; or
- d) harm can be caused by:
 - i. a single act, omission or circumstance, or
 - ii. a series or combination of acts, omissions or circumstances.

Example: A prisoner notifies an officer that a visitor to his partner at home may have harmed their child.

Under section 10 of the CPA a child in need of protection is a child who:

- a) has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm; and
- b) does not have a parent able and willing to protect the child from the harm.

Upon witnessing or becoming aware of harm and/or suspected harm the officer is required to make a notification to Child Safety as soon as possible. Formal notification can also be submitted through the below link. If notification is made, a copy of the report must be attached on IOMS. The officer is to follow up with a phone call to the Child Safety Regional Intake Service to advise notification has been submitted. All phone numbers can be accessed via the below link. Refer to section 13G of the CPA.

<https://secure.communities.qld.gov.au/cpguide/engine.aspx>

Refer to information about identifying, reporting and preventing Child Abuse can be accessed on the Queensland Government's website.





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All communications with Child Safety Services must be entered in IOMS.

6.4.1 Timeframe for referrals

Upon witnessing or becoming aware of suspected harm the officer is required to make a referral as soon as operationally possible.

If the officer believes a child requires urgent attention by Child Safety Services a telephone referral is to be made.

6.4.2 Making a referral

In making a referral after witnessing an incident or an officer has a reasonable suspicion of child abuse and/or neglect, the following information is required by the Child Safety Service (if known):

- the child's name;
- the child's date of birth;
- the place or places where the child lives;
- the name of the child's parents;
- the place or places where the parents live or may be contacted;
- the details of the harm or likely harm which the officer is aware or suspects; and
- the officer's name, address and telephone number.

6.4.3 Follow up

Upon making a referral to Child Safety Services, an officer may follow up on the outcome of an assessment. Refer to the Appendix CE2 Guide for Government Entities in Relation to Information Exchange and Service Delivery Coordination.

6.4.4 Escalation process

If a referring officer is not satisfied with the way Child Safety Services has assessed or responded to the referral or continues to witness the same issues after a Child Safety Service investigation, the officer is able to escalate their concerns by contacting the following officers:

- Team Leader of Child Safety Regional Intake Service CSSRIS where the officer referred the matter;
- CSSRIS Manager; and
- Client Complaints Officer in the relevant Child Safety Services office.

6.5 Request for information declined

There are circumstances where, under the CPA, a prescribed entity can decline the request of Child Safety Services. These are when giving the information could reasonably be expected to:

- prejudice the investigation of a contravention or possible contravention of a law in a particular case;
- prejudice an investigation under the *Coroners Act 2003*;
- enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained;
- endanger a person's life or physical safety;
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating, or dealing with a contravention or possible contravention of a law; or
- not be in the public interest to give the information.

Refer to section 159N (3) of the CPA.





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If the QCS delegate receiving the request for the information is not satisfied that the information meets the threshold of relevant information, the delegate may refuse the request to give information.

A prescribed entity does not commit an offence by failing to comply with a request in these circumstances.

Refer to section 159N (4) of the CPA.

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