

Queensland Corrective Services Offenders with specific needs Policy and Action Plan 2006 – 2009



Queensland Government
Queensland **Corrective Services**

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Foreword

In 2004, Queensland Corrective Services (QCS) undertook a review of its business model to better equip QCS to meet its present and future challenges.

The review recognised the growing diversity of the offender population, which has become characterised by increasing proportions of offenders with intellectual disability/cognitive impairment, psychiatric/psychological disabilities or disorders, ageing or physical infirmities, and recommended that the Agency continue to prioritise the development of policy regarding these offenders.

In response to this recommendation, QCS has developed the *Offenders with specific needs policy and action plan*. This policy and action plan builds on legislative obligations and current initiatives in the Agency to highlight the particular needs of certain offenders. Development has involved significant consultation with staff at all levels in QCS.

QCS already aims to provide humane containment, supervision and rehabilitation of offenders and has a number of processes operating to meet the needs of all offenders.

The purpose of the policy and action plan is to ensure that offenders with specific needs, as defined by QCS, are able to complete interventions and comply with detention and supervision requirements, ultimately reducing their risk of re-offending upon their return to the community.

QCS has identified a specific needs offender to be:

A person who, due to experiencing:

- intellectual disability/cognitive impairment
- psychiatric/psychological disability or disorder
- ageing
- physical infirmity

requires assistance to access the same information and opportunities as the general offender population.

Neil Whittaker
A/Director-General

Introduction

QCS aims to promote community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.¹ It achieves this through administering penalties and sanctions imposed by courts.

In regard to the intervention aspect of penalties, QCS primarily seeks to assist offenders to address issues that contribute to their offending behaviour, but also offers varying levels of assistance to address health, social and personal issues. This assistance occurs within the confines of ensuring the safety of the community, and safety and security of corrective services facilities. Additional issues also dictate how QCS responds to the needs of offenders, including fiscal and legal issues, and practical factors such as the prevalence of a need, the authority of QCS to address a need requiring specialist attention and its ability to meet that need within a community or custodial environment.

Offenders often have high-level needs that must be addressed to reduce their offending behaviour. Many of these needs are similar and, therefore, can be addressed by standard interventions and service provision. However, an offender experiencing an intellectual disability/cognitive impairment, psychiatric/psychological disability or disorder, ageing or physical infirmity presents specific challenges and, therefore, requires the development of an environment to enable the same access to information, programs and services as the general offender population².

The potential experiences of offenders with specific needs were raised during the Agency's Business Model Review.³ While Queensland has greater reference in legislation to the specific needs of offenders than any other State,⁴ the review recommended that QCS continue to accord the highest priority to policy development in consideration of these offenders.⁵

This policy and action plan is separated into three components:

1. Policy – this section outlines the Agency's policy position in relation to offenders with specific needs. The policy informs the principles underlying the Agency's management of, and response to, offenders with specific needs.
2. State of affairs – this section provides information on the challenges for QCS in managing and responding to offenders with specific needs and identifies the current initiatives in this area. This section also defines those offenders who are categorised as having "specific needs".
3. Action plan – this section contains the action plan that details initiatives that will be undertaken to improve the management of, and response to, offenders with specific needs with the overall intention to enhance community safety.

This policy and action plan is developed to assist offenders with specific needs to access opportunities to complete interventions and comply with detention and supervision requirements. By assisting offenders to undertake interventions, broader issues such as community safety and the ability for offenders to address health, education and employment services are enhanced.

¹ The term "offender" is used to indicate a person under the supervision of QCS where the context can reflect an offender subject to imprisonment or a community based order. The term "prisoner" is used where the context refers only to persons imprisoned in corrective services facilities.

² Department of Corrective Services, (2005), *Legislation review consultation report*, p 8.

³ Department of Corrective Services (2004), *Business Model Review*, p 97.

⁴ *ibid.* 6, p 15.

⁵ Department of Corrective Services (2004) *Business Model Review*, Recommendation 1 (b).

Section 1 – Policy

Policy statement

QCS seeks to promote community safety and crime prevention through offering an integrated corrective services system that delivers humane containment, supervision and interventions for offenders. QCS recognises that some offenders have specific needs that impact upon their experiences of, and their ability to respond to, the corrective services system.

QCS defines an offender with a specific need as:

A person who, due to experiencing an:

- intellectual disability/cognitive impairment
- psychiatric/psychological disability or disorder
- ageing or physical infirmity

requires assistance to access the same information and opportunities as the general offender population.

Policy aim

Wherever possible, QCS seeks to manage and address the specific needs of offenders as part of its duty of care to improve:

- the offenders' response to the correctional system
- the safety of the community, staff and offenders

Policy implementation

QCS will, wherever possible:

- liaise, consult and collaborate with external agencies, Government and non-government, to manage offenders with specific needs
- use a combination of assessment tools, validation from third parties and professional judgement to identify and manage offenders with specific needs
- promote throughcare and pre-release planning for prisoners
- develop staff capabilities to manage and respond to offenders with specific needs

Policy principles

Within the context of safety and security, QCS supports the following principle:

- community safety is enhanced through the management of offenders with specific needs
- social justice values of access, equity, equality and participation are administered
- safety underpins the administration of staff roles and responsibilities
- offenders with specific needs are identified and their needs addressed, where possible
- prisoners have access to health and medical services consistent with services available in the community
- prisoners with specific needs are, where appropriate and possible, integrated within the general correctional population
- strategies supporting protection from abuse or exploitation are implemented for prisoners considered to be vulnerable or at risk
- collaboration and coordination with external providers is valued

Section 2 – State of affairs

Offenders with specific needs

In identifying an offender as having a specific need, a number of questions should be asked:

- Does the offender fit into one or more of the four categories of intellectual disability/cognitive impairment, psychiatric/psychological disability or disorder, ageing or physical infirmity?
- Does the condition affect the offender's ability to comply with supervision requirements or their ability to take up opportunities available to progress through the correctional system and eventually re-enter the community?

Wherever possible, objective assessment tools administered by QCS or an appropriate external agency, identified pre-sentence, should be utilised to confirm the answers to the above questions. The role of subjective assessment is recognised as having an important role but must be supported by clear justification when used in management decisions.

In order to be identified as having a specific need, the offender must meet both of the above guidelines. An offender who has a condition that meets one or more of the four categories, but does not have difficulty accessing information or taking up opportunities to progress through the correctional system, would not meet the requirements for having a specific need.

Definitions

Intellectual disability/cognitive impairment

There are a variety of definitions that purport to outline the qualifications of an intellectual disability or cognitive impairment. The *Disability Services Act 1992* (Cth) describes a person as having a disability where they have an intellectual or cognitive impairment that “results in a substantial reduction of the person's capability for communication, social interaction, learning or mobility”⁶.

A person with an intellectual disability also has “significantly sub-average intellectual functioning...and...limitations in two or more adaptive skills areas (eg. home living, communication, leisure, work) that manifests before 18”.⁷ Persons who fit the above criteria usually require a degree of assistance to meet their day-to-day needs.

Psychological/psychiatric disability or disorder

A psychological/psychiatric disability or disorder diagnosed psychological condition or psychiatric illness.

(The fourth edition of the *Diagnostic and Statistical Manual of Mental Disorders* has over 300 psychiatric disorders and anticipates additions and amendments to disorders to occur as further research is conducted. The current range of mental disorders include adjustment disorders; anxiety disorders; dissociative disorders; eating disorders; impulsive-control disorders; mood disorders; sexual disorders; Sleep Disorders; psychotic disorders; somatoform disorders; substance disorders and personality disorders).

⁶ *Disability Services Act 1992*

⁷ Parton, F. (2005). *An empirical study on the relationship between intellectual ability and an understanding of the legal process in male remand prisoners*. – Conference Proceedings. Victoria: Disability and the Criminal Justice System Conference.

Section 2 – State of affairs

Ageing

“Old age” in the community is defined as 65 years of age or over.⁸ However, as offenders have typically led lives inclusive of drug and alcohol abuse, poor nutrition and economic disadvantage, they are usually considered elderly at the age of 50.⁹ Caution does need to be taken in applying this as a standard as not all offenders have experienced social disadvantage during their lives.

As at 30 June 2005, approximately 10 per cent of prisoners in Queensland were aged 50 or over¹⁰ and 6.6 per cent of offenders subject to community supervision were aged 50 or over.

Another factor which influences a person’s transition to old age is their ethnicity. Aboriginal and Torres Strait Islanders have a life expectancy 20 years less than non-Indigenous Australians. Therefore, Aboriginal and Torres Strait Islanders are considered elderly from 45 onwards.¹¹

Physical infirmity

This category does not only include physical disability. Physical disability tends to refer to limitation or impairments that are long-term and substantially affect a person’s activities^{12,13}. This category is designed to address the needs of offenders who, for a variety of reasons, have a physical or sensory impairment that could affect their personal safety, their ability to comply with supervision requirements or their ability to take up opportunities available to progress through the correctional system. Impairments within this scope will vary and need not be permanent. However, in many cases medical assessments or at least medical advice regarding the offender’s physical restrictions and the assistance required should be undertaken, particularly in corrective services facilities.

Physical infirmity has, therefore, been defined as encompassing offenders who:

have a sensory or physical impairment that impacts on an his/her mobility, restricts his/her daily activities and he/she consequently requires support on a daily basis to manage activities.

⁸ Grant, A. (1999). Elderly inmates: issues for Australia. *Trends and issues in crime and criminal justice*, Australian Institute of Criminology, 115.

⁹Kratcokski, P. & Pownall, G. (1989). Federal bureau of prisons programming for older inmates. *Federal Probation*, 53(2).

¹⁰ Ibid, 6

¹¹ Queensland Health. 2004. *Queensland Health’s directions for aged care 2004 – 2011*, p 6.

¹² Ibid, 36

¹³ Ibid, 8

Section 2 – State of affairs

Key issues and challenges

There are a number of key issues surrounding the Agency's ability to manage and respond to offenders with specific needs. This section highlights those issues.

A common argument is made that certain groups of offenders should not face conviction and sentencing for their offences as they are not responsible for their actions. Such an argument is outside the scope of QCS as in the majority of cases courts alone determine an appropriate penalty for people who commit offences. In making the decision, the court is bound by section 9 of the *Penalties and Sentences Act 1992* which requires that, except in offences involving violence, imprisonment is to be imposed as a last resort having regard to factors including the offender's culpability, intellectual capacity, character and the need to protect the community from the offender. The court will also have information in regard to a person's individual circumstances, including their specific needs, which is considered in determining an appropriate penalty. Therefore, while it may not be considered ideal to imprison an offender with specific needs, where this does occur, it is the role of QCS to appropriately manage the offender.

Another sentencing option that can be imposed by the courts is a community-based order. A community-based order such as a Probation or Intensive Correction Order serves multiple purposes of deterrence, punishment and rehabilitation while a Community Service Order incorporates an aspect of reparation to the community. All orders are administered by QCS. Community-based supervision can be seen by parties linked with the offender as a positive sentencing option as it provides the offender with supervision while additional requirements can be placed on an order to recognise the offender's specific needs. However, the use of orders in this way can be problematic for a number of reasons, including:

- services for offenders with specific needs may have restrictions that limit their client group to certain categories or levels of need. In addition, once a service is identified, waiting lists can be lengthy
- given the requirements of orders, it can be difficult for some offenders with specific needs to consistently comply with them eg. offender with acquired brain injury may find it difficult to remember appointment times
- the need for corrective services officers to balance the Agency's obligations to the community, the need to respond to an offender's non-compliance of an order and attempts to address an offender's specific needs that may or may not be linked to their offending behaviour

QCS' core business is the detention, supervision and intervention of offenders. While the Agency's commitment to maintaining safety and security of corrective services facilities is a priority, there is a duty of care to offenders. Offering dedicated services to meet the complex issues of offenders with specific needs, particularly in corrective services facilities, adds a broader dimension to the Agency's activities.

QCS is restrained by budgetary considerations and must determine the best allocation of resources. Offenders with specific needs often require more than one support service and providing these services or coordinating these across government jurisdictions and with external agencies can be challenging.

Specific needs are not always easily identifiable; diagnosis and treatment can be lengthy and problematic and some specific needs cannot be treated.

While the prevalence of offenders with specific needs is increasing, offenders with these needs continue to constitute minority groups within the offender population.

QCS staff are not necessarily trained to manage offenders with specific needs. In addition, offenders with specific needs may require specialist support and ongoing community care to ensure that the period of their imprisonment does not impact on their community support networks. Challenges include engaging with appropriate agencies and defining respective roles and responsibilities.

Section 2 – State of affairs

The ability of offenders with specific needs to participate in programs can be hampered by their specific needs. For example, offenders may not be able to understand the content of programs or health problems may prevent their attendance at programs.

The ability of prisoners with specific needs to cope physically and mentally through imprisonment can make it difficult for the offender to participate in employment and other meaningful activities.

Offenders supervised in the community have significant freedoms and their contact with QCS is minimal when compared with that of prisoners. Being supervised in the community reduces the Agency's duty of care to address certain health needs and QCS' legal authority to intervene in such areas.

Current initiatives

QCS is already involved in addressing the management of offenders with specific needs. Described below are a number of relevant strategies currently being implemented.

Strategies common to all specific needs

Offender Management Groups exist to provide overall strategies for offenders' management. An offender's allocation to a group is reviewed regularly and movement between groups can occur as an offender's specific situation changes. Offenders with specific needs, depending on the type and level of need, may be allocated to the Functional Support Group. Allocation to this group is primarily due to an offender being unable to participate in standard interventions. The primary objectives of this group are to:

- minimise adverse effects of contact with the correctional system
- focus on individual social rehabilitation and re-integration
- provide sufficient levels of support to assist the offender to successfully complete the sentence or order

The Making Choices Program is being implemented throughout the State to replace the Cognitive Skills and Anger Management programs. It is a general criminogenic program flexible enough to address the varying skill levels and learning styles of participants in each program and is also designed to assist offenders address issues specific to their needs.

Medical treatment is available for offenders in corrective services facilities, providing a level of health care commensurate with that offered in the community.

An offender's medical, psychological and psychiatric needs are identified upon admission to custody including points of transfer between correctional facilities. If a prisoner is identified as requiring medication or intervention, corrective services facilities have resources to assess, manage and support such needs. Where a prisoner's health needs are unable to be met at a corrective services facility, the prisoner may be treated at a public hospital.

Pre-release planning is a standard component of each prisoner's sentence. The duration of pre-release planning is determined by a range of factors including the prisoner's sentence length and their needs to reintegrate into the community such as the level of support through family, friends or community organisations. While not all prisoners will have formalised pre-release planning, prisoners with identified needs have access to the Transitions Program to assist their re-integration.

Section 2 – State of affairs

Intellectual disability/cognitive impairment

QCS committed funding to a cross-agency project led by Legal Aid Queensland (LAQ) to design a screening tool and training package for use in the criminal justice system to identify offenders who present with an intellectual disability/cognitive impairment. The project was finalised in May 2006 and in June 2006. QCS is currently involved in progressing recommendations arising from the project report titled *People with intellectual disabilities and cognitive impairments in the justice system*.

The Transitions Program is a pre-release program currently being delivered in corrective services facilities. It is designed to provide relevant information and practical assistance to prisoners preparing to return to living in the community. The program was initially developed in consultation with other Government departments and is currently being reviewed. As part of the review, QCS is specifically considering the needs of prisoners with intellectual difficulties and developing working relationships with local community agencies who will then participate in the facilitation of the program.

QCS has been liaising with Her Majesty's Prison Service in the United Kingdom regarding a sexual offending program specifically adapted for offenders with lower levels of cognitive functioning. Consultation with international and local experts in the areas of assessment and intervention with sexual offenders with lower levels of cognitive functioning has also been occurring to ensure QCS' practices are consistent with contemporary research and best practice in this area.

Psychological/psychiatric disability or disorder

QCS has been exploring options to improve the provision of health services to prisoners with an initial focus on mental health.

Outpatient mental health services are being purchased from Queensland Health to assist addressing the needs of offenders with specific needs.

Ageing

Legislation directs that the needs of older offenders are to be considered when building or refurbishing corrective services facilities. The needs of the elderly can include design of the facility, accommodation, access requirements, diet and staffing issues.

Hospice facilities for elderly prisoners are planned to be included in future industries development.

Physical infirmity

All new designs of corrective services facilities are based on the amended Building Code of Australia which requires new facilities to have amenities for prisoners with a disability. However, compliance will be based on actual needs as prisons do not necessarily reflect the general community. QCS has engaged, as part of its current capital program, a Disability Discrimination Act consultant to ensure that the issues of disabled access within correctional centres are addressed.

When existing facilities are renovated, all steps will be taken to bring the infrastructure up to the current requirements for disabled access where practical and possible.

Section 3 – Action Plan

Policy Strategy	Action	Lead responsibility	Performance indicators	Timeframe
Policy alignment	QCS staff are aware of the Agency's commitment to offenders with specific needs	Strategic Policy and Services Media and Communications	The Agency's Offenders with Specific Needs Policy and Action Plan is published on the Intranet There are mechanisms to internally publicise offenders with specific needs initiatives conducted within QCS	December 2006 December 2007
Policy alignment	Existing and new policies and procedures are compatible with the policy statement	Strategic Policy and Services	The Administrative Form template - Procedure Request has been amended to ensure that offenders with specific needs are considered when developing and amending procedures	June 2006
Process enhancement	Offenders' specific needs are identified and addressed where possible	Offender Programs and Services	The feasibility of QCS working in collaboration with Queensland Health psychologists and counsellors for issues such as drug and alcohol addiction has been assessed Negotiations with Queensland Health to improve the management and treatment of the mental health needs of offenders are finalised and outcomes implemented	December 2008 December 2009
Process enhancement		Offenders Assessment and Services Strategic Policy and Services Offenders Assessment and Services	The Immediate Risk Needs Assessment has been amended to include references to the four categories involved in defining specific needs – psychological/psychiatric disability, intellectual disability/cognitive impairment, ageing and physical infirmity Supporting documentation has been developed to assist staff in completing the Immediate Risk Needs Assessment to assess offenders for the four categories involved in defining specific needs Offender Management Plans and Offender Management Reviews have been modified to require comments regarding the management issues and/or strategies for offenders identified as having specific needs.	June 2007 June 2007 June 2007

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Process enhancement	Strategies supporting protection from abuse or self-harm are implemented for prisoners considered to be vulnerable or at risk	Custodial Operations	Existing crisis support orders and special treatments orders have been replaced with a safety order with an emphasis on keeping prisoners and staff safe within corrective services facilities General managers at each corrective services facility have developed strategies that promote a safe environment and promote zero tolerance to assault, bullying and violence by staff and offenders, as part of their organisational responsibility	December 2006 June 2007
Skills enhancement	Staff interactions with offenders with specific need is guided by best practice	Offenders Assessment and Services	An initial assessment framework has been implemented to support pre-release planning and throughcare Relevant staff have been trained in the use of the assessment framework, including the IRNA as it relates to offenders with specific needs.	December 2007 December 2007
Skills enhancement	Prisoners have access to health and medical services consistent with services available in the community	Offender Programs and Services	Negotiations with Queensland Health to improve the management and treatment of mental health needs of offenders are finalised and outcomes implemented	January 2007
Improved access to built environment	Access issues for people with physical disability in area offices and corrective services facilities are considered in the development and refurbishing process	Facilities Management	When existing facilities are renovated, all steps will be taken to bring the infrastructure up to the current requirements for disabled access, where practical and possible When upgrading Probation and Parole area offices, access issues have been taken into account and are compliant with Federal and State legislation	December 2007
Enhancing the evidence base	QCS has data collection systems in place to record offenders with specific needs	Offenders Assessment and Services	An offender warning indicator has been introduced into the Integrated Offender Management System for offenders with specific needs Current and retrospective data will be collected from the Integrated Offender Management System regarding offenders with specific needs	June 2009 June 2009

Section 3 – Action Plan

Enhancing the evidence base	QCS has evidence based research on offenders with specific needs	Strategic Policy and Services	Research has been undertaken to identify the number of prisoners with intellectual disability	December 2007
Collaboration and coordination with external providers	Liaise, consult and collaborate with external agencies, government and non-government, to manage the specific needs of offenders	Strategic Policy and Services	QCS is participating in the development of a whole-of-Government response to recommendations from the Legal Aid Queensland Disability Project for a shared screening tool to identify offenders with an intellectual disability and cognitive impairment across the criminal justice system	June 2007
		Offender Programs and Services	A memorandum of understanding with Disability Services Queensland to exchange advice regarding the management of incarcerated shared clients has been ratified	December 2006
		Probation and Parole Service	Negotiations with Queensland Health to improve the management and treatment of mental health needs of offenders are finalised and outcomes implemented	June 2007
			Each region has completed a scan of their environment in terms of offender needs and services available within their local area with the aim of developing local level agreements with service providers	January 2007

Glossary of terms

Ageing

Generally, a person between 45–50 years of age who is assessed as experiencing issues directly relating to their body ageing.

Issues include a general deterioration of the body, mobility and senses; assistance can be required to complete day-to-day activities; health problems often increase and endurance can decrease.

Cognitive impairment

Characteristically, multiple disabilities arise from damage to the brain acquired after birth. This can result in deterioration in cognitive, physical, emotional or independent functioning. A cognitive impairment can be the result of an accident, stroke, a brain tumour, infection, poisoning, lack of oxygen, degenerative neurological disease, etc.¹⁴ For the purposes of this action plan, cognitive impairment also includes acquired brain injury.

Community based order

A community service order, probation order, intensive correction order, or intensive drug rehabilitation order and fine option order. For the purposes of this action plan, a community based order also includes a parole order.

Corrective services facility

- a place where prisoners are held whilst on remand or sentenced to a period of imprisonment.
- a community corrections centre
- Work Camp

Intellectual disability

Conditions appearing in the developmental period (age 0-18) with concurrent learning difficulties and the need for more support in everyday life skills compared to others of the same age¹⁵.

Offender

A person under the supervision of QCS either in custody or being supervised in the community.

Physical infirmity

A sensory or physical impairment, temporary or permanent, that impacts on an offender's mobility or restricts his/her daily activities or he/she requires support on a daily basis to manage activities.

¹⁴ Disability Services Queensland, (2002) *Funding Reform Project Issues Paper 1 - Demand for Disability Services*, p 37 (<http://www.disability.qld.gov.au/reform/fund1/glossary.cfm>)

¹⁵ Ibid

Glossary of terms

Prisoner

A person in a corrective services facility.

Psychological/psychiatric disability

A diagnosed psychological condition or psychiatric illness.

Specific needs offender

An offender who, due to experiencing an:

- intellectual disability/cognitive impairment
- psychiatric/psychological disability or disorder
- ageing;
- physical infirmity

requires assistance to access the same information and opportunities as the general offender population.