

Child Safety POLICY

Title: Response to children who are sexually abused while in care

Policy No: 627-3

Policy Statement:

The Department of Child Safety Youth and Women (Child Safety) is committed to its legislative responsibility to ensure the safety, wellbeing and best interests of children in care and to report alleged harm to a child that involves the commission of a criminal offence relating to the child to the police commissioner of the Queensland Police Service.

Child Safety will provide a response to children who have been sexually abused while placed in a care arrangement, irrespective of who is responsible for the sexual abuse. For these matters, a holistic response is provided to the child, including:

- an acknowledgement by Child Safety of the abuse the child has experienced and the resulting harm. An expression of regret in accordance with the *Civil Liability Act 2003* may be provided taking into account the age and maturity level of the child.
- a review of the case plan to reflect any significant change to the child's needs or safety and to include any actions necessary to respond to the sexual abuse.
- facilitation of a referral for both the child and protective carer to relevant therapeutic support services including sexual abuse counselling.
- facilitation of a referral for independent legal advice for children to be informed of their legal rights and be assisted in pursuing legal remedy or compensation.

Child Safety is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Child Safety has an obligation to take action to ensure responses to children who have been sexually abused in care are compatible with human rights and, when making a decision, to give proper consideration to human rights.

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country will be a key consideration when responding to children who have been sexually abused in care.

Principles:

- The safety, wellbeing and best interests of the child, both throughout childhood and the rest of the child's life, are paramount.
- Every child has a right to be protected from harm or risk of harm.
- Child Safety has a responsibility to provide care that meets the child's developmental,

educational, emotional, health, intellectual and physical needs.

- Children who have experienced, or are experiencing trauma, have the right to receive appropriate medical, therapeutic and behaviour support to meet their individual needs.
- Child Safety staff will act and make decisions in a way that is compatible with human rights and obligations under the *Human Rights Act 2019*.
- The five elements of the child placement principle (prevention, partnership, placement, participation and connection) under the *Child Protection Act 1999*, section 5C, apply to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child.
- Children have a right to participate in decision-making in matters that affect them with due regard to their age, maturity and capacity to understand.
- Children who are sexually abused while in care have a right to access support or assistance associated with the prosecution of a criminal offence.
- Children who experience sexual abuse while in care have a right to access relevant legal remedies and resources to pursue compensation for harm suffered.
- Responses to children will be provided in a sensitive, respectful and timely manner.

Objectives:

This policy aims to ensure that Child Safety staff provide a response to children who have been sexually abused while placed in care.

Scope:

This policy refers to children who have experienced sexual abuse during the period they were placed in a care arrangement by Child Safety. The policy applies irrespective of who perpetrated the abuse. Therefore it is not limited to abuse by a carer, member of their household, Child Safety staff or licensed care services staff. It includes sexual abuse by other individuals such as an adolescent or adult family friend, teacher, sports coach or abuse by a parent or other family member during family contact.

This policy does not apply to adults who were former children in care.

Roles and Responsibilities:

- The roles and responsibilities of Child Safety staff regarding case planning for children and in care are outlined in the Child Safety Practice Manual, Support a child in care and Provide and review care, and associated resources.
- Child Safety staff are responsible for ongoing case work and case planning, including contacting Legal Services to access independent legal advice for a child when required.
- Legal Services is responsible for providing advice to Child Safety when children in care wish to access legal advice, including legal remedies and resources. This includes arranging independent legal advice for the child and providing information to staff about their potential involvement in criminal and/or civil proceedings.
- Child Safety staff are obligated to provide a young person in the custody or guardianship of

the chief executive who has been (or may have been) a victim of crime, with assistance to access support that may be available through Victim Assist Queensland to help them recover from the experience. This includes a child who experiences sexual abuse while in care.

If the child is subject to a child protection order granting guardianship to the chief executive, Child Safety will arrange an application for assistance from Victim Assist Queensland on the child's behalf. Child Safety will seek the views of the young person about making an application for assistance, and where possible, make the application on behalf of the young person. The decision about when to make an application for a young person to receive assistance from Victim Assist Queensland should be made at the earliest possible time as part of the case planning process.

If it is decided to proceed with an application, Child Safety is responsible for:

- preparing the application to Victim Assist Queensland on the young person's behalf.
- reporting the incident to the Queensland Police Service in line with the *Child Protection Act 1999*, section 14(2), if it has not already been reported.
- updating the young person's case plan to include information about the application (or proposed future application) to Victim Assist Queensland.
- recording information about the application in a *Victim of crime* case note in the relevant event in ICMS.

When developing and reviewing a case plan, Child Safety will review whether:

- the young person may have been a victim of an act of violence
- information about Victim Assist Queensland has been provided to the young person, and
- the incident has been reported to Queensland Police, as applicable.

The young person's transition plan (contained within their case plan) will include information about any application to Victim Assist Queensland, or plans for a potential future application for assistance.

If the child is subject to an interim or finalised child protection order granting custody to the chief executive, Child Safety will also provide information about Victim Assist Queensland to the child's parent or guardian. They will be responsible for facilitating an application for assistance for the child.

Authority:

Child Protection Act 1999, sections 7(1)(m), 14, 51ZD, 82, 122, 159M and 197A.

Delegations:

Refer to instruments of delegation for delegations relevant to decisions for children in care.

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Office: Child and Family Operations
Help Contact: Operational Support

Links:

Procedures

Child Safety Practice Manual

Related Legislation

Human Rights Act 2019

Public Guardian Act 2014

Queensland Civil and Administrative Tribunal Act 2009

Civil Liability Act 2003

Victims of Crime Assistance Act 2009

Related Policies

Care agreements (415)

Case planning (263)

Information sharing for service delivery coordination (403)

Intervention with parental agreement (343)

Participation by children and young people in decision-making (369)

Structured Decision Making (407)

Suspected Child Abuse and Neglect (SCAN) Team System (405)

Response to children who have experienced significant detriment caused by the actions or inactions of Child Safety (634)

Rescinded Policies

627-2 Response to children and young people sexually abused whilst placed in out-of-home care

Deidre Mulkerin
Director-General