

Child Safety POLICY

Title: Response to children who have been sexually abused while in care

Policy No.: 627-4

Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety) is committed to providing a compassionate, trauma-informed response to any child who has been sexually abused while in care, irrespective of who is responsible for the sexual abuse.

The response to a child has three components:

- Responding immediately to the child – this includes believing the child’s disclosure, responding compassionately and sensitively to the disclosure, acknowledging and apologising for what has happened and ensuring the child’s immediate safety and access to support.
- Responding to the child’s disclosure – this includes the appropriate recording of the disclosure in line with legislative and policy requirements, the reporting of the allegation to the Queensland Police Service, undertaking an investigation and assessment (if required for a notification or harm report), and ensuring the child has ongoing support during any subsequent Child Safety intervention and legal or court processes.
- Providing ongoing support to the child – this includes ongoing access to therapeutic support as part of case planning process, support for the child to access independent legal advice to explore legal options for redress or compensation and offering them the opportunity to receive a formal apology from a senior officer within Child Safety. The provision of support must take into account the child’s age, circumstances and views/wishes and could be required at any stage, right through to a young person’s transition to adulthood.

Psychological damage to a child from sexual abuse may be exacerbated by the way Child Safety responds to the abuse. Showing compassion, empathy and providing an apology to a child who has disclosed or suffered sexual abuse while in care may help to mitigate the child’s distress as far as possible. The *Civil Litigation Act 2013* allows Child Safety to respond in this way, whether or not it admits or implies an admission of fault in relation to the matter. Child Safety will consider a child’s circumstances when providing or offering an apology to the child.

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 while 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 while 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.
- Responses to children who have been sexually abused while in care will be focussed on their recovery and healing and underpinned by the five foundational principles of trauma-informed practice – safety, trustworthiness, choice, collaboration and empowerment.
- Children who are sexually abused while in care will be responded to in a compassionate, trauma-informed, respectful and timely manner.
- 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 have experienced, or are experiencing trauma, have the right to receive appropriate medical, therapeutic and behaviour support to meet their individual needs.
- Children who are sexually abused while in care have a right to access the support or assistance that is available to victims of crime and to those involved with matters before the court.
- Children who are sexually abused while in care have a right to access relevant legal remedies and resources to pursue compensation for harm suffered.
- 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 Aboriginal and Torres Strait Islander Child Placement Principle (prevention, partnership, placement, participation and connection) under the *Child Protection Act 1999* (section 5C), applies to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child.

Objectives:

This policy aims to ensure that Child Safety staff provide a trauma-informed, compassionate and timely response to children who have been sexually abused while in care. It recognises the profound and life-long impact of sexual abuse on children, and that many children in care may have already experienced trauma prior to coming into care.

This policy requires Child Safety staff to believe a child and respond to them in a supportive way, regardless of the outcome of any subsequent investigation and assessment or court process. It acknowledges that responses to the child will vary depending on time and age of child and may be required from the time of the disclosure, through to transition to adulthood planning and support.

This policy also requires Child Safety staff to support children who have been sexually abused while in care to access services to assist them in their recovery, and to access independent legal advice in relation to legal action they may wish to take to access redress or compensation.

Scope:

This policy refers to children who have been sexually abused while in a care arrangement made by Child Safety. This policy applies irrespective of who perpetrated the abuse, and 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 retrospectively to adults who were previously children in care. However, an adult who contacts Child Safety and discloses they experienced sexual abuse as a child while in care will be provided with information about support services, legal avenues for redress or compensation, and any other relevant available services.

This policy also does not apply to:

- a child who was sexually abused while subject to a child protection order granting custody to a relative
- the biological child, step-child or adopted child of an approved carer or staff member
- a child who resided in the care environment but is not subject to statutory intervention.

Roles and Responsibilities:

Child Safety

Child Safety staff are responsible for:

- Providing an immediate and ongoing response to children who experience sexual abuse while in care.
- Supporting and assisting children who experience sexual abuse while in care to access the help and support they need to assist their recovery.
- Undertaking an investigation and assessment of disclosures of sexual abuse, including a joint response with Queensland Police Service, if required.
- Providing the child with a genuine, meaningful, trauma-informed apology for the abuse they have experienced and the resulting harm, as well as offering the child a formal apology, either in writing or in person by a senior officer, at a time appropriate for the child.
- Supporting children to exercise their legal rights. This will include a referral for independent legal advice for children to be informed of their legal rights, including eligibility for financial assistance from Victim Assist Queensland, to apply to the National Redress Scheme (before 30 June 2027), or pursuing legal remedy or compensation.

Legal Services

Legal Services staff are responsible for:

- Providing advice to Child Safety staff when children in care wish to access legal advice, including considerations as to the capacity of a child to give legal instructions, and potential legal remedies and resources.
- Providing information to staff about their possible involvement in criminal and/or civil proceedings.

Redress Coordination Unit

If the sexual abuse of the child occurred prior to 1 July 2018, and the child will turn 18 before 20 June 2027, the Redress Coordination Unit is able to provide advice to Child Safety staff about:

- the eligibility criteria for a young person to apply for redress under the National Redress Scheme
- how to access knowmore Legal Services for free, independent advice about applying for redress or taking civil actions against Child Safety, including access to dedicated Aboriginal and Torres Strait Islander cultural liaison officers within knowmore.

Authority:

Child Protection Act 1999, sections 5A, 7(1)(d)(e)(m), 14, 74, 122, Part 4, 197, 197A, and Schedule 1.

Delegations:

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

Records File No.:	Not applicable
Date of approval:	15 June 2022
Date of operation:	15 June 2022
Date to be reviewed:	15 June 2025

Office:	Office of the Chief Practitioner
Help Contact:	Child Protection Practice

Links:

Procedures

Child Safety Practice Manual

Related Legislation

Civil Liability Act 2003

Human Rights Act 2019

Public Guardian Act 2014

Victims of Crime Assistance Act 2009

Related Policies

Care agreements (415)

Case planning (263)

Critical Incident Reporting

Information sharing for service delivery coordination (403)

Intervention with parental agreement (343)

Managing high risk behaviour (647)

Positive Behaviour Support (604)

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

Responding to concerns about the standards of care (326)

Rescinded Policies

627-3 Response to children and young people sexually abused while in care

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