



# When a child is missing

Remembering Tiahleigh – A report into Queensland's children missing from out-of-home care



Queensland  
**Family & Child**  
Commission



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# Foreword

The loss of a child is devastating. I want to acknowledge the grief and sadness associated with the death of Tiahleigh Palmer felt by her family and carers, her school community, child safety officers, police officers and community workers.

I hope this review in some way can honour Tiahleigh and her family through a reflection on the responsiveness of the systems in place when she went missing, the changes which occurred after Tiahleigh's death and the work which remains to be done.

The Premier asked two things when calling for this review. Could more have been done at the time and how can systems be improved so that all children are regarded equal when they are reported missing, no matter their family circumstance.

Yes, more could have happened at the time but this was not a failure of individuals. Impediments in the systems, culture, policies and procedures hindered efforts.

There is no need for legislative change to improve systems. Rather it is the customs and practices built up over time obscuring the legislation which need to be addressed.

This report includes a number of recommendations to improve systems, culture and practice.

Firstly, we need to change the language. When a child is missing from out-of-home care he or she has not absconded or 'self-placed'. The child is missing or absent from placement and all must be done to secure his or her safety.

Secondly, we need to build a culture of shared responsibility. It takes a whole-of-community and whole-of-government approach to care for our most vulnerable children and young people from out-of-home care. Each agency has a legislated duty of care and must work together to prevent and respond to children from out-of-home care who may go missing.

Finally, it is absolutely necessary to improve the policies and procedures around data and information sharing. Agencies, non-government organisations, families and communities must share information to enable a timely response when a child is missing from out-of-home care.

In the course of the review, the QFCC also discovered a number of possible opportunities in relation to improving information sharing.

The concept of information sharing between key government agencies should be expanded to a wider range of circumstances to improve agency internal risk assessment and decision-making policies in providing for the safety of all children at risk.

As a necessary next step, the QFCC has begun a supplementary review into the adequacy of information sharing arrangements between all parties in government and non-government agencies, particularly in regulated service environments. The supplementary review will include consideration of what information can, and should, be shared to ensure all children are protected, including those in out-of-home care.

The key themes in this current review are consistent with the Queensland Child Protection Commission of Inquiry. I encourage Government to consider the recommendations in this report as part of the Supporting Families Changing Futures reform.

I would like to acknowledge the Queensland Family and Child Commission (QFCC) staff who worked tirelessly throughout the review and Gwenn Murray Consulting.

I would like to thank the key Queensland Government agencies which have been very open and responsive and worked collaboratively with the QFCC throughout the review. They include the Queensland Police Service, the Department of Communities, Child Safety and Disability Services, the Department of Education and Training, Queensland Health, the Office of the Public Guardian and the Department of Science, Information Technology and Innovation.

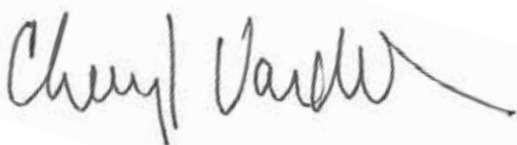
These agencies have actively made immediate changes to policies and systems while the review was progressing and many of the recommendations in this report are well developed and underway.

I would also like to thank the non-government organisations which worked with the QFCC throughout the review. Specifically, Bravehearts, CREATE, Foster Care Queensland, the Family Inclusion Network and the Queensland Aboriginal and Torres Strait Islander Child Protection Peak.

These agencies work closely with children, families and communities affected by missing children and advocate to uphold the best interests of all children and families.

The changes to come out of this tragic event will make a difference but more can be done. There is an opportunity to look at system improvements for children in residential care who have gone missing and Aboriginal and Torres Strait Islander children who are overrepresented in the number of children missing from out-of-home care.

Together we can and will improve the way we respond to missing children.



**Cheryl Vardon**

Principal Commissioner  
Queensland **Family and Child** Commission

27 June 2016

# When a child is missing: *Tiahleigh's story*

On 30 October 2015, Tiahleigh Palmer, a 12-year-old girl was dropped at the front of her school. She did not go to class that day.

Tiahleigh was to be collected from school at lunch time for an appointment. The Queensland Police Service (QPS) was contacted when it was discovered she was not at school.

An investigation and a search for Tiahleigh by the QPS, her family, carers and friends then began.

Tiahleigh was found deceased on 5 November 2015.

Tiahleigh's life story is so much more than the days from when she went missing. She was in her first year at high school and her friends at school said 'she brought everyone together'<sup>1</sup>. She was described as a beautiful, bubbly young girl. She was a daughter, a sister, a granddaughter, a niece, a cousin and a friend<sup>2</sup>.

Tiahleigh was also in foster care.

Bravehearts, other non-government agencies and the public spoke with the media expressing concerns about government agencies' responses to Tiahleigh's disappearance. In particular, they raised concerns about:

- delays in information exchange between government agencies and how Tiahleigh's living in out-of-home care may have contributed to the QPS assessment of her disappearance
- delays in issuing a media release reporting Tiahleigh was missing
- child protection laws and government systems concerning confidentiality provisions which:
  - may have restricted the missing person investigation happening in a timely manner
  - prevented foster children's names and photos being released by the QPS as early as possible and
  - restricted Tiahleigh's foster carers and parents from taking their own actions following her disappearance and from commenting publicly to request assistance to locate her.

## **Request from the Honourable Annastacia Palaszczuk MP, Premier of Queensland and Minister for the Arts**

On 10 November 2015, the Premier wrote to the Principal Commissioner, Queensland Family and Child Commission (QFCC) requesting a broad whole-of-government systems review be undertaken to ensure the child safety, education, health and police service system worked effectively and *'everything possible was done when concerns were first raised about Tiahleigh's recent disappearance'*.

<sup>1</sup> Dalton, T 2016, 'If she was a rich kid, it would be different', Weekend Australian Magazine, 27-28 February, pp. 14-18.

<sup>2</sup> Utting, A 2015, 'Hundreds attend funeral for murdered Logan schoolgirl Tiahleigh Palmer', Gold Coast Bulletin, Accessed 14 March 2016, <http://www.goldcoastbulletin.com.au/news/crime-court/hundreds-attend-funeral-for-murdered-logan-school-girl-tiahleigh-palmer/news-story/0423fdf54818fcb61698b7dee9ebb7ab>.

Tiahleigh Palmer was dropped at school by her foster carer on the morning of Friday, 30 October 2015. We know Tiahleigh did not attend school that day. Tiahleigh had an appointment that afternoon. The alarm was raised by her foster carers when Tiahleigh was to be collected at lunchtime and was not at school.

On the same day, Tiahleigh's carer reported her as missing to the Queensland Police Service (QPS) and the Department of Communities, Child Safety and Disability Services (Child Safety Services). The carer also advised Tiahleigh's family and friends she was missing. Efforts commenced immediately on Friday afternoon to try to locate her.

Members of Tiahleigh's family and friends posted alerts on social media. Tiahleigh's mother and her carer undertook wide inquiries in an effort to try to locate her. They also reported her disappearance to the authorities.

It cannot be determined whether the efforts of the QPS were sufficient in attempting to find a young girl whose family and carers were concerned, or whether a different response would have changed the outcome for Tiahleigh.

Timeline information provided to the review team indicates gaps in responses and confusion from the key agencies regarding legislation and procedures. In particular, considerable time was spent discussing who had authority to publicly release information about Tiahleigh as she was a child under an order of the Chief Executive of Child Safety Services and living in out-of-home care.

There were inconsistencies and gaps in action in the information provided to the review team by the QPS and Child Safety Services.

The QPS agrees greater efforts should have been undertaken to locate Tiahleigh in the days immediately following her disappearance. The media reported community concerns that the QPS was not as rigorous in its investigation as it could have been and this was because Tiahleigh had a history of running away.

It is clear in the days following her disappearance that the QPS followed leads about possible sightings of Tiahleigh, conducted inquiries in shopping centres with Tiahleigh's photograph, checked closed-circuit television (CCTV) footage and made inquiries with her friends, associates, school staff and students.

The QPS is clear that a report of a child missing from out-of-home care is treated the same as a report of a child missing from home. QPS reports are assessed on the risk indicators for the individual child. Given Tiahleigh's age, her risk classification at the time was 'medium risk'. Children under 13 are now automatically assessed as 'high risk'.

The Director-General, Department of Communities, Child Safety and Disability Services (D-G, DCCSDS) was made aware of Tiahleigh's disappearance four days after she was missing, through the recording of a critical incident report.

There was a delay in issuing a media release requesting public information into Tiahleigh's disappearance. While attempts to locate Tiahleigh continued, the QPS negotiated with Child Safety Services for consent for the media release. Confusion and misinformation about who had authority to release the information caused some delays. The delay highlights the procedural and practice inconsistencies across multiple agencies in understanding how to respond when a child is missing from out-of-home care. When a child is missing delays need to be resolved as quickly as possible.

The circumstances surrounding Tiahleigh's death continue to be part of an ongoing criminal investigation.



# Executive summary

The Queensland Family and Child Commission (QFCC) was tasked to undertake a whole-of-government systems review of the arrangements in place for responding to children missing or ‘absconding’ (herein referred to as ‘absent from placement’) from out-of-home care.

The QFCC was also asked to consider whether all Government agencies worked together effectively when concerns were first raised about Tiahleigh Palmer’s disappearance.

This report considers legislative frameworks and policies, procedures and guidelines which support interagency cooperation when a child is missing from out-of-home care or is absent from their placement.

The report also considers the ability of carers to comment publicly when a child in their care is missing.

Analysis of the issues draws on information and data from key Government agencies, including the Queensland Police Service (QPS), Department of Communities, Child Safety and Disability Services (Child Safety Services), Department of Education and Training (DET), Department of Health (QHealth) and the Office of the Public Guardian (OPG).

Procedures and practices in other Australian states and territories and other countries are also reviewed.

Each key Government agency has a duty of care for supporting the safety, wellbeing and best interests of Queensland’s children. This includes a responsibility to respond and report harm, or risk of harm to a child.

Additional roles and responsibilities in providing a duty of care to children include:

- The QPS – investigating criminal offences committed against children, keeping children safe and reducing the risk of them becoming a victim of crime<sup>3</sup>.
- Child Safety Services – making sure children are cared for in a safe and accountable way through providing services to keep children safe from harm and promote their wellbeing, upholding a child’s rights and ensuring appropriate standards of care<sup>4</sup>.
- The DET – providing safe, supportive and disciplined learning environments for students, where education programs are responsive to a student’s individual needs. This includes preventing reasonably foreseeable harm to students and responding when an employee reasonably suspects harm or risk of harm to students<sup>5</sup>.
- QHealth – providing quality preventative, early intervention and care services and patient safety for all children<sup>6</sup>.

<sup>3</sup> Queensland Police Service 2014, ‘Children’, Queensland Government, Accessed 14 March 2016, <https://www.police.qld.gov.au/programs/cscp/personalSafety/children/>.

<sup>4</sup> Department of Communities, Child Safety and Disability Services 2015, ‘Rights and responsibilities’, Queensland Government, Accessed 14 March 2016, <https://www.communities.qld.gov.au/childsafety/foster-and-kinship-care/rights-and-responsibilities>.

<sup>5</sup> Department of Education and Training 2016, ‘Student health and wellbeing’, Queensland Government, Accessed 14 March 2016, <http://education.qld.gov.au/schools/about/health.html#protecting>.

<sup>6</sup> Queensland Health 2015, ‘Our strategies’, Queensland Government, Accessed 14 March 2016, <http://www.childrens.health.qld.gov.au/about-us/strategies/>.

- The Office of the Public Guardian (OPG) – providing a Community Visitor Program (CVP) to verify the safety and wellbeing of children in out-of-home care they visit. The CVP also verifies if the child’s needs are being met in line with the Standards of Care<sup>7</sup>.

The review discovered a number of system inadequacies. Work is required to improve consistency in guidance for agencies and carers, state-wide practice consistency and data collection and sharing.

It is also clear the development of media protocols will benefit the timeliness of actions and decisions regarding releasing information about a missing child publicly, media releases and media campaigns.

A cultural shift is required across government and non-government agencies. Together we must shift from a culture of considering children who are absent from their placement as ‘absconders’, a term which creates a perception of criminality and a belief it is an issue requiring the QPS response.

In addition, we must build and maintain a focus on missing children issues and keep these children on the whole-of-government agenda.

Data show children from out-of-home care are not easily distinguished as a separate group from all children reported to the QPS as missing.

Children living in out-of-home care may account for 30 per cent of all children reported missing to the QPS.

An average of 5 per cent of children living in out-of-home care are recorded by Child Safety Services as missing or absent from their placement each year.

The review confirmed the *Child Protection Act 1999* as the primary legislative framework to enable timely information sharing between government agencies when a child living in out-of-home care is missing.

In enabling information sharing, this Act carefully balances the need to maintain a child’s privacy and basic human rights with the best interests of the child being the paramount consideration in protecting their safety and wellbeing.

<sup>7</sup> Office of the Public Guardian 2016, ‘How can a Community Visitor help?’, Fact sheet, Queensland Government, Accessed 13 April 2016, [http://www.publicguardian.qld.gov.au/\\_\\_data/assets/pdf\\_file/0016/452401/opg-factsheet-community-visitors-carers-and-stakeholders-002.pdf](http://www.publicguardian.qld.gov.au/__data/assets/pdf_file/0016/452401/opg-factsheet-community-visitors-carers-and-stakeholders-002.pdf).

This review however, found that key government agencies, including the QPS, Child Safety Services and the DET do not routinely share information where there is no clear legislated ability or policy mandate to do so. This highlights a number of opportunities for agencies to share information over and above what is required to improve agency internal risk assessment and decision-making policies to better provide a safe environment for all children, including children in out-of-home care.

Children living in out-of-home care are among the most vulnerable children in Queensland. Their vulnerability may significantly increase if they are missing as they have already experienced multiple risk factors, including child abuse and neglect.

The review found procedures and processes guiding agencies in identifying vulnerability and responding when a child is missing from out-of-home care or absent from their placement cause confusion and misunderstanding.

There is a need to provide clearer and more consistent definitions and guidance in identifying when a child from out-of-home care is considered missing or absent from their placement to inform immediate and longer term action.

The importance of shared protocols, coordinated risk assessments and responses between government and non-government agencies is highlighted. There must be an increased collaborative approach and improved practice in responding to children missing from out-of-home care.

The QPS, as the lead agency for directly responding to and investigating reports about missing children, must immediately be able to gather critical information to assist with locating a missing child.

It is also vital the QPS can take direct action when preparing a media release requesting public assistance in locating a child missing from out-of-home care.

Queensland legislative frameworks and guidelines govern what information about a child from out-of-home care can be published.

This report confirms a QPS media release published with the child’s photo and no other identifying information is not likely to lead to their identification as being subject to any intervention or investigation



by Child Safety Services. The written approval of the Chief Executive of Child Safety Services is not required in accordance with section 189 of the *Child Protection Act 1999*.

There are significant benefits in developing cross-agency media strategies identifying the level of information suitable for publication about a child in order to best support a missing person investigation.

Guidelines for carers and care service providers do not provide guidance or examples to assist in understanding information which can be published when contacting a child's networks while trying to establish a child's present location.

Networks may be contacted by carers through social media sites, including Facebook to assist with locating a missing child in their care.

Clear communication processes between all parties involved in contacting a child's networks or the public when a child is reported missing need to be established. This will enable information to be expedited to the QPS to be assessed as part of their ongoing investigation.

Evidence for effective interventions in Queensland for children missing from out-of-home care is limited. Valuable insights can be gained from children living in out-of-home care who may be thinking of running away or who return after a period of being reported as missing or absent from their placement. This may help us to better understand the risks and impacts of missing person issues for children.

Once located, children who have been missing or absent from their placement need to be involved in discussions around developing their case plans. In addition, learnings from these discussions with children can assist to guide appropriate processes and practices. The experiences of children have a part to play in developing strategies to educate and raise awareness of missing children's issues throughout Queensland and nationally.

Involving children in discussions about the risks and impacts of being absent or missing from their placement is important for educating about safety. Input from children may improve strategies to increase a child's sense of 'belonging', connection with their community and links with vital support networks.

“

**Lucas Moore,**  
**Queensland State Coordinator,**  
**CREATE Foundation**

*Our future work in responding to missing children in care needs to be guided by a dialogue with the people on the ground - the children and young people themselves, carers and frontline child protection staff. We need to take each case of a missing child with the utmost seriousness and take these incidents as an opportunity to examine how we, as a community, can better support children and young people in out-of-home care.*

It is clear more must be done. This review makes a number of recommendations to improve the whole-of-government response to children who are missing or absent from their placement. If these recommendations are implemented successfully, improvements will be evidenced through:

- quality systems and responses
- a marked cultural shift across government and non-government agencies
- media campaigns and involvement
- the sharing of information between agencies and
- revised policies, procedures and legislative frameworks.

The QFCC has commenced a supplementary review into information sharing arrangements relating to people working with children. This review will investigate information sharing arrangements between all parties in government and non-government agencies, particularly in regulated service environments for the safety of all children at risk.

The supplementary review is broader than information technology systems. It includes communication between agencies, primarily the QPS, Child Safety Services and the DET to share information where there is no clear legislated ability or policy mandate to do so. The supplementary review includes consideration of what information can, and should, be shared to protect all children.

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# Chapter 1

## The Queensland Family and Child Commission review

### 1.1 The Premier's request

On 10 November 2015, the Premier asked the Principal Commissioner of the Queensland Family and Child Commission (QFCC), to undertake a broad whole-of-government systems review, *'to ensure that the child safety, education, health and police service systems worked effectively when concerns were first raised about Tiahleigh's disappearance'*.

The Premier requested the Principal Commissioner *'undertake a broad whole-of-government systems review of the arrangements in place for responding to missing or absconding children in out-of-home care (as it is) essential that the government's systems work together to provide timely and appropriate information that is actioned responsively when critical incidents like this occur'*.

On 18 November 2015, the Principal Commissioner wrote to the Premier acknowledging the Premier's request and commenced the review under the following terms and approach.

Copies of the Premier and the Principal Commissioner letters are at Attachment 3.

### 1.2 Scope of the review

The Premier requested the Principal Commissioner undertake to advise her:

- whether current systems and arrangements are adequate for responding to children missing from out-of-home care and

- whether everything possible was done when concerns were first raised about Tiahleigh's recent disappearance.

The review team conducted comprehensive research concerning systems and arrangements in Queensland. The review team compared these systems and arrangements to approaches in other Australian and international jurisdictions. The review team also considered whether other processes and methods have proven successful and could be considered within the Queensland system. The review also requested and received information about immediate responses when Tiahleigh Palmer disappeared.

### 1.3 Terms of Reference

On 20 November 2015, the QFCC developed the Terms of Reference for the review as follows:

- *Review the current legislative frameworks relating to the circumstances of this matter to identify whether any impediments exist to the timely sharing of information between government agencies when a child in out-of-home care goes missing or absconds.*
- *Review the relevant policies of the Department of Communities, Child Safety and Disability Services (Child Safety Services), Queensland Police Service (QPS), Queensland Health (QHealth) and the Department of Education and Training (DET) to identify any impediments to respond to missing or absconding children in out-of-home care.*
- *Review the appropriateness of the current legislative framework and Department of Communities, Child Safety and Disability Services guidelines relating*

*to the ability of carers to comment publicly when a child in out-of-home care goes missing or absconds.*

In addition, the QFCC reviewed information from Child Safety Services, the QPS and the DET to answer the Premier's question about whether government systems worked effectively and enough was done when concerns were first raised about Tiahleigh's disappearance.

### 1.3.1 Authority to access information

The QFCC was able to undertake the review in accordance with the provisions of the *Family and Child Commission Act 2014*.

The review considered the arrangements and processes in place at the time of Tiahleigh's disappearance and whether these processes were adequately implemented.

The review also considered whether the processes were adequate and would continue to be adequate in the future, for responding to children missing from out-of-home care or absent from their placement.

As this review progressed, agencies acted quickly to improve policies and procedures for responding to children missing from out-of-home care. This responsiveness is commendable.

The reviewers were delegated the authority to access any information to support the review. Information required from other government agencies was sought in writing under the *Family and Child Commission Act 2014*.

## 1.4 Structure of the report

'Tiahleigh's story' at the front and throughout this report outlines responses of and action taken by, government and the community at the time of Tiahleigh's disappearance.

Chapter 2 reports on the **key** findings of the review concerning whether legislative and policy processes are adequate for responding to children missing from out-of-home care. Chapter 3 discusses the recommendations of the review.

Subsequent information (appendices and attachments) contained in this report provide a comprehensive explanation of findings regarding the legislative and procedural arrangements in Queensland for recording and responding to children missing from out-of-home care.

Information included in the appendices also highlights agency specific findings which are considered in the recommendations.

Information was sourced and reviewed from December 2015 – March 2016. The report also discusses arrangements in other Australian and international jurisdictions.

## 1.5 Methodology and approach of the review

The review took a consultative approach. The QFCC visited various government and non-government agencies. The QFCC sought their views and cooperation in understanding the impact of legislation and policy when responding to children living in out-of-home care who are missing and to develop evidence-based, appropriate responses to the key findings in the report.

The QFCC met with key stakeholders from 18 December 2015. Agencies consulted included the Directors-General and senior officers from Child Safety Services, the QPS, QHealth, the DET and the Office of the Public Guardian (OPG).

The Principal Commissioner wrote to the Directors-General of the Department of Communities, Child Safety and Disability Services, DET, QHealth, the Commissioner of Police and the Acting (at the time) Public Guardian to encourage them not to wait for the outcome of the review and to take any appropriate action immediately to improve their own policies and procedures. The letters are at Attachment 3. Each agency provided a key contact to liaise with the review.

The QFCC also briefed the QFCC Advisory Council and representatives from Queensland non-government agencies including Bravehearts, Foster Care Queensland (FCQ) and CREATE Foundation.



Consultation continued regularly as the report was written with relevant experts as the review progressed.

Under Part 4, *Family and Child Commission Act 2014*, the QFCC established an Advisory Council to provide advice on matters relating to the QFCC's functions.

The 13-member Advisory Council, under the leadership of Principal Commissioner, helps promote the shared responsibility of all Queenslanders to keep children safe. Members meet quarterly to provide insight into the issues affecting children, families and the sector and also provide guidance on the work of the QFCC.

From 18 December 2015, the review team considered:

- legislation, policies and procedures for responding to children missing from out-of-home care from Child Safety Services, the QPS, QHealth, the DET and the OPG,
- available data from Child Safety Services, the QPS, the DET, QHealth and the OPG
- information from Child Safety Services, the QPS and the DET outlining their responses to Tiahleigh's disappearance
- government responses in other Australian and international jurisdictions for comparison to the arrangements in Queensland
- Australian and international research to better understand children who go missing and the impacts of system responses aimed to increase safety for these vulnerable children.

The review team also gathered the insights of children and families through the Family Inclusion Network and CREATE Foundation.

On 4 February 2016, Ms Gwenn Murray, Gwenn Murray Consulting, commenced as quality assurer for the review and subsequent report.

From 15 February 2016, the QFCC met with key stakeholders, including members of the QFCC Advisory Council to discuss the early findings in the report and undertake consultation regarding key proposed recommendations.

## 1.6 Procedural fairness

The report contains comments which could be considered adverse to agencies with relevant involvement in the matter.

The comments made relate to system level issues within agencies. The report was provided in provisional form to those agencies for response.

No comments, conclusions or recommendations have been formulated in relation to the actions or responses of individual officers. As such no individual officers were provided an opportunity to respond to the provisional report.

The final report incorporates feedback from these key stakeholders.

### *Family and Child Commission Act 2014*

#### **Section 27 Requests by principal commissioner for information relevant to child deaths**

- (1) *Subsection (2) applies if the principal commissioner considers a public entity has information necessary for the performance of the commissioner's functions under this part.*
- (2) *The principal commissioner may, by written notice, ask the public entity to give the information to the commissioner within a stated reasonable time.*
- (3) *The public entity must comply with the request unless the entity reasonably considers the disclosure of the information—*
  - (a) *would prejudice the investigation of a contravention, or possible contravention, of the law; or*
  - (b) *would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or*
  - (c) *would endanger a person's life or physical safety.*
- (4) *However, in complying with the request, the public entity and the principal commissioner must ensure—*

(a) *the information given to the commissioner relates to the commissioner's functions under this part; and*

(b) *to the extent possible, the privacy of any person to whom the information relates is protected from unjustified intrusion.*

(5) *If the public entity refuses to comply with the request, the entity must give written notice to the principal commissioner of its reasons for the refusal.*

(6) *The principal commissioner and a public entity may enter into an arrangement to facilitate the provision of information under this section.*

*Example for subsection (6) —*

*The principal commissioner and a public entity may enter into a memorandum of understanding under which the entity gives the principal commissioner access to a database periodically to extract information.*

(7) *A public entity may charge a fee for a service under an arrangement under subsection (6) that is not more than the actual cost of the service.*

(8) *In this section— information includes confidential information.*

### 1.6.1 Other review mechanisms

#### **Queensland Police Service**

The circumstances surrounding Tiahleigh's death continue to be part of an ongoing criminal investigation and, consequently, the review was not privy to the specific details of the QPS inquiries.

The review requested and received information from the QPS about the timeliness of general procedures for responding to children missing from out-of-home care and issuing media releases.

#### **Department of Communities, Child Safety and Disability Services**

The review was mindful of Child Safety Services' Systems and Practice Review responsibilities. These responsibilities include reviewing the Child Safety

Services' service delivery to Tiahleigh and her family under the *Child Protection Act 1999*, in the year prior to her death.

The Child Safety Services' Systems and Practice Review has a focus on continuous improvement of service delivery, public accountability and improved outcomes for children.

A systems and practice review report will then be reviewed by a Child Death Case Review Panel which includes external members.

Therefore the QFCC review did not focus on the case work undertaken prior to Tiahleigh's disappearance.

#### **Coroner's Investigation**

The circumstances surrounding the death of Tiahleigh will be investigated by a coroner. Under the *Coroners Act 2003*, coroners are responsible for investigating reportable deaths occurring in Queensland.

A reportable death has any of the following features:

- *the identity of the person is unknown*
- *the death was violent or unnatural, such as accidents, falls, suicides or drug overdoses*
- *the death happened in suspicious circumstances*
- *a 'cause of death' certificate has not been issued and is not likely to be issued*
- *the death was a health care related death*
- *the death occurred in care*
- *the death occurred in custody*
- *the death occurred as a result of police operations<sup>8</sup>.*

Reportable deaths are usually reported to the coroner by police. The coroner investigates the death to determine the identity of the deceased person, the time and place of death, how the person died and the medical cause of death. If a coroner decides to hold an inquest the coroner can make recommendations aimed at preventing similar deaths in the future<sup>9</sup>.

<sup>8</sup> Queensland Courts 2016, Coroner's Court, Queensland Government, Accessed 15 December 2016, <http://www.courts.qld.gov.au/courts/coroners-court>.

<sup>9</sup> Queensland Courts 2016, Coroner's Court, Queensland Government, Accessed 15 December 2016, <http://www.courts.qld.gov.au/courts/coroners-court>.

# Chapter 2

## When a child is missing: Key findings

The review focused on occurrences of children missing from out-of-home care in Queensland.

This chapter provides an overview of the review's key findings. These findings are discussed at length throughout the report and in the appendices. Each finding will reference the recommendations contained within this report.

Where a child is unable to remain safely with a parent, Child Safety Services will intervene. The Children's Court may then make an order if the child is determined as being a child in need of protection under the *Child Protection Act 1999*<sup>10</sup>. The child may then be placed in out-of-home care with a kinship carer or a generally approved foster carer.

The following discussion considers definitions of a 'child', 'a child from out-of-home care', a 'parent', a 'placement', a child who is 'missing', 'absconding' and 'absent from placement'.

Other definitions, including inconsistencies in definitions, are contained in following appendices.

### 2.1 Defining a 'child'

Section 8, *Child Protection Act 1999* defines a child as 'an individual under 18 years'.

This report uses the term 'child' to refer to a person aged under 18 years.

<sup>10</sup> *Child Protection Act 1999* (Queensland), s.10 and s.159BA: Who is a relevant child (a) a child in need of protection or (b) a child who may become a child in need of protection if protection and support is not given.

### 2.2 Defining a child from 'out-of-home care'

A child living in 'out-of-home care' is a child who is placed in the care of someone other than their parents and subject to one of the following:

- Temporary Custody Orders – *'to authorise the action necessary to ensure the immediate safety of a child while the Chief Executive decides the most appropriate action to meet the child's ongoing protection and care needs (for example, applying for a child protection order)'*<sup>11</sup>
- Intervention with Parents' Agreement – the child is a child in need of protection, the child requires ongoing help under the *Child Protection Act 1999* and the child's parents agree for the child to be placed in the short-term care of someone other than themselves<sup>12</sup>
- Child Protection Order (CPO) and where the Chief Executive has custody or guardianship of the child – made to ensure the protection of the child<sup>13</sup>
- Transition Order for the period of time the Chief Executive maintains custody or guardianship of the child – *'allow for the gradual transition of the child into the care of the child's parents'*<sup>14</sup>.

<sup>11</sup> *Child Protection Act 1999* (Qld), s.51AB(2).

<sup>12</sup> *Child Protection Act 1999* (Qld), s.51Z, s.51ZD and s.51ZG.

<sup>13</sup> *Child Protection Act 1999* (Qld), s.53(2) and s.59.

<sup>14</sup> *Child Protection Act 1999* (Qld), s.65B(1).

## 2.3 Defining a ‘parent’

Section 11, *Child Protection Act 1999* defines a parent as –

- 1) *A parent of a child is the child’s mother, father or someone else (other than the Chief Executive) having or exercising parental responsibility for the child*
- 2) *However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child*
- 3) *A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child*
- 4) *A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.*

## 2.4 Defining a ‘placement’

### Child Safety Services – Placement services

The types of placement services provided for a child living in out-of-home care are outlined below.

- Foster and kinship care – provided to a child with moderate to high support needs in a carer’s home.
- Intensive foster care – provision of specialised care to a child with complex to extreme support needs in a carer’s home.
- Residential care – provided to a child in a residential setting by paid or contracted workers and/or volunteers. Primarily for adolescents aged 12 to 17 years with complex and extreme support needs.
- Therapeutic residential care – provided to a child in a residential setting by paid or contracted workers. Primarily for adolescents aged 12 to 17 years with complex and extreme support needs, requiring time-limited intensive level of therapeutic care.
- Indigenous Safe House – supervised residential care service in remote Indigenous communities for children aged 0 to 17 years.
- Supported independent living – provided to a child in a residential setting where paid or contracted workers and/or volunteers commonly provide external support through regular visiting. Primarily for adolescents aged 15 to 17 years

with moderate to complex support needs who are transitioning to independent living<sup>15</sup>.

## 2.5 Defining a child who is ‘missing’, ‘absconding’ and ‘absent from placement’

### ‘Missing’

The review found inconsistent definitions of a child who is ‘missing’ within and across agency policies, procedures and guidelines. This inconsistency could impact timely identification of and action for a child missing from out-of-home care.

Law enforcement agencies in Australia take the lead role in investigating reports of missing persons. While the definition of ‘missing’ used by law enforcement agencies is similar, these definitions are not always used consistently by other government agencies, including Child Safety Services.

### Defining ‘missing’

#### Australian National Missing Persons Coordination Centre (NMPCC)

- *anyone who is reported missing to the police, whose whereabouts is unknown and there are fears for the safety or welfare of that person*

#### QPS (Operational Procedures Manual)

- *a person, whether an adult or child, reported to police whose whereabouts are unknown and where there are fears for the safety or concerns for the welfare of that person*

#### Child Safety Services definition for staff (Child Safety Practice Manual)

- *the child’s whereabouts are unknown and*

<sup>15</sup> Department of Communities Child Safety and Disability Services 2014, ‘Placement Services’, Queensland Government, Accessed 29 January 2016, <https://www.communities.qld.gov.au/childsafety/partners/our-community-partners/placement-services>.

- *there are serious concerns for the child's safety or well-being. Examples may include but are not limited to children or young people who are vulnerable because they are under 12 years of age; are a suicide risk; have a significant intellectual or physical disability; or there is a significant risk of harm*

#### **Child Safety Services definition for foster and kinship carers (Guidelines)**

- *call the Police if you have serious concerns for their safety or wellbeing. For example, the child is vulnerable because they are under 12 years old, are a suicide risk, have a significant intellectual or physical disability, or there is a significant risk of harm*

#### **Child Safety Services definition for Care Services (non-government organisations) (Guidelines)**

- *A missing child is one where their location is unknown and there are concerns for their safety and/or wellbeing due to their vulnerability, or where their location has been unknown for more than 24 hours*

#### **Defining 'vulnerable'**

*Considering whether there are fears for the safety or concerns for the welfare of the child*

#### **Child Safety Services guidance in deciding whether to make a missing person report**

- *a child is considered vulnerable, for example, 'if they are under 12 years of age; are a suicide risk; have a significant intellectual or physical disability; or there is a significant risk of harm'*

#### **QPS guidance used in deciding whether to record a missing person investigation**

- *'known vulnerability' includes having, 'a known medical condition, or physical or intellectual disability; being at risk of self-harm; being a child; or being a person affected by dementia and related illnesses'*

Child Safety Services definitions of 'missing' are inconsistent in policies and guidance for staff, carers and service providers.

Child Safety Services guidance requires consideration of a child's vulnerabilities (and provides examples of these vulnerabilities). Vulnerabilities are considered when assessing whether there are fears for the safety or concern for the welfare of the child and when to report the child as missing to the QPS.

The definitions and guidance used by Child Safety Services appears to have a higher threshold for identifying a child as missing than the QPS definition and guidance for reporting a missing person.

Some Child Safety Services definitions also create uncertainty regarding whether a fixed period of time needs to lapse before a child can be reported as missing to the QPS.

#### **Finding**

Many agencies and individuals, including carers, parents and community members, can be involved in reporting and responding to children who go missing. It is therefore important to provide clear guidance to determine when a child is considered missing to inform immediate and longer term actions.

Having a consistent and clear definition of 'missing' accepted and promoted across key agencies would assist to define each agency's and individual's role, responsibilities and actions. Without this consistent guidance, individuals who see the child on a daily basis and who are in the position to provide a first response, may be uncertain about what actions to take, including whether to report the child as missing to the QPS.

**Refer recommendation – 6 and 8.**



## ‘Absconding’

The term ‘absconding’ is often used when a child from out-of-home care is ‘absent’ from their placement. Absconding occurs without permission from a carer or residential worker, however the child’s whereabouts are either known or readily confirmed.

Absconding is commonly used in residential care settings. Other terms, such as ‘self-placing’ or ‘couch surfing’, may also be used to describe situations where children are not in an approved location.

Anecdotal information from the QPS suggests children missing from out-of-home care are generally those who could be defined as ‘absconding’ from their residential care placement. This means their whereabouts is usually known or able to be readily confirmed. They do not necessarily meet the QPS definition of a missing child.

Using the terms ‘absconding’ and ‘missing’ interchangeably presents a risk where children who have a history of ‘absconding’ may not be reported as missing to the QPS in a timely manner.

Being able to distinguish between when a child is ‘missing’ or ‘absent from placement’ often depends on an individual’s knowledge of the child’s regular pattern of behaviour and their level of skill and experience in dealing with similar occurrences or behaviours.

The Child Safety Services guide ‘*Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations*’ uses the following definition:

*Absconding child: An absconding child is one who has left the placement without permission, however their location is known or they display patterns of behaviour of leaving the placement without permission but always return within a certain timeframe<sup>16</sup>.*

<sup>16</sup> Department of Communities, Child Safety and Disability Services 2013, ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’, Queensland Government, p.1.

In a legal context, other definitions for ‘abscond’ include:

*Abscond: to go in a clandestine manner out of the jurisdiction of the courts, or to lie concealed, in order to avoid their process. To hide, conceal, or absent oneself clandestinely, with the intent to avoid legal process. To postpone limitations. To flee from arresting or prosecuting officers of the state<sup>17</sup>.*

*Abscond: to run away, especially from the jurisdiction of a court. It may be an offence in its own right as where the absconder is on bail and fails to surrender to custody or tries to escape the consequences of insolvency<sup>18</sup>.*

Law enforcement agencies commonly use the term ‘absconding’ to imply a criminality to behaviours and can insinuate the person is escaping.

Child Safety Services continues to work with carers and residential care providers to establish practices for responding to a child’s ‘absconding behaviour’. However, more could be done to shift perception away from this occurrence being a police issue to being a matter more appropriately addressed through effective behaviour support plans.

In March 2015, Child Safety Services engaged PeakCare to assist with developing the Hope and Healing Framework. This framework is a trauma-informed therapeutic approach for supporting all children in residential care.

Child Safety Services is consulting with all residential care service providers to seek input for the proposed framework. This framework is expected to be rolled out by December 2018.

One reason for changing the perception of absconding is to recognise the carer’s residence or residential facility as the child’s home. Most parents would not describe their child as having ‘escaped’ from home. A potential alternative to ‘absconding’ is the term ‘absent’. The term absent implies less blame or criminality.

<sup>17</sup> The Gale Group Incorporated 2008, West’s Encyclopaedia of United States of American Law, 2nd edn.

<sup>18</sup> Stewart, W.J 2006, Collins Dictionary of Law.

If a child has a pattern of frequently leaving their placement use of definitions and language may impede responses for children whose whereabouts are unknown or not confirmed.

The Queensland Child Protection Commission of Inquiry was established on 1 July 2012, to review Queensland's child protection system and 'chart a new road map for child protection for the next decade'.

During the Child Protection Commission of Inquiry, the QPS identified concerns relating to the high numbers of calls for service, primarily from residential care facilities, for children missing from out-of-home care. Missing person reports are time consuming for all parties involved and are often still being compiled when the child returns of their own volition to the facility.

The QPS provided evidence to indicate missing person reports were often made with little or no inquiries conducted by staff in an effort to quickly establish the child's location. Many of these children did not fit the QPS definition of a missing person as their location was known. They had left their placement without permission.

The QPS expressed, reporting the child as missing in these circumstances 'trivialised' the intended purpose of missing person reports.

The QPS requested facilities adopt a less risk-averse policy of reporting 'absconding' youths immediately as a missing person<sup>19</sup>. This means facilities should take more effective behaviour-support approaches for children who are absent from their placement without permission, rather than reporting them as a 'missing person' to the QPS.

The Child Protection Commission of Inquiry also raised concerns regarding the residential care system (in Queensland) not using a service model which reflects an understanding of the effect of past traumatic experiences, insecure

attachment relationships and developmental needs on a child's psychological wellbeing<sup>20</sup>.

The Inquiry found:

- *Challenging behaviours... (leading) to absconding and police attendance is a symptom of a residential system under strain<sup>21</sup>.*
- *Children and young people with 'complex' and 'extreme' needs include a cohort that regularly absconds and self-place.*
- *If a child regularly absconds from care, he or she has less chance of dealing with any underlying trauma or attachment problems<sup>22</sup>.*

## Finding

The term 'absconding' is often used when a child from out-of-home care is absent from their placement. Generally, absconding occurs without permission from their carer or residential worker, however the child's whereabouts are either known or readily confirmed.

The definition of 'absconded' may criminalise children who are absent and implies they are fugitives, have escaped or are to blame for their absence. A reason for changing the term or the perception of the term is in consideration of residential facilities being children's homes and, generally, a child would not be regarded as having 'escaped' from home.

## Refer recommendation – 6.

19 Information provided by the Queensland Police Service to QFCC, 29 January 2016.

20 Queensland Child Protection Commission of Inquiry 2013, 'Taking responsibility: A roadmap for Queensland child protection', Queensland Government, pp.265-266.

21 Queensland Child Protection Commission of Inquiry 2013, 'Taking responsibility: A roadmap for Queensland child protection', Queensland Government, p.266.

22 Queensland Child Protection Commission of Inquiry 2013, 'Taking responsibility: A roadmap for Queensland child protection', p.269.

## Finding

### 'Absent from placement'

Having considered the implications of the term 'absconding', the QFCC proposes the use of the term 'absent from placement' as defined below.

#### *Absent from placement:*

*A short period of being absent from placement without permission, where the child's location is known or can be quickly established. This time period should consider individual factors for each child.*

For this review, 'absent from placement' will be used forthwith as the first step in creating a shift away from using blaming or criminalising language.

**Refer recommendation – 6 and 8.**

## 2.6 The QPS and Child Safety Services data for children missing from out-of-home care

## Finding

Reporting practices between Queensland government agencies differ. There is limited ability to consistently and reliably compare and report on data involving children reported missing from out-of-home care or absent from placement.

**Refer recommendation – 2; 19; 21; 23; 24 and 29.**

Information provided by the QPS indicates, from 1 July 2009 - 30 June 2015, 24,225 children (under 18 years of age) were reported missing to the QPS. This data also includes multiple reports for the same child<sup>23</sup>. Of these, 24,170 children have been located. This

<sup>23</sup> Information provided by the Queensland Police Service to QFCC, 12 April 2016, formal consultation.

information was accurate at the time of writing and does not suggest children have not been subsequently located<sup>24</sup>.

Children living in out of home care are not easily distinguishable from those living at home.

A time limited data snapshot completed by the QPS indicates children from out-of-home care could, on average, account for around 30 per cent of all children reported missing to the QPS. Additionally, the QPS indicated it continues to receive multiple calls for service relating to children from out-of-home care, many of whom are repeat 'runaways'<sup>25</sup>.

On average, Child Safety Services data indicates around 5 per cent of children are recorded as 'absconding', self-placed, missing, or location unknown from out-of-home care each calendar year<sup>26</sup>.

Child Safety Services data also indicates some children are reported as 'absconding', self-placed, missing, or location unknown from out-of-home care more than once during the year<sup>27</sup>.

Child Safety Services is only able to provide data on children reported as either 'absconded'<sup>28</sup>, self-placed, missing or location unknown from out-of-home care. This data is able to distinguish the rates of Aboriginal and Torres Strait Islander children from non-Aboriginal and Torres Strait Islander children reported as 'absconded'<sup>29</sup>, self-placed, missing or location unknown from out-of-home care. The overall numbers for Aboriginal and Torres Strait Islander children missing from out-of-home care are similar to the number for non-Aboriginal and Torres Strait Islander children missing from out-of-home care.

<sup>24</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>25</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>26</sup> Figures provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

<sup>27</sup> Figures provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

<sup>28</sup> Child Safety Services 'Integrated Client Management System' (ICMS) has absconded as an option for recording the location of a child.

<sup>29</sup> Child Safety Services 'Integrated Client Management System' (ICMS) has absconded as an option for recording the location of a child.

Child Safety Services is unable to provide data regarding the specific number of children recorded as ‘absconding’, self-placed, missing, or location unknown from out-of-home care by Culturally and Linguistically Diverse backgrounds.

Data provided by the QPS and Child Safety Services cannot be easily compared due to inconsistent criteria used by each agency to identify a child missing from out-of-home care. Appendix 1 provides more detail of the data from the QPS and Child Safety Services.

## 2.7 Legislation, policy and procedures



**Hetty Johnston AM,  
Bravehearts**

*We must ensure our missing child protocols are effective and are there for all children, not just those lucky enough to have a safe and loving home life, but also for those less fortunate.*

The occurrence of a child missing or being absent from their family home or out-of-home care placement without permission indicates something serious is happening for the child. These circumstances require action to be taken accordingly and an assessment of the situation for the child, even following their return.

Several agencies and individuals may need to be involved in this process where the safety, welfare and wellbeing concerns relate to a child living in out-of-home care.

The following discussion considers key findings on legislation, policies and procedures which guide assessments and actions in responding to children who are missing from out-of-home care or are absent from their placement.

### 2.7.1 Policies and procedures

Once a child from out-of-home care is identified as ‘missing’, some agency policies require a missing person report to be made to the QPS at the local police

station. This report initiates further actions, particularly by the QPS, Child Safety Services and a child’s carer.

The QPS missing person’s procedure clearly outlines the lead role police take in responding to a missing person occurrence. The QPS procedure also provides guidance for identifying a missing child as having a ‘known vulnerability’, the involvement of QPS Child Protection Investigation Unit (CPIU) and the legislative frameworks needing to be considered when the missing person is a child from out-of-home care.

Clarification of the CPIU’s specific roles, responsibilities and actions for children missing from out-of-home care is required in relevant procedures to capitalise on the expertise of this role in child protection matters.

A person with a known vulnerability is defined by QPS as a person who is:

- (i) affected by:
  - (a) dementia and related illnesses
  - (b) a known medical condition or a physical or intellectual disability
- (ii) believed to be intending self-harm; or
- (iii) a child<sup>30</sup>.

When a child from out-of-home care is missing, the QPS and Child Safety Services have responsibilities for taking appropriate and timely action. Policies and guidelines have been developed by each agency to support responses.

Unfortunately, these are not consistent within and across agencies.

### 2.7.2 Critical incident

Child Safety Services categorises a child missing from out-of-home care as a ‘critical incident’<sup>31</sup>. Some other agencies’ documentation also defines a child missing

<sup>30</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.2.

<sup>31</sup> Department of Communities, Child Safety and Disability Services 2009, ‘Critical Incident Reporting Policy and Procedures’, Queensland Government.

Following Tiahleigh’s death, the D-G, DCCSDS called an urgent meeting with key groups such as Bravehearts, Foster Care Queensland and PeakCare to identify and address any issues relating to Child Safety Services’ own information, policies, procedures and training or support for carers and families when a child is missing from out-of-home care.

Child Safety Services is undertaking a comprehensive review of the Child Protection Act 1999, with consultations occurring across Queensland. Furthermore, Child Safety Services is working on a suite of information technology initiatives to improve the management and exchange of child safety related information.

from out-of-home care or who is absent from their placement as critical incidents<sup>32</sup>.

To help guide responses to critical incidents, key government and non-government agencies have established various policies, procedures, protocols and Memoranda of Understanding. However, the definitions and responses to critical incidents are inconsistent across agencies.

To support Child Safety Services staff, carers and service providers to understand how to respond to a ‘critical incident’ involving a child missing from out-of-home care a certain level of resources, training, education and awareness should also be made available. While some level of training is provided to staff and carers in addressing high-risk behaviours, promoting positive behaviour and therapeutic intervention and care, there is no specific training for responding to children missing from out-of-home care.

**Finding**

Despite the best intention by many agencies, there is still a lack of consistency in defining a critical incident.

**Refer recommendation – 2 and 8.**



**Bryan Smith,  
Executive Director, Foster Care Queensland**

*Funding guidelines request ‘critical incident reports’ be completed as per agency standards. These do not align across agencies and Child Safety Services, with some staff in our non-government organisations reportedly completing up to 10 of these per day, with little or no action occurring as a result.*

2.7.3 Assessment

There should not be two responses to missing children; one for children from out-of-home care and one for children who are living at home.

Missing children are considered to be especially vulnerable to risk if, for example, it is suspected they have been abducted, they are unwell or suffer from a disability or mental health issues.

The QPS conducts a risk assessment when children are reported missing.

The QPS policy requires a QPRIME missing person occurrence be created when a person seeks police assistance in locating a child. The QPS treat all initial reports of missing children with the same urgency,

<sup>32</sup> Information provided by the Queensland Police Service to the QFCC, 13 April 2016, formal consultation.



whether they are missing from out-of-home care or from home. Each report is assessed on the risk indicators for the individual child.

A child who is absent from placement, but whose location is known, is not ‘missing’. In these circumstances, the QPS does not expect to receive a ‘missing persons’ report<sup>33</sup>.

The QPS process shows it is critical to gather information quickly and allocate appropriate resources once a risk assessment has been undertaken.

### Finding

Risk assessment procedures and responses which are coordinated between government and non-government agencies allow the gathering of factual and up-to-date information when children go missing.

**Refer recommendation – 1; 2; 7; 8; 9; 10; 13; 14; 16; 17; 18 and 29.**

A coordinated response could include a higher level of involvement by:

- the Suspected Child and Neglect (SCAN) team system, a multi-disciplinary team, providing expert advice within their relevant fields and
- a possible increased role for Community Visitors (CVs) in supporting children through increased regularity of visits where a child is at risk of being absent from their placement or going missing.

The purpose of the SCAN team system is to enable a coordinated response to the protection needs of children through information sharing, planning and coordinated actions and holistic and culturally responsive assessment.

The SCAN team system is coordinated by Child Safety Services. Membership includes core members from Child Safety Services, the QPS, the DET, QHealth and the Recognised Entity, where the child is Aboriginal or Torres Strait Islander (section 159I-K, *Child Protection Act 1999*).

In Queensland, Community Visitors (CVs) are independent from any government or community organisation<sup>34</sup>. CVs provide help and support to children living in out-of-home care and make sure their concerns, views and wishes are listened to and taken seriously.

### 2.7.4 Case planning, the rights of the child and interviews at the child’s return

Children have a right to be involved, listened to and included throughout the case planning process.

An individualised case plan plays a key role in coordinating service responses for all children living in out-of-home care. The child’s participation in the development of the case plan is critical to achieving the goals of the plan.

Section 51D, *Child Protection Act 1999* establishes how case planning must be carried out and facilitates the participation of the child, the child’s parents and other appropriate members of the child’s family group. Particular arrangements must also be put in place for Aboriginal or Torres Strait Islander children. The Child Safety Officer must explain the case planning process to a child using language appropriate to the child’s age, language skills and developmental circumstances.

Research on missing children highlights the need for holistic assessments exploring the underlying

<sup>33</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>34</sup> Office of the Public Guardian, ‘Community visitors’, Queensland Government, Accessed 18 January 2016, <http://www.publicguardian.qld.gov.au/child-advocate/child-community-visiting>.

risks and circumstances surrounding a child missing or absent from their placement. The benefits of developing a prevention, education and support model to minimise recurrence are also evident.

Case planning supports actions for locating a child missing from out-of-home care or absent from their placement, preventing future absenteeism and ensuring effective and appropriate short- and long-term supports for the child. The case plan must give priority to the child's needs for long-term stable care and continuity of relationships.

A case plan review is an opportunity to talk with the child about how the agency might respond if the child is missing in the future and seek their consent for releasing information publicly. Under the *United Nation Convention of the Rights of the Child*, Australia, as a signatory to the convention, has the responsibility and obligation to provide a child with opportunities to be involved in decisions about their life.

Section 5E, *Child Protection Act 1999* sets out the obligation to obtain a child's view during decision making. When giving a child an opportunity to express their views under this Act, language appropriate to the age, maturity and capacity of the child should be used and communication with the child should be appropriate to the child's circumstances.

The child should be given an explanation of any decision affecting them, including a decision about the development of a case plan or the effect of the decision or the case plan.

Despite specific legislative requirements, policies and procedures for children missing from out-of-home care do not prompt staff to consider reviewing case management actions or the child's case plan with the child and the child's networks.

Despite research suggesting return interviews are beneficial and the QPS procedures including a process for return interviews<sup>35</sup> when a missing child is located, there is no mention of an interview process in the Child Safety Practice Manual. There is also no guidance given

to carers or service providers on the best ways to talk with the child about the circumstances surrounding them missing or being absent from placement.

The Child Safety Practice Manual does not indicate, in the context of responding to a child missing from out-of-home care, how the child's views could be used to inform a case plan review and strategies for preventing recurrence.

### Finding

Having an appropriate and current case plan is important for the ongoing protection and wellbeing of the child. This case plan is particularly important when the child is frequently absent from their placement, returns after being missing, expresses worries, seems disconnected from their placement or voices a desire to run away. It is important to address these underlying behaviours and issues to instigate early intervention and help ease the child's desire to run away or leave their placement.

**Refer recommendation – 7; 9; 10; 16 and 20.**

The Child Safety Practice Manual provides procedures to guide and inform the delivery of child protection services by Child Safety Services.

## 2.7.5 Sharing information between agencies

### Finding

The review found that the legislative frameworks in Queensland enable information exchange between government agencies for a child living in out-of-home care.

<sup>35</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.9

Legislative frameworks do not create obstacles for government and non-government agencies in sharing relevant information in certain circumstances.

**Refer recommendation – 2; 7; 8; 9; 10; 13; 14; 16; 17; 18 and 29.**

The *Child Protection Act 1999* provides for the reporting of child protection concerns or the sharing of information about a child living in out-of-home care for the purpose of protecting a child's safety, care needs and wellbeing, because a child's best interests are paramount.

The *Child Protection Act 1999* is the primary legislative framework for sharing information to respond to children missing from out-of-home care. The best interests of the child is the paramount consideration.

It can be complex for front-line staff (the QPS, Child Safety Services, the DET, QHealth and the OPG) to understand the interface between their own agency's legislation, the *Information Privacy Act 2009* and the *Child Protection Act 1999*. Individuals are required to navigate various legislative requirements for confidentiality and privacy and understand how and when exemptions apply and who the appropriate statutory delegates are for requesting and releasing information.

An individual needs to understand how specific statutory delegations operate within an organisation and the processes for obtaining required approvals quickly. Time is critical when responding to a missing person occurrence.

During consultations for the review, government and non-government agency staff expressed confusion about the provisions of the *Child Protection Act 1999*. Staff indicated they were concerned sharing information with other bodies may put them in breach of this Act, even when the safety of a child might be at stake.

## Finding

Children, parents, carers and non-government agencies need to be provided with clear functions contained in the *Child Protection Act 1999* clarifying the information-sharing process when a child is missing from out-of-home care. This will minimise the circulation of misinformation and misunderstandings and increase broader community confidence in the processes undertaken by agencies when a child is missing from out-of-home care.

**Refer recommendation – 2; 7; 8; 9; 10; 13; 14; 16; 17; 18; 25; 26; 27 and 29**

During a missing person investigation the QPS continually assesses and follows up information provided by agencies and the public to identify lines of inquiry. The QPS will often seek information from other government agencies if it is believed the missing person has had some involvement with that agency.

Information known to the QPS concerning lines of inquiry in a missing person investigation is not routinely shared with other key government agencies. The QPS needs to consider relevant legislative frameworks, policies and practices before sharing information regarding an identified line of inquiry. Some of the factors for consideration include that any information shared does not prejudice an investigation or otherwise intervene in the proper administration of justice.

The likely impacts for key government agency's internal risk assessment and decision-making when information regarding an identified line of inquiry is not shared by the QPS requires further examination. Particularly, the impact on Child Safety Services and DET's risk assessment and decision-making policies relating to incidents of concern for children, including when a child is missing, need to be examined.

Finding

Key government agencies including the QPS, Child Safety Services and the DET do not routinely share information where there is no clear legislated ability or policy mandate to do so. This highlights a number of opportunities for agencies to share information over and above what is required to improve agency internal risk assessment and decision-making policies in order to provide a safe environment for all children.

The QFCC has begun a supplementary analysis of information sharing arrangements between all parties in government and non-government agencies relating to people working with children, particularly in regulated service environments.

Different agencies, including Child Safety Services and the DET may administer or regulate different aspects of co-located child services and as a result information sharing may be inhibited.

The supplementary review by the QFCC is broader than information technology systems. It includes consideration of what information can, and should, be shared so that all children are protected.

**Refer recommendation – 28 and 29.**

The QPS is the main agency responsible for coordinating a missing person investigation. However, the roles of Child Safety Services and the care provider in the initial response to a child missing from out-of-home care are crucial.

Finding

Throughout Australia there are designated law enforcement teams, commonly known as Missing Persons Units, to support and assist local police with missing person

investigations. Despite the *Child Protection Act 1999* being a primary legislative framework governing information sharing when a child is missing from out-of-home care and the crucial role child protection officer’s play, there is no designated lead unit, team or role with responsibility for missing person’s issues within Child Safety Services.

Although Child Safety Services organisational intent is to manage the situation of a child missing from out-of-home care as close as possible to the local service delivery to enable local collaboration, an identified contact point could be beneficial for escalation and oversight processes.

**Refer recommendation – 2; 17 and 29.**

According to the ‘*Statement of Commitment between the Department of Communities, Child Safety and Disability Services and the foster and kinship carers of Queensland*’ (2012), ‘the department has primary responsibility to co-ordinate the Queensland Government’s whole-of-government approach to the safety and well-being of children and young people in this State’.

Meetings held between the review team and key government agencies revealed agencies recognised their joint responsibility in delivering a whole-of-government approach to the care, protection and wellbeing of children living in out-of-home care. Agency staff acknowledged their respective agencies should share information to assist in locating a child missing from out-of-home care.

Queensland education services have no specific legislative provisions for the daily recording of a child’s attendance at educational facilities. Schools have individual procedures to establish timeframes for recording and notifying parents of a child’s absence.

Tiahleigh did not attend roll call on Friday 30 October 2015. The carers, however, were not aware of this absence until a worker went to collect her from the school at lunchtime for an appointment.

### Finding

Schools play an important role in a child's daily routine.

Despite state school procedures requiring a child's attendance to be recorded more than once during the day, the same-day notification to parents of a child's absence from school is not mandatory.

This could delay the parent, guardian or carer identifying that a child's whereabouts are unknown and taking appropriate action to locate the child.

**Refer recommendation – 11 and 13.**

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**Graham Kraak,**  
A/Executive Director, Strategic Policy  
and Legislation Branch, QHealth

*Children living in out-of-home care are in the State's care, not just the care of Child Safety Services and we all have a part to play in ensuring their safety.*

Health services play an important role in supporting a child's physical, emotional and psychological wellbeing. Health services should continue to be included in all joint protocols and conversations involving children missing from out-of-home care.

An interstate comparison of child protection, law enforcement, education and health legislative frameworks for responding to children reported missing from out-of-home care identified these frameworks to be similar to those in Queensland.

### 2.7.6 Confidentiality provisions – media releases, public information and carers' role

When a child is missing it can be a very emotional and stressful time for those involved. According to the Australian NMPCC, an average of 12 people are directly affected when a child is missing<sup>36</sup>.

Individual reactions to a missing person and perceptions about what should be done to locate a missing person, can vary significantly. Time is critical and individuals in their search for a missing person attempt to reach out to as many people as possible who may have known the missing person or were in the last known location of the missing person.

The child's family and friends play a key role in locating a missing child. While the reasons children run away from out-of-home care are discussed further in Attachment 7, a common reason is to return to their family, friends or neighbourhood. If children seek help when running away they are most likely to seek informal support from their friends or relatives with whom they do not reside full-time. Only a small proportion seek help from formal agencies<sup>37</sup>. In Australia, the majority of children who go missing are returned safely within 24 hours of going missing. Many of the children who are found are located at a friend's house<sup>38</sup>.

<sup>36</sup> Australian Federal Police 2011, 'Missing', Issue 14 of the eBulletin, page 3.

<sup>37</sup> Rees, G. and Lee, J 2005, 'Still Running II. Findings from the second national survey of young runaways', The Children's Society United Kingdom, pp.20-21.

<sup>38</sup> Australian Federal Police 2015, 'You do not have to wait 24 hours before reporting someone as missing: Myths and Facts', Fact sheet, National Missing Persons Coordination Centre, Accessed 4 February 2016, <http://www.missingpersons.gov.au/~media/mp/files/pdfs/myths%20%20facts%20english.pdf>.



Following Tiahleigh's disappearance, community members voiced concerns that section 189, *Child Protection Act 1999* may have delayed publication of a media release.

### *Child Protection Act 1999*

#### **Section 189 Prohibition of publication of information leading to identity of children**

- (1) A person must not, without the Chief Executive's written approval, publish information that identifies, or is likely to lead to the identification of, a child as—
- (a) a child who is or has been the subject of an investigation under this Act of an allegation of harm or risk of harm; or
  - (b) a child in the Chief Executive's custody or guardianship under this Act; or
  - (c) a child for whom an order is in force.

#### Maximum penalty—

- (a) for an individual—100 penalty units or 2 years imprisonment; or
- (b) for a corporation—1000 penalty units.

- (2) A person must not, without the Chief Executive's written approval, publish information that identifies, or is likely to lead to the identification of, a child living in Queensland as a child who—
- (a) has been harmed or allegedly harmed by a parent or step-parent of the child or another member of the child's family; or
  - (b) is, or allegedly is, at risk of harm being caused by a parent or step-parent of the child or another member of the child's family.

#### Maximum penalty for subsection (2)—

- (a) for an individual—100 penalty units or 2 years imprisonment; or
- (b) for a corporation—1000 penalty units.

#### **Authority for QPS to release information about children missing from out-of-home care**

A media release may be considered where:

- *the missing person is a child;*
- *concerns exist that the missing person may not have the freedom or ability to voluntarily return home;*
- *the physical or mental state of the missing person may be such that the missing person would not be able to consciously make a decision to return home;*
- *such release may immediately cause the missing person to come forward; or*
- *the investigation is such that community assistance is necessary to locate the missing person<sup>39</sup>.*

**'Amber Alerts'** are a process requiring the urgent broadcast of relevant information through the media and other means to the public to facilitate the search for, location and the safe recovery of an abducted child or high risk missing child<sup>40</sup>.

The QPS policy is to develop a missing person's media release with a recent photo and information about the child who is missing. The media release is published by the QPS without identifying the child as a child subject to an intervention or investigation by Child Safety Services (when relevant). In this instance, written approval is not required from the Chief Executive (D-G, DCCSDS) under section 189, *Child Protection Act 1999*.

<sup>39</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn.

<sup>40</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn.

The QPS policy is to seek written approval through a signed ‘authority to release information’ form from the D-G, DCCSDS as the ‘parent’<sup>41</sup>, before issuing a media release about a child missing from out-of-home care. This is discussed further in Appendix 3.

### Finding

The review found that section 189, *Child Protection Act 1999* does not impact on the ability of the QPS to issue a media release for a child missing from out-of-home care.

A media release which does not name the child does not, by itself, breach section 189, *Child Protection Act 1999* – even when issued by the QPS without prior written approval of the Chief Executive (D-G, DCCSDS). Publication of a child’s photo alone is not likely to identify the child as being subject to any intervention or investigation by Child Safety Services.

This means the QPS is not mandated by section 189, *Child Protection Act 1999* to receive written approval from the Chief Executive (D-G, DCCSDS) for the QPS to issue a missing person’s media release for a child from out-of-home care.

It is policy, protocol and good practice, rather than a legislated requirement, for the QPS to consult with Child Safety Services with respect to sensitive treatment of media releases for children missing from out-of-home care.

**Refer recommendation – 2; 3; 4; 5; 7; 8; 10 and 20.**

Information provided to the review indicated the QPS followed their internal policy and procedural requirements when requesting a signed ‘authority to release information’ form before publishing Tiahleigh’s missing person’s media release. Seeking a signed form from an ‘authorising person’ (parent, relative or inquirer) is the QPS practice and recognises the right

to privacy of individuals, but is not mandatory. The process of seeking an authorised person’s approval also assists in minimising misunderstandings regarding what information will be released.

In Tiahleigh’s case, the process of seeking a signed authority and establishing the appropriate authorised person to sign the authority delayed the media release.

### Issuing information and media protocols

Social media is commonly used by agencies and individuals to quickly request public assistance to locate a missing person. When a person is missing, decisions about publishing information through informal public comments, a media release or ongoing public media campaign should always consider the safety of the missing person.

In Queensland, legislative frameworks and guidelines govern what information about a child living in out-of-home care can be published by the QPS and the general public. Broad provisions restrict publication of information which identifies or is likely to lead to the identification of a child as subject to intervention or investigation by Child Safety Services.

Provisions also prohibit the publication of information which identifies a child who has been harmed or allegedly harmed by a parent or member of the child’s family.

“

**Bryan Smith,  
Executive Director, Foster Care Queensland**

*stated that foster carers’ hands were tied then in terms of what the confidentiality provisions under the Act tell us we’re allowed to do - which is essentially nothing. We can’t do anything<sup>33</sup>.*

<sup>41</sup> Information provided by the Queensland Police Service to QFCC, 4 February 2016.

Tiahleigh disappeared on a Friday. On the following Wednesday, the QPS spoke with a number of people, including Tiahleigh's mother (and legal guardian), Tiahleigh's foster carer and Child Safety Services to obtain a signed 'authority to release information' form.

Although verbal approval was provided by Child Safety Services on the day approval was sought, the QPS Media and Public Affairs Branch advised approval was required in writing with the signature of the D-G, DCCSDS as Tiahleigh was a child living in out-of-home care.

The signed authorisation from Child Safety Services was not received by the QPS until the next day.

This was six days after Tiahleigh was reported missing.

Foster and kinship carers can play a critical role in quickly establishing the location of a child who is absent from their placement. Locating a child is often achieved by contacting the child's networks through telephone calls, face-to-face contact or social media sites such as Facebook.

When a child's location cannot be quickly established by a carer and a missing person's report is made to the QPS, the QPS will lead actions as part of their ongoing investigation including considering a media release.

A clear contact point must be established to determine the appropriate person to speak to the media and be the face of a public media campaign if required.

The *'Foster and kinship carer handbook'* provides information and guidance to support carers perform their role.

The *'Foster and kinship carer handbook'* clearly sets out the type of information carers must not publicly disclose without written approval from the Chief Executive (D-G, DCCSDS). This handbook does not provide specific examples to assist individuals and agencies to understand what information can be published, by whom and when, responding to children missing from out-of-home care or children absent from their placement.

*'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'* supports service providers in receipt of Placement Services grant funding or Transitional Placement funding from Child Safety Services to appropriately report a child missing to Child Safety Services.

*'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'* (2013) states staff and carers are to act like a 'reasonable parent' when determining how to respond to a child missing from out-of-home care or who is absent from their placement. The guide also details what action to take based on the identified risks to the child. In accordance with section 11, *Child Protection Act 1999* a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.

*'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'* (2013) provides no guidance for what information an individual who is seeking public assistance to locate a missing child can publish without breaching section 189, *Child Protection Act 1999*.

Guidance provided by Child Safety Services must clearly clarify carers' and care services' role and responsibility to contact networks when attempting to establish a child's location. In most

On the evening of Tiahleigh's disappearance, her carer and her mother together used social media to try to confirm her whereabouts before the QPS issued a formal media release. Tiahleigh's mother and carer used the Logan Crime Watch social media site to appeal to the public for information regarding Tiahleigh's location.

Given the time-critical nature of locating a missing or suspected missing child and the advantage of social media in reaching the child's networks instantaneously, parents and carers may feel that using social media is the most proactive and protective action in safely locating the child.

circumstances, contact can be made without publishing information which identifies or is likely to lead to the identification of the child as subject to intervention or an investigation by Child Safety Services. Carers and service providers should also feel supported to share information with the QPS during a missing person's investigation.

Minimising misunderstandings of what staff, carers or parents can or should publish and what actions they can take to attempt to locate a child missing from out-of-home care is crucial. Providing clarity for all groups may also assist to increase confidence in a carers' ability to take action, such as using social media to contact the child's networks to establish their location.

An assessment of the child's immediate and ongoing safety and best interests, the possible emotional impact on the child of publicly releasing personal information and the possible effectiveness of a media release in safely locating the child should be considered before a decision is made to release information publicly<sup>42</sup>. This is discussed further in Appendix 2, *Privacy laws*.

Technology is constantly evolving and many agencies worldwide have difficulty ensuring their legislative frameworks, policies and practices remain current. Policies and practices regarding the use of social media when children are missing from out-of-home care are no exception.

### Finding

When a media strategy is developed to attempt to locate a child missing from out-of-home care, there is benefit in carefully considering the level of information published by each party. This is relevant for all parties involved in the missing person search such as the QPS, Child Safety Services, the carer and the parent.

The strategy could outline how QPS-issued media releases, ongoing public media campaigns and public responses will be managed. There also needs to be clearly established communication processes between all parties to allow information to be filtered back to the QPS to assess and investigate as part of the ongoing investigation.

**Refer recommendation – 2; 3; 4; 5; 7; 8; 10 and 20.**

More research is required into the possible impacts and effectiveness – for the child, the searchers and the community – of publicly commenting when a child is missing. Such research could identify whether the public release of certain details may increase the helpfulness of public responses.

Progressing further research, education and public awareness on the role of the media and the various methods of publishing information on missing persons' cases may prevent informal public comments, QPS-

<sup>42</sup> James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', Research and Public Policy Series, no. 86, Institute of Criminology, Canberra Australia, p.46.

issued media releases, or ongoing media campaign becoming too commonplace and ineffective.

### **Coordinated and specialist approach for responding to children missing from out-of-home care**

There could be benefit in developing a pilot governance model. The pilot governance model would include aspects of the Magellan model used in the Family Court of Australia and involve coordination and collaboration between agencies. Similarly to the Magellan model, a proposed model could also review systems and databases to better record information about missing children and review risk assessment processes. This will assist to better understand vulnerabilities and review appropriateness of local risk assessments and missing children investigation plans right from the start of the investigation (discussed further in Appendix 8).

The proposed model would leverage off existing localised governance teams within the QPS (including the QPS Missing Persons Unit) and Child Safety Services which provides direct responses to children missing from out-of-home care and include the SCAN team system.

The proposed model would support improved communication between agencies and develop specialist strategic operational responses. Functions could include reviewing risk assessment processes to better understand vulnerabilities and recommend appropriate child-focused responses to local teams. Additional functions may include responding to systemic issues, reviewing data and undertaking research and advocacy as required on missing person's issues.

Membership of a specialist unit could include representatives from key government and non-government agencies and experts.

Further information around exploring a proposed model is in Appendix 8 and a subsequent recommendation has been made.

The review found difficulties in sharing information between agencies and with the QPS. Difficulties were partly due to inconsistent definitions and guidelines. Some procedures are misunderstood and some privacy provisions in the Act are misinterpreted. Misunderstandings have the potential to affect risk assessment and timeliness of responses when children are missing from out-of-home care.

Similar to the Magellan model, the proposed model would fast track and 'front load' resources to review appropriateness of responses and missing children investigation plans from the start of the investigation and make recommendations to local teams.

The proposed model would firstly be established to provide strategic operational responses for children missing from out-of-home care, however once established and reviewed consideration could be given to expanding the model to include all missing children reported to the QPS.



# Chapter 3

## When a child is missing: Recommendations

Despite the work which has and is being undertaken to respond to children missing from out-of-home care, this review highlights more can and should be done.

As such, some of the changes needed are relevant to the broader context of what to do when any child is missing, regardless of their parental and care arrangements.

Queensland Government must focus attention on missing person issues and improve whole-of-government systems to ensure timely and coordinated responses for our vulnerable children living in out-of-home care.

The Queensland Family and Child Commission (QFCC) recommends that:

1. **The Director-General of the Department of Premier and Cabinet (DPC), in consultation with the Director-General of the Department of Communities, Child Safety and Disability Services (D-G, DCCSDS), leads a discussion through the Directors-General Leadership Board on agency cultural change needed to promote a whole-of-government approach to vulnerable children living in out-of-home care.**

Discussion should occur within two months of publication of this report.

- Discussion will focus on the government services a child living in out-of-home care relies upon daily such as transport, housing and schools.
- Any actions from this discussion will be allocated to the Interdepartmental CEO Committee for Child Protection and Domestic and Family Violence reforms (IDCC).

2. **The Government establishes a Missing Children Pilot Governance Model – ‘Our Child’.**

The proposed model will improve communication between agencies and develop specialist strategic operational responses to the management of occurrences for missing children in out-of-home care.

This proposed model will:

- be achieved through leveraging existing localised governance teams within the Queensland Police Service (QPS) including the Queensland Missing Persons Unit, Department of Communities, Child Safety and Disability Services (Child Safety Services) who provide direct responses to children missing from out-of-home care and the Suspected Child Abuse and Neglect (SCAN) team system

- consist of key senior representatives from agencies involved with children from out-of-home care including, but not limited to, the QPS, Child Safety Services, the QFCC, the Department of Education and Training (DET), Queensland Health (QHealth), as well as representation from the non-government sector, Foster Care Queensland and CREATE
- clearly establish lead accountability for Child Safety Services
- include documentation of responsibilities, accountabilities and processes for the management of missing children occurrences.

The functions of the proposed model will include:

- strategic operational responses for children missing from out-of-home care, including advocacy and research
- a structured and formal approach to the management and reporting of occurrences and alignment of approaches to Occurrence Management
- specialist functions for the consistent recording of information, harmonise definitions, improve existing risk assessment tools and processes and make recommendations to support immediate occurrence management responses and investigation plans by local teams
- co-ordinating systems through linking and sharing information with other appropriate agencies
- monitoring information technology advancements, including social media developments and impacts on missing children occurrences and responses
- developing an evaluation framework to measure effectiveness of the pilot within three years of its establishment.

To support the proposed model:

- the QPS, the DET, Child Safety Services and QHealth in consultation with the Department of Science Information Technology and Innovation (DSITI) will provide a proposal for a Queensland Government capability to enable the rapid and accurate sharing of information on missing children to all involved agencies
- the D-G Council will be provided with the proposal on the design and commissioning of the sharing solution to consider within two months of the release of this report
- the Queensland Government Chief Information Officer will provide a quality assurance process
- the implementation of the model including the information and communication technology component will be contingent on new funding.

The proposed pilot could consider the benefits of expanding the model to include all missing children reported to the QPS.

### 3. **Child Safety Services develops an overarching media strategy.**

The media strategy will:

- be developed by Child Safety Services in consultation with the QPS and care service providers
- consider the safety needs of children and the Child Protection Order
- consider significant relationships of children (such as the length of time in the placement)
- consider the level of information suitable for publication, including setting out how carers and care service providers are to take into account section 189, *Child Protection Act 1999* and various privacy provisions
- identify the Chief Executive of Child Safety Services as the decision maker for determining who is most appropriate to speak to the media, if media coverage for missing children from out-of-home care is required
- outline how media coverage will be managed, including clearly established communication processes between all parties for ensuring information is filtered back to the QPS to support the ongoing investigation
- provide guidance on decision making responsibilities of parents and Child Safety Services for a missing child from out-of-home care where guardianship either remains with the parent or Child Safety Services.

### 4. **The QPS publishes a missing child media release (including an Amber Alert) immediately when required.**

- The QPS advises the D-G, DCCSDS (or delegate) of this decision at the earliest opportunity to allow Child Safety Services the opportunity to inform staff, carers and parents.
- The QPS revise policies and procedures to remove any confusion with section 189, *Child Protection Act 1999*.

### 5. **The QPS revises the interim protocol introduced following the death of Tiahleigh Palmer and incorporate into the QPS Operational Procedures Manual, 'Chapter 12 – Missing Persons'.**

- Updates will include:
  - replacing the reference to 'under the age of 16 years' with 'under the age of 18 years'
  - removing the requirement to seek authority from the Chief Executive of Child Safety Services for a media release.

### 6. **All agencies cease using the term 'abscond' as it relates to children missing from out-of-home care and adopt a single standard definition in all policies and procedures using the terms 'missing' and 'absent from placement'.**

## **7. The Government develops and implements a joint agency protocol for responding when a child is missing from out-of-home care.**

This protocol is to:

- be based on the Prevention, Location, Education, Awareness, Support and Evaluation (PLEASE) policy framework which outlines how legislative provisions operate for information requests and the provision of information relating to missing children in out-of-home care
- include processes for conducting return interviews, jointly between the QPS and Child Safety Services when a child reported missing from out-of-home care is located. Return interviews should include other stakeholders where required, such as the child's Community Visitor. Information discussed during return interviews is to inform a revised safety plan for the child
- outline each agency's role and responsibilities for missing and absent children from out-of-home care
- outline how agencies (specifically the QPS and Child Safety Services) will communicate with all relevant parties, including carers and parents
- outline guidelines for releasing information publicly including, issuing media releases and Amber Alerts
- include the required consultation and authorisation points for seeking authority to release information that identifies a child as involved with the child protection system.

## **8. Child Safety Services updates or creates relevant internal policies, procedures, guidelines and resources to align with the joint agency protocol and revised definitions of 'missing', 'vulnerable' and 'absent from placement'.**

Key documents include:

- Child Safety Practice Manual
- Foster and Kinship Carer Handbook
- Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations
- Human Services Quality Framework – Licensing Companion Guide
- The Youth Housing and Reintegration Service (YHARS) program policies and procedures
- Youth Support Practice Guide
- all other relevant government and non-government agency policies, procedures and guidelines for responding when children in out-of-home care are missing, including critical incident reporting.

New resource information will:

- clarify roles and responsibilities of staff, carers and services providers when children from out-of-home care are absent from their placement, or reported as missing
- include clear guidance around vulnerability of a child at risk of going missing or absent from their placement and risks for a child when they are absent or missing
- provide advice on what actions the QPS and Child Safety Services undertake when responding to children missing from out-of-home care to provide confidence in the range of processes undertaken to locate a missing child.

**9. Child Safety Officers develop a safety plan for children who are frequently absent from their placement.**

The safety plan will:

- align to the *Strengthen Families Protecting Children Framework for Practice* and depict the circle of networks a child has, including who they can talk to and where it is safe for them to go
- include open discussions with children when developing the safety plan, their history of being absent from their placement, and their experiences during this time
- clearly outline the processes to be undertaken in the event a child is missing or is absent from their placement.

**10. The QPS updates its Operational Procedures Manual, 'Chapter 12 – Missing Persons' to provide clearer guidance around processes involving children from out-of-home care and align with the joint agency protocol.**

- include clearer processes outlining the QPS contact with Child Safety Services, biological parents, carers and service providers when a child is missing from out-of-home care
- include open discussions with children when developing the safety plan, their history of being absent from their placement and their experiences during this time
- outline clearer processes and requirements around authorisation points for seeking a signed authority to release information publicly when a child is missing from out-of-home care.

**11. The DET implements a state-wide, same day notification procedure in State, non-state and Independent schools (where feasible), advising parents/carers when a child is absent from school.**

**12. The QPS amend the School Based Policing Program, Memorandum of Understanding and staff induction booklet to clearly outline the role and responsibilities of School-based Police Officers during missing children investigations and supporting initiatives for children identified as at risk.**

**13. The DET, Queensland Catholic Education Commission and Independent Schools Queensland review and achieve consistency for all policies and procedures for children living in out-of-home care, including processes for monitoring continuity of enrolment for children who move placements.**

**14. The DET nominates a central after hours contact number the QPS can call to obtain necessary information about a missing child's school attendance record, their networks, or other relevant information to assist in the QPS investigation.**

**15. The Office of the Public Guardian (OPG) makes certain children living in out-of-home care who have previously been reported as missing to the QPS or are frequently absent from their placement are visited by community visitors on a regular basis.**



**16. Child Safety Services amends the SCAN team system to reflect required responses to missing children from out-of-home care.**

- Any child from out-of-home care is to be referred immediately to the SCAN team for a multi-agency discussion.
- If no SCAN team meeting is scheduled within 48 hours, an emergency SCAN team meeting is required.
- The SCAN team referral process be amended to include children missing from out-of-home care as a referral option.
- The case to remain open at the SCAN team for the duration a child is missing.

This recommendation is not intended to impact timely information sharing outside the SCAN team.

**17. Government agencies nominate a person to be contacted when local contacts are unavailable to expedite information and assist the QPS with its investigations when a child is reported missing. The nominated contact is required to have strategic oversight and decision making authority.**

**18. QHealth provides a greater focus on advocating for the sharing of information regarding children from out-of-home care, particularly those children who may present to a hospital during the time they are reported as missing or absent from their placement.**

**19. Government establishes a process for collecting data on missing children from out-of-home care and reports information annually.**

- Increased data collection to ensure a consistent and common data standard across agencies.
- Any future information technology developments should consider how to further streamline consistency of data standards across agencies.

**20. Child Safety Services regularly and proactively provides information to the QPS when a child is missing from out-of-home care as required by revised missing children's guidelines, forms and checklists.**

Child Safety Services will:

- provide all appropriate information regarding a child from out-of-home care, such as known associates and a current photograph
- provide the required form following a missing person report being made by a carer, service provider or parent.

**21. The QPS updates the 'Form 1' to include whether a child in out-of-home care is reported missing.**

**22. Child Safety Services comply with the use of the Missing Persons Alert in the Integrated Client Management System (ICMS).**

- 23. Child Safety Services collects data via the System and Practice Reviews on any significant injuries or death of children during the period of time they are missing and reports information annually.**
- 24. QFCC updates the Child Death Register to enable recording of whether a child is reported as missing at their time of death.**
- 25. Training be provided immediately to key QPS staff on Amber Alerts and how these differ from the previous Child Abduction Alerts to ensure staff are aware of the criteria for issuing the alert. This training should be extended to other relevant agencies as required.**
- 26. Training is provided to all relevant Child Safety Services' staff, foster/kinship carers, care service providers and relevant agencies to incorporate procedures and processes for responding to a child who is absent from placement or missing.**
- 27. The QFCC's action plan for the Strengthening the Sector Strategy includes appropriate training and guidance for residential care workers when children are absent from their placement or are reported as missing.**
- 28. The QFCC to review legislation, policies and practices relating to information sharing between all parties, particularly the QPS, Child Safety Services and DET as responsible agencies for undertaking internal risk assessments and decision-making about the safety for all children in regulated service environments.**

The QFCC has begun a supplementary systems review at the request of the Premier to:

- provide further advice and assessment on the systems in place to protect all children, focusing on the sharing of relevant information between government and non-government agencies following the suspicious death of a child in out-of-home care
- consider what information can, and should, be shared to ensure all children are protected, including those in out-of-home care
- consider whether a risk assessment framework should be developed by the QPS to inform decision making around the appropriate release of sensitive and confidential information to relevant government agencies, and other entities, so that children at risk of serious harm are better protected
- consider whether legislative change is required
- consider the benefits for establishing a centralised data system to record regulated children's services, particularly those which are co-located.

A copy of the letter from Mr Dave Stewart, Director-General, Department of Premier and Cabinet on behalf of the Premier is at Attachment 3.

The QFCC will provide advice to government on the supplementary review within three months of the publication of this report.

**29 The QFCC establishes a governance group to provide strategic oversight for monitoring the implementation of recommendations from the review.**

This group will have a particular focus on:

- overseeing the supplementary systems review by the QFCC
- information and data sharing between agencies about children living in out-of-home care
- assumptions about children living in out-of-home care which may impede swift action when a child is missing.

The group will regularly brief the IDCC on the progress of implementation.

# Appendix 1

## Missing children: Overview of data and literature

### A1.1 International data for missing persons

In 1984, the National Centre for Missing and Exploited Children (NCMEC) was established in the United States of America. NCMEC report on issues related to missing and sexually exploited children. Overtime their role has expanded to now offer 22 programs and services to assist law enforcement, families and professionals who work with them<sup>44</sup>.

In 2014, the NCMEC assisted law enforcement agencies with more than 12,000 cases of missing children. Case types included:

- 84 per cent endangered runaways
- 12 per cent family abductions
- 2 per cent lost, injured or otherwise missing children
- 1 per cent nonfamily abductions
- 1 per cent critically missing young adults, ages 18 to 20<sup>45</sup>.

For the period 1 April 2012 to 31 March 2013, the United Kingdom police force (including England, Wales and Scotland) dealt with 306,000 missing person incidents. This equates to an average of 838 incidents per day, or one person being recorded missing every two minutes. Almost two-thirds of cases involved children.

<sup>44</sup> National Centre for Missing and Exploited Children 2016, 'About us', Accessed 16 February 2016, <http://www.missingkids.com/About>.

<sup>45</sup> National Centre for Missing and Exploited Children 2016, 'Key facts', Accessed 14 February 2016, <http://www.missingkids.com/KeyFacts>.

Children in the 15-17 age group being reported missing most frequently<sup>46</sup>.

The United Kingdom, Department of Education 2014, noted in the '*Statutory guidance on children who run away or go missing from home or care*', the majority of children missing normally resided in their family home, rather than '*looked after*' children (meaning a child under a child protection order)<sup>47</sup>.

Research studies reviewed by Rees et al. (2005) found many children who were missing from out-of-home care had a history of running away before coming into care. While the rates for children who run away from out-of-home care are high, this is not necessarily a negative reflection on the care system, given they make up only a small percentage of all children who run away<sup>48</sup>.

### A1.2 Australian data for missing persons

For the period 2005-06, the rate of missing persons reported to the police was 1.5 per 1,000 Australians. Just over half of all missing persons were children. This equates to a total of 30,288 missing persons, with 12,874 being children.

<sup>46</sup> United Kingdom Missing Persons Bureau 2012, '*Missing persons: Data and analysis 2012/13*', National Crime Agency, Accessed 14 February 2016, <http://missingpersons.police.uk/en/resources/missing-persons-data-analysis-2012-13>.

<sup>47</sup> Department of Education 2014, '*Statutory guidance on children who run away or go missing from home or care*', United Kingdom, p.5.

<sup>48</sup> Rees, G. and Lee, J 2005, '*Still Running II. Findings from the second national survey of young runaways*', The Children's Society United Kingdom, pp.11-12.

Missing person data collected by non-police search agencies such as The Australian Army Family Tracing Service, for this same period, was added to the police data. The total figure increased to 1.7 per 1,000 Australians, equating to approximately 35,000 people. This figure however does not account for those individuals who are not reported as missing<sup>49</sup>.

According to the NMPCC abductions by strangers are rare and most missing children are located safe and well within 24 hours<sup>50</sup>.

Of those persons who go missing, 99.5 per cent are located, with 85 per cent located within one week of being reported missing<sup>1</sup>.

Practices in reporting and recording missing persons vary throughout Australia. Due to these differences, definitions of ‘missing’ persons are not consistent.

National police statistics indicate a high incidence of children under a care or control order (in Queensland, a child would be subject to a Child Protection or Youth Justice order)<sup>52</sup> running away from youth institutions or supervised accommodation. This high incidence rate could be due to particular requirements for caregivers and agencies to report when a child from out-of-home care has run away from a residential or supervised accommodation service.

Recent research has been unable to provide reliable, comparable cross-jurisdictional data about children formally reported as missing from out-of-home care.

49 James, M, & Anderson, J & Putt, J 2008, ‘Missing persons in Australia’, *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, pp.13-15.  
50 Australian Federal Police 2015, ‘You do not have to wait 24 hours before reporting someone as missing: Myths and Facts’, Fact sheet, National Missing Persons Coordination Centre, Accessed 29 January 2016, <http://www.missingpersons.gov.au/~media/mp/files/pdfs/myths%20%20facts%20english.pdf>.  
51 Australian Federal Police 2015, ‘You do not have to wait 24 hours before reporting someone as missing: Myths and Facts’, Fact sheet, National Missing Persons Coordination Centre, Accessed 29 January 2016, <http://www.missingpersons.gov.au/~media/mp/files/pdfs/myths%20%20facts%20english.pdf>.  
52 James, M, & Anderson, J & Putt, J 2008, ‘Missing persons in Australia’, *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.24.

There is an absence of common data measures across Australian states and territories for recording missing person occurrences.

A1.3 Queensland data for missing children

For this review, the QPS, Child Safety Services and the OPG have provided available data relating to children missing from out-of-home care in Queensland.

**Finding**

There is limited ability to consistently and reliably compare and report on data relating to children missing from out-of-home care or absent from their placement due to differing reporting practices between Queensland government agencies.

**Refer recommendation – 2; 19; 21; 23; 24 and 29.**

A1.4 QPS data on missing children

Information from the QPS indicates, from 1 July 2009 – 30 June 2015, 24,225 children (under 18 years of age) were reported missing to the QPS. This figure includes multiple reports for the same child<sup>53</sup>. At the time of writing, 24,170 children had been located. These figures show 99.77 per cent of children reported missing are located. This information was current at the time of writing and does not suggest children have not been subsequently located. These figures are broken down in the following table.

53 Information provided by the Queensland Police Service to QFCC, 12 April 2016, formal consultation.



**Table 1: Children (under 18 years) reported missing to the QPS per year and the number located per year<sup>54</sup>**

Year	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Missing	3535	4102	4516	4485	4005	3582	24,225
Located	3508	4100	4516	4485	3981	3580	24,170

\* Figures may include multiple reports for the same child.

The QPS is unable to provide specific data in relation to children reported missing from out-of-home care (or children with an Indigenous status), without manually searching over 3,000 missing person reports received per year. To assist this review, the QPS undertook a manual review of their QPRIME database to provide a snapshot of total reports of missing children against total reports of children missing from out-of-home care. This data is outlined in the following table.

**Table 2: Children (16 years or younger) reported missing to the QPS<sup>55</sup>**

Date	Total children reported missing	Total children reported missing from out-of-home care	Percentage of children from out-of-home care against total children reported missing
January 2014	132	49	37.12%
January 2015	172	46	26.74%
January 2016	225	65	28.51%

\* Figures may include multiple reports for the same child.

A data snapshot completed by the QPS indicates children from out-of-home care could, on average, account for around 30 per cent of all children reported missing to the QPS.

Information provided by the QPS indicates they continue to receive multiple calls for service relating to children from out-of-home care, many of whom are repeat 'runaways'.

## A1.5 Child Safety Services data on missing children

The following table, Table 3, outlines the total number of children in Queensland living away from home. Table 4 outlines the rate of children reported as 'absconded'<sup>56</sup>, self-placed, missing or location unknown from out-of-home care over the past five years.

<sup>54</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>55</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>56</sup> Child Safety Services 'Integrated Client Management System' (ICMS) has absconded as an option for recording the location of a child.

**Table 3: Total number of distinct children living away from home<sup>57</sup>**

Children living away from home	30 June 2011	30 June 2012	30 June 2013	30 June 2014	30 June 2015
Indigenous	3,052	3,255	3,417	3,531	3,699
Non-Indigenous*	5,011	5,227	5,235	5,100	5,113
<b>Total</b>	<b>8,063</b>	<b>8,482</b>	<b>8,652</b>	<b>8,631</b>	<b>8,812</b>

\* Includes Non-Indigenous children and those whose Indigenous status is unknown or not stated.

There is no available data regarding the number of distinct children living away from home by Culturally and Linguistically Diverse backgrounds.

**Table 4: Total number of children recorded as 'absconded', self-placed, missing or location unknown \*from out-of-home care<sup>58</sup>**

Financial year	Indigenous	Non-Indigenous**	Total number reported	Percentage of total number reported missing compared to total number of children living away from home
2010-11	231 (47.43%)	256 (52.57%)	487	6.04%
2011-12	238 (46.30%)	276 (53.70%)	514	6.06%
2012-13	221 (46.92%)	250 (53.08%)	471	5.44%
2013-14	194 (45.65%)	231 (54.35%)	425	4.92%
2014-15	177 (47.97%)	192 (52.03%)	369	4.19%

\* If a child is reported more than once in a financial year they are counted only once for that year.

\*\* Includes Non-Indigenous children and those whose Indigenous status is unknown or not stated.

<sup>57</sup> Department of Communities, Child Safety and Disability Services 2015, 'Children living away from home, by Indigenous status, Queensland', Accessed 19 January 2016, <https://www.communities.qld.gov.au/childsafety/about-us/our-performance/ongoing-intervention-phase/living-away-from-home>.

<sup>58</sup> Figures provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

**Table 5: Total number of records of children recorded as ‘absconded’, self-placed, missing or location unknown \*from out-of-home care<sup>59</sup>**

Financial year	Indigenous	Non-Indigenous**	Total
2010-11	480 (50.26%)	475 (49.74%)	955
2011-12	692 (56.26%)	538 (43.74%)	1,230
2012-13	576 (55.01%)	471 (44.99%)	1,047
2013-14	471 (46.31%)	546 (53.69%)	1,017
2014-15	537 (56.83%)	408 (43.17%)	945
<b>Grand Total</b>	<b>2,756 (53.06%)</b>	<b>2,438 (46.94%)</b>	<b>5,194</b>

\* Children are counted each time a report was made.

\*\* Includes Non-Indigenous children and those whose Indigenous status is unknown or not stated.

Child Safety Services data indicates on average around 5 per cent of children living away from home are reported as ‘absconding’, self-placed, missing, or location unknown each year.

Overall the numbers for Aboriginal and Torres Strait Islander children are similar to those for non-Aboriginal and Torres Strait Islander children. However, the total percentage is higher for Aboriginal and Torres Strait Islander children who are recorded as ‘absconding’, self-placed, missing, or location unknown. This outcome is not unexpected given the over representation of Aboriginal and Torres Strait Islander children in the child protection system. The data includes instances where a child is reported as ‘absconding’, self-placed, missing, or location unknown multiple times during the same year.

### Finding

Information from the QPS and Child Safety Services indicates there is no reliable data source available to confirm the number of children reported to the QPS as missing from out-of-home care.

Furthermore there is no reliable data source available which details the number of children from out-of-home care who were ‘absent from placement’ and who subsequently died or suffered a serious physical injury<sup>60</sup>.

The QFCC Child Death Register is also unable to identify if a child was reported as missing to the QPS at the time of their death.

**Refer recommendation – 2; 19; 21; 23; 24 and 29.**

<sup>59</sup> Figures provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

<sup>60</sup> Information from Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

## A1.6 OPG data on missing children

A snapshot of OPG's, Community Visitor Program (CVP) data retrieved on 30 October 2015 indicated:

- 301 children were identified as having self-placed or 'absconded\*' since the CV's last visit
- 120 children reported they were considering self-placing or 'absconding'
- 32 children (within 1 November 2014 – 31 October 2015) had 'child has absconded' recorded as a placement end reason. Note, these figures are indicative only<sup>61</sup>.

\* OPG has the term *absconding* as a placement end reason

## A1.7 Risk factors leading to children becoming a missing person

One of the main risk factors leading to a child becoming a missing person, is child abuse and neglect.

Research indicates certain factors increase a child's risk of becoming a missing person. The leading risk factor is child abuse and neglect. This means children are more likely to leave their home or placement if they are experiencing abuse and neglect.

Additional risk factors for children in Australia include:

- domestic violence and family conflict
- school problems such as bullying or issues with peers/teachers,
- illicit drug or alcohol use
- mental health issues
- racism
- poor coping skills<sup>62</sup>.

These risk factors will not be present in all cases and the relevance to each individual case must be considered. Attachment 7 provides more

<sup>61</sup> Information from the Office of the Public Guardian to QFCC, 24 December 2015.

<sup>62</sup> James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, pp.xiv and 16.

information on the risk factors for all children who go missing repeatedly, children from out-of-home care and children from out-of-home care who repeatedly go missing.

Children aged less than 10 years (males and females) and aged 13-17 years (particularly females) are at the greatest risk of intentionally going missing. Children aged 13-17 years are at greatest risk of running away repeatedly<sup>63</sup>.

While there are no distinct risk factors beyond those which relate to all children who go missing, certain risk factors in combination may contribute to young Aboriginal females going missing. Robertson and Demosthenous (2004), identified the following combinations of risk factors:

- difficult or traumatic family situations
- problems at home, such as violence, alcohol abuse, sexual abuse, safety concerns, abduction by non-custodial parent
- poor performance and/or conflict at school
- problems at school related to learning, racism and bullying<sup>64</sup>.

## A1.8 Cases of abduction

Some children reported missing have been abducted and, in some situations murdered. In Australia, Daniel Morcombe, a 13-year-old boy living with his family on the Sunshine Coast, disappeared while waiting for a bus on 7 December 2003. On 13 March 2014, a man was convicted of Daniel's murder.

Whilst in some cases, such as Daniel Morcombe's, the abductor is not known to the child, in other cases of abduction, the perpetrator is a person the child met through social media.

<sup>63</sup> James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, pp.26-28.

<sup>64</sup> Cited James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.25.

There is a need to continually educate ourselves, community and our children about keeping safe and the risks and dangers associated with social media. However, caution may not prevent the actions of someone who chooses to abuse and murder a child.

### A1.9 Where do children run away to?

The Courtney (2005), report outlines the survey results of 42 youth who had a history of running away. Of this cohort, 74 per cent were aged 16-18 years. The young people interviewed for the survey were primarily African American (88 per cent); 52 per cent were female and 48 per cent were male. Of the 42 interviewed, 80 per cent had entered care between the ages of 0 and 9 years and 83 per cent stated they had between three and eight placements. In relation to running away, the medium length of time on the 'run' was 60 days, with 27 per cent of youth absent less than one week; 21 per cent had run away before entering foster care<sup>65</sup>.

The report highlights the risks for children returning to their community or family of origin. Youth surveyed for the report described a pull towards their biological family and characterised their running away experience as running to their family, rather than away from their placement. Children experienced an urge to be with biological family in spite of recognising their families were not healthy, safe, or caring. In some cases, after running home children suffered multiple abuses from biological family members.

The report demonstrates children have a strong urge to be with family, despite knowing the situation may not be in their best interests. Such strong ties to family or strong hopes for a family connection often prevented youth building connections in their homes<sup>66</sup>. The intrinsic need to have a sense of belonging to family relates to identity of self and place. Some children will run away from every placement, simply because it is not home.

Some of the statements made by youth in the Courtney (2005) report included:

- *She [staff] [tried] to stop me from going to visit my family, cause they know that's really like the main thing that I care about. I mean I care about other stuff too, but ... I really care about my family and going to see them.*
- *I went over my Grandma house. Usually when I run away that's most likely where I'm at... my Grandma house. The staff here will tell you that. Anytime I leave they call my Grandma house, that's where I'm at ... that's about the only place I really feel comfortable.*
- *My main focus was to be with my family.... And that's what I ran for. I ran to get back with my family.*
- *The two times I ran away ... I was with my grandmother. I was [also] with my mother because I was ... frustrated.... They told me I couldn't see my mom or talk to her anymore, so that really frustrated me.... Because every time I talked to my mom and she would tell me that she loved me, I would get upset and depressed because my mom never told me that she loved me.... My mom ... gave up one time. And then, she just came back into my life and I couldn't see her. I was like, always want to be around my mom.*
- *I love all my family regardless of what they did to me because they done did some crazy stuff to me. And didn't matter how ... how bad they treated me ... when I was in my other foster homes, I was ... in a urge to see them.... If I didn't see them then I felt like I was dying.*
- *Really what's important to me is my family.... They ain't the best family in the world but they do look out for me when I need it.*
- *I was running away because I didn't want to be around them and I was running to my family.*
- *I ran from foster home, group home, shelters, wherever they placed me that wasn't around my family.... And that's why I ran away 'cause it wasn't no home.*

<sup>65</sup> Courtney, M.E & Skyles, A & Miranda, G & Zinn, A & Howard, E & George, R.M 2005, 'Youth who Run Away from Substitute Care', Chapin Hall Centre for Children at the University of Chicago, pp. 42-43.

<sup>66</sup> Courtney, M.E & Skyles, A & Miranda, G & Zinn, A & Howard, E & George, R.M 2005, 'Youth who Run Away from Substitute Care', Chapin Hall Centre for Children at the University of Chicago, pp. 41-70.



*In the report one foster parent described her experience with youth who continued to return to their families:*

- *And they are so eager to get re-attached, whether it's good or bad, it's just that they've been rejected and they just want to try one more time. And they can know it's bad and they can articulate and tell you that, but they just cannot get it from within<sup>67</sup>.*

International research identifies children living in out-of-home care are more likely than those living at home to:

- run away (especially in the first few months of placement)
- be older children
- run away repeatedly
- stay away longer and travel further
- use more police resources as a result of running away, despite being a small percentage of all missing youths<sup>68</sup>.

Children living in out-of-home care in Australia, aged between 13 and 17 years (particularly females) have the greatest risk of intentionally going missing or going missing more than once<sup>69</sup>. OPG data for 1 November 2014 - 31 October 2015 shows, among Aboriginal and Torres Strait Islander children, those aged 10-14 years were more likely than those aged 15-17 years to have a placement end reason of 'child has absconded'. In contrast, for non-Aboriginal and Torres Strait Islander children, the same number of children aged 10-14 years and children aged 15-17 years had a placement end reason of 'child has absconded'. This data is outlined in the table below.

**Table 6: Children with a placement end reason of 'child has absconded' 1 November 2014 to 31 October 2015 <sup>70</sup>**

Age at time of 'absconding'	Aboriginal and Torres Strait Islander children	Non-Aboriginal and Torres Strait Islander children	Total
10 to 14 years	9	9	18
15 to 17 years	5	9	14
<b>Total</b>	<b>14</b>	<b>18</b>	<b>32</b>

Note, the above OPG data is indicative data only and should be used with caution. Figures are dependent on the individual CV selecting the correct placement end reason.

67 Courtney, M.E & Skyles, A & Miranda, G & Zinn, A & Howard, E & George, R.M 2005, 'Youth who Run Away from Substitute Care', Chapin Hall Centre for Children at the University of Chicago, pp. 41-70.

68 Kaplan 2004 & Wade et al 1998, cited in James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.22.

69 James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, pp.26-28.

70 Information from the Office of the Public Guardian to QFCC, 4 December 2015.

## A1.10 Dangers children face when they are missing



*Young people may be as much at risk on the first occasion they go missing as after multiple absences. Young people who run away repeatedly are just as vulnerable as others – although they are often viewed more as ‘problems’ than as ‘at risk’<sup>71</sup>.*

Children face many risks and threats to their safety, health and wellbeing when they go missing. The Trafford Safeguarding Children Board (United Kingdom) outlines several risks, as shown in Table 7.

**Table 7: Immediate and long-term risks for a child when they go missing<sup>72</sup>**

Immediate risks	Long-term risks
<ul style="list-style-type: none"> <li>• No means of support or legitimate income – leading to high risk activities</li> <li>• Involvement in criminal activities</li> <li>• Victim of abuse</li> <li>• Victim of crime, for example through sexual assault and exploitation</li> <li>• Alcohol/substance misuse</li> <li>• Deterioration of physical and mental health</li> <li>• Missing out on schooling and education</li> <li>• Increased vulnerability.</li> </ul>	<ul style="list-style-type: none"> <li>• Long-term drug dependency / alcohol dependency</li> <li>• Crime</li> <li>• Homelessness</li> <li>• Disengagement from education</li> <li>• Child sexual exploitation</li> <li>• Poor physical and/or mental health.</li> </ul>

<sup>71</sup> Biehal & Wade 2004, cited in James, M, & Anderson, J & Putt, J 2008, ‘Missing persons in Australia’, Research and Public Policy Series, no. 86, Institute of Criminology, Canberra Australia, p.55.

<sup>72</sup> TSCB Trafford Safeguarding Children Board 2016, ‘Children and young people who go missing in care’, pp.1-2, Accessed 6 January 2016, <https://www.trafford.gov.uk/about-your-council/children-families-and-wellbeing/docs/childrens-homes-policies-and-procedures/children-and-young-people-who-go-missing-from-care.pdf>.

Table 8 provides data from the Courtney (2005) report regarding the number of children who experienced or engaged in dangerous situations or events while running away.

**Table 8: Participation in or exposure to risky situations reported by children while 'on the run' ( $n = 42$ )<sup>73</sup>**

Behaviour	%	N	Male	Female
Drink alcohol	55	23	8	15
Use and/or sell drugs	52	22	6	16
Victim of sexual assault/rape	17	7	1	6
Physically hurt somebody else	14	6	3	3
Been physically hurt	12	5	5	0
Damage property	12	5	3	2
Sleep in unsafe places	12	5	3	2
Perform sexual acts for money	5	2	0	2
Steal or rob	7	3	2	1
Ask for money from strangers	5	2	1	1

According to the America based NCMEC, of the more than 11,800 runaways reported to them in 2015, one in five were likely victims of child sex trafficking. This is an increase from one in six in 2014. Of the likely victims of child sex trafficking, 74 per cent were in the care of social services or foster care when they went missing<sup>74</sup>.

Statistics of child sex trafficking are not as widely recorded in Australia. To contextualise the issue for Queensland, the Queensland Organised Crime Commission of Inquiry found online child sexual offending and child exploitation material is quickly evolving, together with advances in technology. The limited nature of available data makes it difficult to determine the full extent of this issue in Queensland. However, information received by the Queensland Organised Crime Commission of Inquiry indicates the risk is increasing and the issue is having a significant detrimental impact on the community<sup>75</sup>.

<sup>73</sup> Courtney, M.E & Skyles, A & Miranda, G & Zinn, A & Howard, E & George, R.M 2005, 'Youth who Run Away from Substitute Care', Chapin Hall Centre for Children at the University of Chicago, p.44.

<sup>74</sup> National Centre for Missing and Exploited Children 2016, 'Child sex trafficking' data infographics, accessed 25/01/2016, <http://www.missingkids.com/1in5>.

<sup>75</sup> Queensland Organised Crime Commission of Inquiry 2015, 'Chapter 4 Online child sexual offending and child exploitation material', Queensland Government, pp 259-372.

## A1.11 Reasons children run away from out-of-home care

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*Young people who run away, ‘are usually running away from’ a problem they do not know how to solve, rather than ‘running to’ an environment they imagine to be more relaxed and exciting*<sup>76</sup>.

*A scenario unique to out-of-home care is the act of ‘running away to home—that is, running from care to family or friends from the neighbourhood of origin. Running to home versus away from it alters the discourse and belies the traditional perception of runaways*<sup>77</sup>.

Factors which lead to a child living in out-of-home care running away from their placement may be different from those factors which contribute to the running away of child who lives at home with a parent/guardian. This may be due to reduced emotional ties to caregivers, which makes it easier for a child to leave a placement.

According to Dedel (2006), some of the reasons children living in out-of-home care run away include:

- returning to their home or neighbourhood to be with friends and family
- testing the carers to confirm they care about them and they are wanted
- escaping from crowded placements or seeking privacy
- highlighting inadequate service or attention from carers or workers
- protecting themselves from bullying or sexual harassment by other residents, particularly in residential care

- escaping abuse by staff
- resisting imposed boundaries, particularly as the homes they have come from may not have had many boundaries<sup>78</sup>
- experiencing the out-of-home placement as very different to their usual environment. For example, home may have been chaotic and tense. Some foster care placements offer routine and rituals, such as those regarding eating together and bed time.

This list of reasons is supported by data obtained from the OPG. Table 9 includes OPG data from 1 November 2014 - 31 October 2015 indicating the reasons for children ‘absconding’ or considering ‘absconding’ or self-placing.

“

**Lucas Moore,**  
**Queensland State Coordinator,**  
**CREATE Foundation**

*Children and young people are placed into care through no fault of their own and, due to the trauma of their pre-care and sometimes in-care experiences, can face significant challenges in finding and maintaining connections with supportive adults and peers. In examining why these children and young people go missing it is imperative that we seek to understand where and to whom they are running and how we can better meet their needs in safe and stable homes.*

<sup>76</sup> Dedel K. 2006, ‘Juvenile Runaways’, *Problem-orientated guides for police: Problem Specific Guides Series* Office of Community Orientated Policing Services, U.S. Department of Justice, no.37, p6.

<sup>77</sup> Courtney, M.E & Skyles, A & Miranda, G & Zinn, A & Howard, E & George, R.M 2005, ‘Youth who Run Away from Substitute Care’, Chapin Hall Centre for Children at the University of Chicago, pp.2-3.

<sup>78</sup> Dedel K. 2006, ‘Juvenile Runaways’, *Problem-orientated guides for police: Problem Specific Guides Series* Office of Community Orientated Policing Services, U.S. Department of Justice, no.37, p7.

**Table 9: Reasons reported by children for ‘absconding’ or considering ‘absconding’ or self-placing<sup>79</sup>**

Reason	Number of children who have ‘absconded’ due to this reason	Number of children who have considered ‘absconding’ or self-placing due to this reason
Seeking connections with family or other persons of significance	96	61
Seeking independence	60	23
Difficulties in relationship with care providers	33	18
Dislikes where they are living	21	23
Difficulties in relationship with others	19	16
Other reason for ‘absconding’	160	54

Note: Multiple reasons may have been selected. Also a large number of child reports did not provide any reason. A child may have been counted in both number columns.

## A1.12 Coordinating agency responses when children go missing

When a person is missing accessing information in other jurisdictions can be complex, cumbersome and time consuming. Navigating through various legislative and procedural frameworks can impact an agency’s ability to gather important information in a timely way.

James (2008) *Missing persons in Australia* report found separate risk assessment procedures specifically for missing children, for the United Kingdom and the United States, did not exist in Australia. At the time of the report, the National Missing Persons Coordination Centre (NMPCC) was working with Australian law enforcement agencies to develop national guidelines for the risk assessment of a missing person report.

The James (2008) report recommended the NMPCC include specific guidelines for children and those who go missing repeatedly and children from out-of-home care and those children from out-of-home care who go missing repeatedly. In addition the report discussed, for children from out-of-home care, the coordination and sharing of information between government and non-government agencies could be particularly useful for improving the police response to a missing person’s report. Furthermore, appropriate, more useful government agency protocols and guidelines to prevent some occurrences of missing children would ease the pressure on police resources.

<sup>79</sup> Information from the Office of the Public Guardian to QFCC, 24 December 2015.



A need for more effective, specialised support and counselling services for families and friends of missing persons was identified. The report further identified the NMPCC was working on a national approach and stressed the need for good practice and relevant early intervention and prevention frameworks. The frameworks need to address the risk factors leading to a child becoming a missing person and encourage good inter-agency collaboration. Furthermore, there was a need identified for consistent and rigorous data collection to inform practice<sup>80</sup>.

Additionally, the report outlined several key priorities for Australia in relation to missing person occurrences. In the seven years since the report's release it appears no overall review has been conducted to evaluate progress or implementation of the recommendations made.

In their report '*Young Runaways*', the Social Exclusion Unit (London) noted despite the benefits of protocols specific for children who run away from home and care, few local areas had developed these. The report also determined a consequence of frequently running away and the practice of carers and service agencies 'over-reporting' to 'play it safe', lead to a delay by police in responding if it was believed the absence was likely to be temporary<sup>81</sup>.

While it is acknowledged it can be a fine balance to get it right, it is always essential the most protective action is taken. In Leicester, United Kingdom, a joint agreement between the police and social services departments about which children will be reported to police, resulted in 50 per cent reduction in reports to police of children missing from out-of-home care. Despite this, police continued to hold concerns carers and service provider were not receiving adequate training on how existing agreements should be applied<sup>82</sup>.

This Social Exclusion Unit report also found when a child living in out-of-home care who frequently runs

away returns, the child may not always receive a positive response from carers or service providers when they return. This in itself may reinforce the child's tendency to run away. Additionally only limited numbers of police had been trained in providing effective and appropriate return interviews with runaway children. Although missing persons programs which provide support to runaway children once they return had reduced the number of runaways, they were less successful with runaways who had a history of involvement in crime or the criminal justice system. Children within these systems require more intensive support<sup>83</sup>.

Guidelines and practices in the United States of America outline the essential role law enforcement and child protection agencies play in responding to children reported missing from out-of-home care. They have found it is crucial for these agencies to work in partnership, be aware of each other's legislative responsibilities, understand each other's expectations around resources and service delivery and share their valuable skills and expertise<sup>84</sup>. The complexity of missing person cases and the underpinning legislative framework highlights the need for a close partnership between law enforcement and child protection agencies when discussing, assessing, responding and evaluating missing person's cases for children from out-of-home care.

The National Policing Improvement Agency (NPIA), United Kingdom, found when there are clear leaders for missing persons, the police force became more effective in strategically dealing with and taking innovative approaches in missing persons cases. As employees change, the NPIA recommend the person with overall strategic responsibility for missing person's issues should remain consistent. The preferred NPIA model is to have varying levels of missing person coordinators. Although they would not necessarily investigate individual cases, they would provide an overview with key agencies including foster care agencies and health services. This is particularly

80 James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, pp.xv-xiv.

81 Social Exclusion Unit 2002, '*Young Runaways*', University of Bristol, London.

82 Social Exclusion Unit 2002, '*Young Runaways*', University of Bristol, London, pp.42-43.

83 Social Exclusion Unit 2002, '*Young Runaways*', University of Bristol, London, pp.56-58.

84 Child Welfare League of United States of America 2005, '*Children missing from care: Best Practice Guidelines*', Executive Summary, Washington, DC. AND Smith, T B & Buniak, K & Condon, L & Reed, L 2005, '*Children Missing From Care: The Law Enforcement Response*', National Centre for Missing and Exploited Children, Virginia.

relevant in long-term missing person cases and when people frequently go missing. Bedfordshire police introduced this type of model specifically for children and saw a reduction of around 30 per cent in missing person incidents<sup>85</sup>.

### A1.13 The effect of social media and public comments when children are missing

Government, non-government agencies and individuals increasingly use internet websites and social media accounts to quickly share information with the community and publicly comment on missing person cases.

There are gaps in research into the role communication technology, the media and the making of public comments about missing children, play in a child's safe recovery. Despite this, over the years media articles and social media sites have provided ongoing commentary on the circumstances of missing children.

According to the NCMEC one positive impact of social media sites is to allow agencies to target their missing person posters to people in locations who may be more directly able to assist. This Centre has millions of active users who access their accounts – Facebook, 1.2 billion monthly users; Twitter, 288 million monthly users; and Instagram, 300 million monthly users. The Centre found their video posts featuring family members of lost children to be more effective than using a photo and written description of a missing child<sup>86</sup>.

The use of descriptive, expressive and emotive language in the media can evoke certain public perceptions and responses to missing person cases. The key role the media plays in generating public commentary on issues was evident in the case of Tiahleigh Palmer and of other missing children cases which followed.

85 National Policing Improvement Agency 2010, 'Guidance on the management, recording and investigation of missing persons', National Centre for Policing Excellence: London, edn 2, pp.59-60.

86 Santana, D n.d, 'Social media's role in finding the missing', The Missing: Searching for New York's Lost, Accessed 4 February 2016, <http://themissingny.nycitynewsservice.com/part-two/social-media-used-to-find-the-missing/>.

The QPS Missing Persons Unit recognises the value the media plays in seeking public assistance in locating missing persons. However, they also warned of the unintentional negative impact frequent use of media releases may have on overall community perceptions and responses for missing person's cases<sup>87</sup>.

Attachment 8 provides a summary of media articles considered for this review. The following key points were identified:

- family and friends are the main provider of assistance when locating a missing person
- increasingly, social media plays a role in missing person cases
- there has been mixed reviews of the role of Amber Alerts in recovering missing children in the United States of America. Questions are raised about the effectiveness and success rate of Amber Alerts in comparison to similar cases where no alert is issued. There are also concerns relating to the effectiveness of the system and losing the impact on the public if it is used too frequently<sup>88</sup>.
- one article states, according to the NCMEC, 'social media has helped to resolve and recover 98.5 percent of Amber alerts since 2005. Of 1,451 Amber notifications from 2005 to 2009, 1,430 children have been found'. The NCMEC believes social networking sites have assisted with locating children faster and increased the recovery rate of missing children found from 60 percent in the 1980s, to 96.5 per cent today (2011)<sup>89</sup>
- the use of social media means the missing child's information is out there with everyone forever
- the media creates bias and misunderstandings about missing persons cases through how missing persons cases are presented – the media tends to portray the 'ideal victim'; both vulnerable and presentable, in the media

87 Information provided by the Queensland Police Service to the QFCC, 4 February 2016.

88 Sharpe, L n.d, 'Amber Alert: Cure or thin Band-aid?', The Missing: Searching for New York's Lost, Accessed 4 February 2016, <http://themissingny.nycitynewsservice.com/part-two/amber-alert/>.

89 Quinn O'Connor, M 2011, 'Social-networking tools help find missing children', Fox News, Accessed 4 February 2016, <http://www.foxnews.com/tech/2011/03/30/social-networking-tools-help-missing-children.html>.

- the advantages of social media in assisting to locate a missing person outweighs the concerns such as false reports or people posting rude or defamatory comments
- appropriate channels should be used to push information so the community know the most appropriate people to tell their information to and how, so it can be used effectively during a missing person investigation.
- properly considering information and reported sightings in the context of the missing person investigation and ensuring resources are available to appropriately investigate them<sup>90</sup>.

These articles demonstrate there should be a clear media strategy for any person wishing to publicly comment on a missing person case. The media strategy should aim to increase effectiveness in locating the missing person and managing public responses.

The NPIA United Kingdom, provides guidance to officers on elements to consider when developing a media strategy. For high profile cases the media strategy could assist to generate awareness and information to assist the investigation and also control community speculation. Other considerations include:

- discussing with local authorities additional risk factors for ‘looked after’ children (meaning a child under a child protection order) before making a media release
- the impact a media release may have on the community, as critical missing persons investigations tend to generate public interest and sympathy over a number of days
- how public interest and offers of help from the public will be managed
- ensuring the media obtain ‘newsworthy material’ whilst minimising any interference with the missing person investigation
- ensuring external stakeholders assisting police in their investigation have processes in place to communicate information to police so it is managed within the missing person investigation
- providing accurate and up-to-date information about the missing child and their description to the media
- children are hiding as part of the ‘72 hour game’ and should stop this as it is a waste of people’s time – a game where a child purposely is missing for a set period of time without saying anything to their family and then turns up without explanation of where they have been
- children should be made aware of how serious a missing person case is taken
- children should be fined or undertake community services for running away and wasting police resources as a way to prevent it from happening again
- parents are to be blamed for not knowing where their children are
- going missing is a result of a lack of parental discipline
- parents should be charged for the time and resources taken in locating their missing child
- police resources should not be used to locate children who are quickly found when they could be looking for others – parents should conduct extensive searches first
- the public should not be so quick to judge when they do not know the circumstances for the missing child or their family
- sympathy for parents
- a request to stop placing adult expectations on children when they run away

<sup>90</sup> National Policing Improvement Agency 2010, ‘Guidance on the management, recording and investigation of missing persons’, National Centre for Policing Excellence: London, edn 2, pp.49-50.

- the primary focus should be on a good outcome for the missing child
- a request for the police to provide more information to the public about the missing person case and if it was genuine
- the police being congratulated on their efforts in locating the missing child.

### A1.13.1 Examples of sites publishing missing persons profiles

Following is an overview of some of the Australian websites where information about missing children is located.

Australia is a representative in the Global Missing Children's Network (GMCN; <http://www.icmec.org/>). This network is made up of 24 countries working together through global awareness, sharing best practices and providing access to a global missing children's database to help recover missing and abducted children<sup>91</sup>.

The Australian NMPCC website (<http://www.missingpersons.gov.au/missing-persons/profiles>) hosts a missing person profile page and manages a Facebook account. Profiles listed on the website can be viewed all at once or searched by Australian state, territory, by those persons missing overseas, or involved in Family Court Matters. Missing children and adults tend to be displayed together. This website also provides information about the annual National Missing Persons Week community campaign takes place during the first week of August.

Law enforcement agencies in each Australian state and territory generally manage their own missing person social media sites. The following QPS media accounts list information about how to report a missing person and missing person profiles can be searched by surname. Missing children and adults are listed together:

- the main website of the QPS - <https://www.police.qld.gov.au/EventsandAlerts/missingPersons/>.
- the myPolice Queensland News website - <http://mypolice.qld.gov.au/blog/category/news-and-events/missing-persons/>.
- the QPS Twitter account, Queensland Police Facebook account - <https://twitter.com/qpsmedia?lang=en>; <https://www.facebook.com/QueenslandPolice>.

Local community organisations, such as the Crime Watch Logan (Logan Crime/Community Watch), <https://www.facebook.com/logancriminal/> and Crime Watch Now Gold Coast Community <https://www.facebook.com/CrimeWatch.GoldCoast>, have established their own Facebook accounts. Part of the information provided to the community can include the posting of information about missing persons, including children.

Nicole Morris is the Director of the Australian Missing Persons Register (AMPR; <http://www.australianmissingpersonsregister.com/>), a not-for-profit organisation. The Register was established to bring awareness of missing persons to the public. The AMPR, hosts a website and Facebook account. The website contains missing person's profiles which can be searched according to Australian state or territory and in most cases, separates profiles into males, females, children and teenagers. Along with other general information on missing persons, this Register also lists information on parental abductions and attempted abductions.

Other community members have established specific Facebook accounts to assist in raising community awareness about missing persons issues, such as:

- Bravehearts Incorporated assisted the establishment of the 'Where's William? Campaign', <https://www.facebook.com/whereswilliam> <https://www.facebook.com/BraveheartsInc>
- the Australian Missing and Endangered Children, <https://www.facebook.com/amecfindmychild/>
- Daniel Morcombe Foundation, <https://www.facebook.com/Daniel-Morcombe-Foundation-official-page-138433286169049/>

<sup>91</sup> International Centre FOR MISSING & EXPLOITED CHILDREN 2016, 'Changing the way the international community responds when a child goes missing', Agency goals and direction, Accessed 12 January 2016, <http://www.icmec.org/global-missing-childrens-center/gmcn/>.

- Missing Children Australia: Tiahleigh Alerts, <https://m.facebook.com/Missing-Children-Australia-Tiahleigh-Alert-1655909494625736/to>.

These above websites commonly stipulate their own terms of conditions for use and for posting public comments. Conditions for use are commonly found in the ‘disclaimer’, ‘privacy’, ‘copyright’ or similar pages on the particular website.

The Australian Communications and Media Authority (ACMA), *‘is responsible for the regulation of broadcasting, radio communications, telecommunications and online content’*<sup>92</sup>. If an individual holds concerns about the content of an Australian website they can raise their concerns with the ACMA. These sites rely on individuals to visit their website, subscribe to receive regular updates, comment, or share posts, as a way of dispersing information about missing persons through the community.

There can be significant variations across media sites on how missing children profiles are published. Information often describes circumstances surrounding the child’s disappearance including the last known person to see or speak with the child. Information may also include a recent photo of the missing person with information stating the missing person’s:

- name (sometimes withheld)
- age
- last known location
- date they were last seen
- distinguishing features, such as height, build, eye colour and hair colour
- circumstances surrounding their disappearance (often varies in detail between cases)
- contact number for reporting information (in Australia this is usually Crime Stoppers).

<sup>92</sup> Australian Communications and Media Authority 2016, ‘Australian Communications and Media Authority’, Portfolio overview, Australian Government, Accessed 14 January 2016, <http://www.australia.gov.au/directories/australia/acma>.

## Finding

The publication of a missing person profile for a child from out-of-home care does not require information related to their involvement in the child protection system. In addition, it does not require information to identify the child has a carer or any other information which is likely to lead to the identification of the child as a child involved in the child protection system.

A missing person profile created by the QPS is carefully developed to avoid photos providing identifying particulars for a child, such as their school uniform and information which identifies or is likely to lead to the identification of a child as a child involved in the child protection system. Missing person profiles on the QPS site are also carefully monitored to remove any public comments which may breach legislation or impede the investigation.

**Refer recommendation – 2; 3; 4; 5; 7; 8; 10 and 20.**



### A1.13.2 Examples of apps

There are several available software applications (apps) designed to assist in keeping children safe.

The Australian Police 'Child ID Safety' App, is a tool to help parents and guardians more easily collect and send important information about their child to police in the event of a disappearance or abduction. This app also includes information about what to do in the hours immediately after a child is missing<sup>93</sup>.

Another example is the Daniel Morcombe Foundation 'Help Me' app. This app is designed for everyone. Features include a 'Help Me' button and the ability to send SMS text to two nominated 'safety' numbers including GPS coordinates from where the text was sent<sup>94</sup>.

The Carly Ryan Foundation has also designed an app. The Threads app includes a personal safety alarm which enables the user's location to be shared with their trusted contacts and dials 000<sup>95</sup>.

The benefit of these types of apps in assisting to locate missing persons has not been evaluated.

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93 Australian Federal Police 2015, 'Australian Police Child ID Safety App Available Now', Overview, Australian Government, Accessed 25 November 2015, <http://www.missingpersons.gov.au/awareness/campaigns/australian-police-child-id-safety-app-available-now.aspx>.

94 Daniel Morcombe Foundation, 'Help Me', Accessed 13 April 2016, <http://www.danielmorcombe.com.au/app.html>.

95 The Carly Ryan Foundation 2016, 'Welcome to Thread', Accessed 13 April 2016, <http://www.thethreadapp.com/>.

# Appendix 2

## Privacy laws and rights

Legislative frameworks in Australia establish the best interests of a child are paramount and must be carefully balanced with the need to maintain a child's privacy and basic human rights. Rules governing an individual's privacy is found in Australian Commonwealth, state and territory legislation. These include the *Privacy Act 1988* (Commonwealth) and the *Information Privacy Act 2009* (Queensland).

### A2.1 The *Privacy Act 1988*

The *Privacy Act 1988* sets out the way an individual's personal information is handled.

The Australian Law Reform Commission in its paper on information sharing noted, *'from some reviews of child protection systems in Australia ... there is confusion among agencies about the impact of privacy rules that has created obstacles to information sharing'*<sup>96</sup>.

Legislation does include comprehensive lists of prescribed bodies who can share information, however guidelines which clearly and plainly explain how the legislative provisions operate for both requesting and providing information could make the process clearer for prescribed bodies<sup>97</sup>.

The objectives of the *Privacy Act 1988* recognise protecting an individual's privacy is balanced with the interests of entities in carrying out their functions or activities.

The *Privacy Act 1988* is not intended to affect the operation of a state or territory law regulating the use or disclosure of personal information and is able to operate alongside this Act<sup>98</sup>.

Sections of the *Privacy Act 1988* relevant to this review are outlined in Attachment 4.

#### A2.1.1 The *Privacy Act 1988* and publicly commenting about a missing person

The *Privacy Act 1988* governs the publication of personal information which identifies or is likely to lead to the identification of an individual. Generally, for the publication of an image of a child enabling the child to be identified, the consent of both the child and their parent or guardian should be obtained<sup>99</sup>. However, personal information can be disclosed by entities where conditions under this Act are met, including in assisting to locate a person who has been reported missing<sup>100</sup>.

### A2.2 The *Information Privacy Act 2009*

Queensland's *Information Privacy Act 2009* provides *'safeguards for the handling of personal information in the public sector environment and to allow access to and amendment of personal information'*<sup>101</sup>.

The *Information Privacy Act 2009* does not affect the operation of another and is not intended to stop access to documents if this can appropriately be done or is permitted or required to be done by law<sup>102</sup>.

<sup>96</sup> Australian Law Reform Commission, *'Family Violence – A National Legal Response. Information sharing'*, Australian Law Reform Commission Report 114, s.30.132.

<sup>97</sup> Australian Law Reform Commission, *'Family Violence – A National Legal Response. Information sharing'*, Australian Law Reform Commission Report 114, s.30.160.

<sup>98</sup> *Privacy Act 1988* (Cwlth), s.2A and s.3.

<sup>99</sup> Australian Institute of Family Studies, 2015, 'Images of children and young people online', *Child Family Community Australia Resource Sheet*, p.1.

<sup>100</sup> *Privacy Act 1988* (Cwlth), s.16A.

<sup>101</sup> *Information Privacy Act 2009* (Qld), s.1.

<sup>102</sup> *Information Privacy Act 2009* (Qld), s.4(1) and s.5.

### A2.3 The Right to Information Act 2009

The objective of Queensland's *Right to Information Act 2009* is to 'give a right of access to information in the government's possession or under the government's control unless, on balance, it is contrary to the public interest to give the access'<sup>103</sup>.

The *Right to Information Act 2009* is not intended to 'prevent or discourage the publication of information or the giving of access to documents otherwise than under this Act if the publication or giving of access can properly be done or is permitted or required to be done by law'<sup>104</sup>.

### A2.4 The rights of the child in Queensland

Pursuant to the *Child Protection Act 1999* confidentiality is to be afforded to children involved in matters under this Act. This assists to preserve a child's right to privacy and to prevent any stigma as a result of information being revealed about them.

This recognises a child could suffer emotional trauma, even years later, of knowing they have been publicly identified as a child whose family mistreated them. They could experience embarrassment or bullying at school as a result of this public information. These provisions also recognise a child may, after a period of time, return to their family and to an improved environment and relationship.

Provisions and guidance for upholding a child's rights are found in the *United Nation Conventions on the Rights of the Child*, Australian Government frameworks and Australian state and territory legislation, such as the *National Framework for Protecting Australia's Children 2009-2020* and the *Child Protection Act 1999* 'Charter of rights for a child in care'. The specific legislative provisions of relevance to this review are outlined in Attachment 4.

These frameworks govern a child's basic human rights and their right to privacy. Whilst upholding these principles, they also regulate when personal information about an individual can be used or

disclosed. These circumstances often relate to when it is authorised or required to be done by a law, is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, is necessary for an agency to perform its functions or is in the best interests of a child.

Under the *Child Protection Act 1999* children's views must be obtained when decisions, including placement decisions, are being made under this Act. Being able to participate, to express their views in decisions and having these views taken into consideration should help to place a child in an environment they agree to, or at least allow the child to feel they have had a say in the decision<sup>105</sup>.

Understanding when particular circumstances, such as when a child is missing, may warrant an exemption is challenging.

Relevant confidentiality provisions and exemptions within the *Child Protection Act 1999* govern with whom and under what circumstances information can be shared.

#### Finding

The legislative frameworks governing privacy rights contain exemptions for when an individual's information can be used or disclosed.

These exemptions enable information sharing under the *Child Protection Act 1999*.

**Refer recommendation – 2; 7; 8; 9; 10; 13; 14; 16; 17; 18 and 29.**

<sup>103</sup> *Right to Information Act 2009* (Qld), s.3.

<sup>104</sup> *Right to Information Act 2009* (Qld), s.4(1).

<sup>105</sup> *Child Protection Act 1999* (Qld), s.5E & s.5D.

## Appendix 3

# The role of the Queensland Police Service (QPS)

The QPS is the primary law enforcement agency in Queensland. It provides assistance to the community when necessary and in times of emergency, disaster and crisis.

The QPS takes a recognised lead role in directly responding to and investigating reports about missing person occurrences. QPS responses are governed by the legislative frameworks, policies, procedures and guidelines of their jurisdiction.

When a child is missing from out-of-home care, the QPS maintains contact with Child Safety Services, the lead agency for child protection matters, throughout their investigation. Information may also be sought from other government agencies such as DET or QHealth, non-government agencies or individuals such as carers and parents.

The QPS face an early challenge in ensuring that multiple people involved work collaboratively and share relevant, factual and up-to-date information.

### Finding

Key government agencies do not have an identified contact person for the QPS to contact if local staff are unavailable to gather critical information in a timely manner.

**Refer recommendation – 14 and 17.**

Any person can make a missing person report at a local police station<sup>106</sup>. A person can be reported missing at any time – there is no waiting period<sup>107</sup>. The QPS treat every instance of a missing person as an individual report even if the person has gone missing before<sup>108</sup>.

Any child missing, including a child from out-of-home care, can be reported to the QPS.

QPS receive and record all missing person reports, including undertaking a risk assessment and maintain the Queensland Police Records and Information Management Exchange (QPRIME) missing person occurrence<sup>109</sup>.

It is crucial for the QPS to establish if the child is voluntarily missing or has disappeared involuntarily (has been abducted)<sup>110</sup>. To make this determination, the QPS needs to directly communicate as soon as possible with the most appropriate agencies or individuals who can provide information about the child, including the child's routine, networks and last known location. Local police officers rely on agencies

<sup>106</sup> Queensland Police Service 2014, 'Missing Persons', Queensland Government, Accessed 14 December 2015, [www.police.qld.gov.au/EventsandAlerts/missingPersons/](http://www.police.qld.gov.au/EventsandAlerts/missingPersons/).

<sup>107</sup> Queensland Police Service 2014, 'Missing Persons', Queensland Government, Accessed 14 December 2015, [www.police.qld.gov.au/EventsandAlerts/missingPersons/](http://www.police.qld.gov.au/EventsandAlerts/missingPersons/).

<sup>108</sup> Australian Federal Police, National Missing Persons Coordination Centre 2015, 'You do not have to wait 24 hours before reporting someone as missing', Fact sheet.

<sup>109</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.3.

<sup>110</sup> James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.57.

and individuals providing timely and appropriate information to ensure their risk assessments are factually informed.

Attachment 5 provides an overview of the types of information the QPS enter in the QPRIME missing person occurrence.

The QPS Missing Persons Unit, is responsible for the state-wide overview, coordination and analysis of information in relation to missing persons. Functions of this unit include to:

- *receive, record, collate, research and disseminate all information in relation to missing person occurrences*
- *overview and modify, if necessary, the risk assessment of missing persons undertaken by reporting officers*
- *overview and assist with the investigation of all missing person occurrences received state-wide*
- *assume responsibility for the coordination of all high risk missing person investigations where multiple regions are involved*
- *review all outstanding missing person occurrences in existence without result after periods of three and six months and advise investigating officers what further action should be taken if any*
- *refer all suspicious or out of character disappearances to the Homicide Investigation Unit, State Crime Command for its information and any necessary investigation*
- *maintain a record of all unidentified bodies located in the State and assist police with inquiries to establish their identity*
- *advise the Officer in Charge, Homicide Group, State Crime Command, of the status of investigations in relation to a missing person outstanding after a period of twelve months for advice to the State Coroner*
- *assist and where appropriate advise police on missing person inquiries, coordinate interstate/letter requests for assistance in relation to missing person inquiries and promote community projects and public awareness of missing persons<sup>111</sup>.*

<sup>111</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.3.

The QPS Missing Persons Unit highlights missing person issues through coordinating state-wide activities including:

- presenting to community groups such as Probus, Rotary and National Seniors once a month on missing persons
- maintaining a stall at the Brisbane exhibition featuring missing persons
- participating in and promoting National Missing Persons Week in July/August each year
- contributing to the national missing persons posters distributed twice a year
- contributing to Chemist Warehouse catalogue featuring missing persons
- initiating 'Safely Home', a partnership with 1800 Reverse to promote the use of reverse-charge phone calls by children as a method of staying in contact with family
- undertaking multiple media interviews on a range of topics regarding missing persons<sup>112</sup>.

From 2015, the QPS has provided recruit groups within their first two months at the Oxley Academy, with information on the issues regarding missing persons and the need for vigilance. Over the past several years, presentations have also been provided to first-year Constables in South East and Brisbane regions. An Operational Assistance Kit training package is available and is being updated<sup>113</sup>.

The Australian National Missing Persons Coordination Centre assists and supports police officers on a national level in responding to missing person occurrences through profiling missing person cases, raising awareness, educating the community and professionals and coordinating research about this significant issue.

<sup>112</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>113</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.



### A3.1 Defining a ‘missing person’

The QPS uses the term ‘missing person’. The QPS Operational Procedures Manual (OPM), in ‘*Chapter 12 – Missing persons*’, defines a missing person, in accordance with the Australian NMPCC, as ‘*a person, whether an adult or child, reported to police whose whereabouts are unknown and where there are fears for the safety or concerns for the welfare of that person*’<sup>114</sup>.

The QPS definition is consistent with the Australian Federal Police definition and provides guidance for the public regarding who is a missing person and when a missing person report can be made.

The QPS Operational Procedures Manual states policy, orders and procedures in relation to many operational policing issues. This manual is not exhaustive and guidance may need to be altered to particular situations as they arise. ‘*Chapter 12 – Missing persons*’ states responsibilities for missing person’s investigations, including requirements for media releases and ‘Amber Alerts’.

### A3.2 QPS legislative framework for responding to missing children

Queensland police officers ‘*have a common law authority to make all necessary inquiries to protect and preserve life*’<sup>115</sup>. The term ‘common law’ is used to describe case or judge-made law. This is law made by judges when hearing and stating decisions of individual cases, with some decisions setting future precedents<sup>116</sup>. This differs from legislation which is made or authorised to be made by

Parliament<sup>117</sup>. Under common law, police officers have the authority to make inquiries to locate or ensure the safety of persons reported missing, including children from out-of-home care. The QPS as part of its law enforcement activities is exempt from some of the Australian privacy principles in certain circumstances providing they are satisfied on reasonable grounds such exemption is necessary.

Further information on privacy law exemptions and how they apply to information sharing when a child is reported missing from out-of-home care is provided in Appendix 2 of this review.

### A3.3 QPS procedures for responding to missing children

Children may go missing for various reasons but the bottom line is something **serious is happening for the child.**

“

**Stephan Gollschewski, Deputy  
Commissioner, Queensland Police Service**

*The safety of children is at the  
centre of all that we do.*

The following diagram outlines the process for reporting and responding when a child in Queensland is missing.

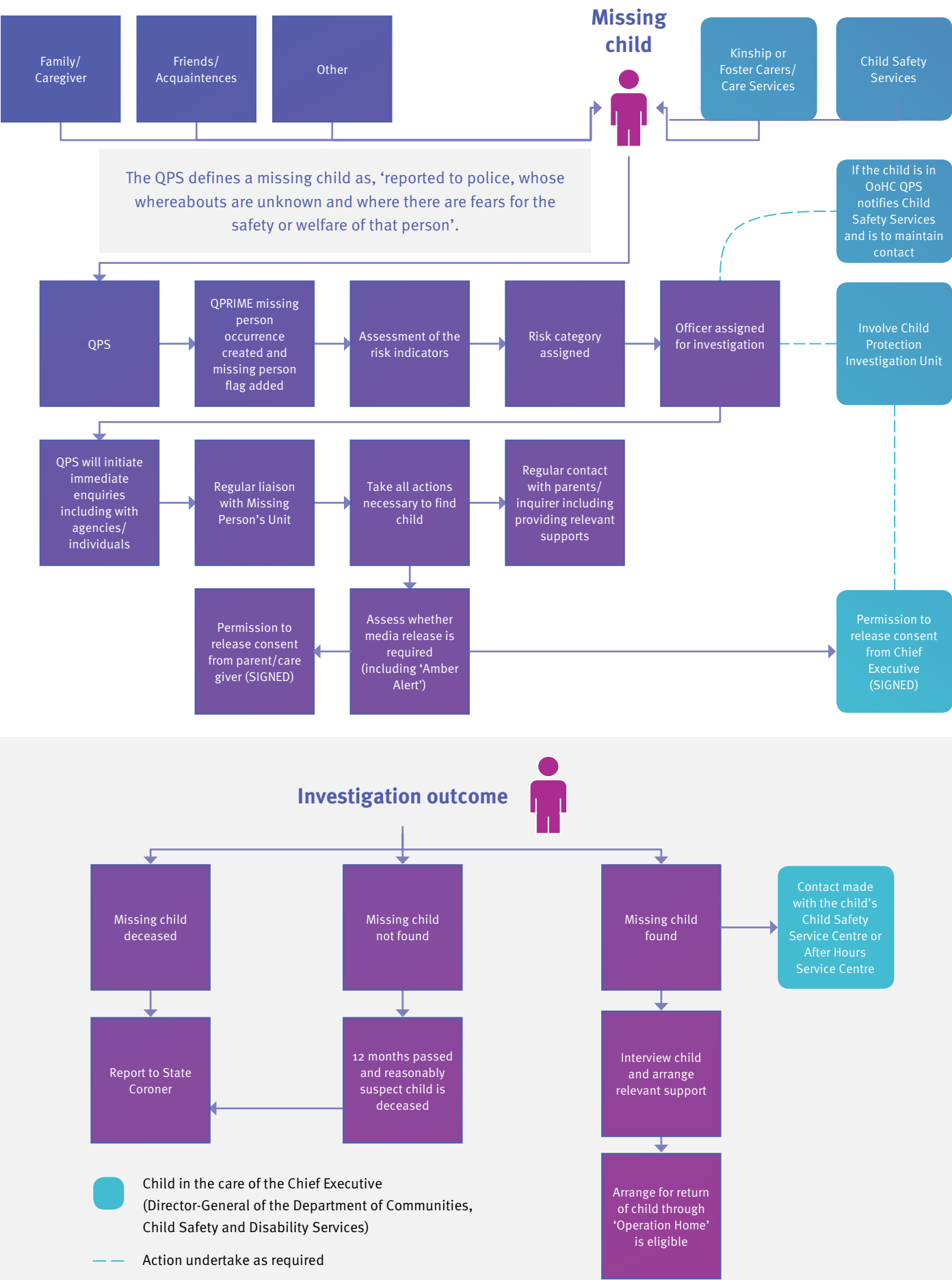
<sup>114</sup> Queensland Police Service 2015, ‘*Chapter 12 – Missing Persons*’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.2.

<sup>115</sup> Queensland Police Service 2015, ‘*Chapter 12 – Missing Persons*’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.12.

<sup>116</sup> Federal Court of Australia 2015, ‘*Glossary of Legal Terms*’, Accessed 14 December 2015, <http://www.fedcourt.gov.au/attending-court/glossary-of-legal-terms>.

<sup>117</sup> Department of the Premier and Cabinet 2014, ‘*Context of legislation*’, Queensland Legislation Handbook, Queensland Government, section.1-1.2, Accessed 14 December 2015, <http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/legislation-handbook/context/general-law.aspx>.

Diagram 1: Processes for reporting and responding when a child is missing



On Friday, 30 October 2015, Tiahleigh's carer reported Tiahleigh as missing to the local QPS.

The QPS recorded a missing person report on QPRIME.

Given her age, Tiahleigh was classified as 'medium' risk. Children under 13 years are now classified as 'high risk'.

The QPS follows specific policies and procedures when responding to a missing person. These are outlined in the QPS OPM, '*Chapter 12 – Missing persons*'. This manual is generally updated twice a year, with urgent amendments usually released in the form of Commissioner's Circulars which remain in force until the next manual release. At the time of this review, this manual was last updated in December 2015.

The procedure described in '*Chapter 12 – Missing persons*' applies to all missing persons. It states all missing persons of a 'known vulnerability' must have a QPRIME missing person occurrence created.

The QPS is the only state policing jurisdiction in Australia to have mandatory recording of missing persons with a known vulnerability<sup>118</sup>. The procedure states known vulnerabilities include having a known medical condition, or physical or intellectual disability, being at risk of self-harm, being a child, or being a person affected by dementia and related illnesses. On completion of the '*Risk assessment guidelines for missing persons*', a missing person may be classified as high, medium or low risk<sup>119</sup>. A number of factors support QPS in determining the risk level for a missing person and subsequent allocation of resources.

Following QPS procedural changes a child under 13 years of age is now automatically classified as 'high risk'.

#### QPS descriptions of the responses for each risk level:

- *High risk – Immediate deployment of police resources – Brief Supervisor immediately*
- *Medium risk – Active and measured response*
- *Low risk – Initiate inquiries to locate the [missing person] and kept under review*

'*Chapter 12 – Missing persons*' outlines certain policy responsibilities of the local police officer who receives a report of a missing person from the public. Some of these responsibilities include immediately:

- ascertaining if the person meets the definition of a missing person
- determining whether any previous records about the missing person are in QPRIME
- entering all required information in the QPRIME missing person occurrence database before the end of shift
- completing the Missing Persons Template and associated Risk Assessment located within the occurrence. Once a police officer has completed the '*Risk Assessment Guidelines For Missing Persons*', a classification of 'high risk' may be given
- activating a missing person flag against the person in the QPRIME occurrence
- assigning a QPRIME 'be on the lookout' task to stations and establishments in areas where the missing person is likely to go, where appropriate
- obtaining a DNA sample for the person, details of their medical practitioner/s and dental records, where suspicious circumstances are suspected
- initiating inquiries aimed at locating the missing persons and enter all relevant information in QPRIME

<sup>118</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>119</sup> Queensland Police Service 2015, '*Chapter 12 – Missing Persons*', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.5.

- notifying or cause to notify the Child Safety Service Centre responsible for the child, or Child Safety After Hours (Crisis Care) and recording the details of the officer notified and if a child is subject to an order under the *Child Protection Act 1999*
- notifying the shift supervisor, district duty officer or patrol group inspector of the particulars of the missing person, the circumstances surrounding the disappearance and any action taken
- providing details to the shift supervisor, district duty officer, patrol group inspector or officer in charge where a report cannot be created prior to the end of an officer's shift. This staff member is to ensure the details are entered and all actions and inquiries are made as soon as practicable<sup>120</sup>.

This procedure assists in taking action and making decisions during an investigation for a child missing from out-of-home care and directs the QPS to consult with Child Safety Services, irrespective of the type of order for the child. The timely occurrence of contact between QPS and Child Safety Services relies on the person making the report to inform the QPS that the child is living in out-of-home care. QPRIME cannot be relied on to accurately identify the care status of the child.

QPS has advised it is standard practice for regional police to monitor progress of missing person investigations. QPS will be recommending all regions implement a practice of creating a 'saved search' in QPRIME for missing person investigations. This practice will also require officers in charge (or other supervisors) to undertake daily monitoring of these investigations<sup>121</sup>.

Some of the subsequent procedures to be followed by the officer receiving a report about a missing person includes:

- obtaining all particulars of the missing person and a copy of a recent photograph

<sup>120</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, pp.2-5.

<sup>121</sup> Information provided by the Queensland Police Service to QFCC, 12 April 2016, formal consultation.

- notifying the parents if they did not report the missing person occurrence
- considering the circumstances and assessing whether the missing person is a person of known vulnerability. All missing persons of a known vulnerability must have a QPRIME missing person occurrence created
- determining if the missing person is:
  - the subject of a court order under the *Family Law Act*, advise the guardian a warrant must be obtained from a family court by the guardian who has custody. The warrant authorises the QPS to remove the child if there is a need to use any force; or
  - a subject of a *Child Protection Act 1999* order, consider section 166 of this Act, 'Offence to refuse contact with child in custody or guardianship'.

Officers are also directed to 'Missing person process chart' of the QPS Missing Persons Unit web page on the QPS Corporate Intranet (Bulletin Board)<sup>122</sup>.

The information sought by the QPS to assist in locating a missing person may include whether the person has any medical concerns, or an intellectual or physical disability, or if their disappearance may have been triggered by particular stressors, such as an upcoming court case. In all missing person's cases, the trigger to going missing is a significant indicator of risk.

Information is primarily sought from the person making the missing person report. For a child from out-of-home care, this person is usually the child's carer. However, on many occasions the carer is unaware of the child's history and cannot provide a true indication of risk to the child. In this instance, as per the QPS OPM, a police officer is to make contact with Child Safety Services, as the child's case manager should be able to provide the necessary information to the QPS<sup>123</sup>.

An officer who has been assigned a QPRIME missing person occurrence is responsible for:

<sup>122</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.5.

<sup>123</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

On Friday, 30 October 2015, investigations commenced into Tiahleigh's disappearance. At approximately 4pm, the QPS unsuccessfully attempted to contact the office of Tiahleigh's school by telephone.

The QPS contacted Tiahleigh's carers, who advised of possible sightings of her. The carers also provided the QPS with information about contact they already had with school friends and students in an attempt to try to find her.

- making all necessary inquiries to locate the missing person, obtaining formal witness statements and recording all information in QPRIME
- maintaining regular contact with the inquirer/parents, at least weekly for the first two months of the investigation and then maintaining contact as the officer considers necessary
- forwarding information about the missing person to the QPS in relevant locations
- completing a QPRIME task to advise the officer in charge inquiries have ceased and
- maintaining a liaison with the overseeing officer at the QPS Missing Persons Unit<sup>124</sup>.

The procedure reminds police officers during the missing person investigation to remain aware of factors, such as child abuse indicators, or the family may be known to Child Safety Services, or the existence of an order or warrant under the provisions of the *Family Law Act*; *Child Protection Act 1999*; or *Public Health Act*<sup>125</sup>.

The QPS advises in late 2011 negotiations were held with Child Safety Services in relation to the development and distribution of a form for use by services providing placements for children living in out-of-home care. This form is attached to the *'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'* (February 2013)<sup>126</sup>.

<sup>124</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, pp.7-8.

<sup>125</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p8. This section reminds police officers to also refer to Chapter 7: 'Child Harm' and section 7.3.6: 'Checks of the Integrated Client Management System (ICMS)' of this Manual.

<sup>126</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016 and 4 February 2016.

## Finding

The missing person report form was intended to travel with children who may change placements while they are living in out-of-home care so vital information to support investigations and risk assessments is readily available. Anecdotal information from the QPS indicates this form is not used as intended and the use of the form by Child Safety Services staff and service providers is rare.

## Refer recommendation – 20.

The QPS procedures do not make it clear whether police officers are required to inform Child Safety Services as well as a child's parents when a child is reported missing from out-of-home care. Additionally, it is not clear whether police officers are required to maintain regular contact with both parties during the investigation. It is also unclear if the level of contact between the QPS and a child's parents is dependent on whether the child missing from out-of-home care is in the custody or guardianship of the Chief Executive of Child Safety Services.

The procedure also outlines the responsibilities of the shift supervisor, district duty officer or patrol group inspector. Some of these responsibilities include supervision of the immediate investigation, risk assessment, recording and circulation of information, informing relevant officers and other branches of the missing person occurrence and considering whether information should be urgently released to the public through the media or other appropriate avenues.



On Saturday, 31 October 2015, the QPS contacted Tiahleigh's carer and Tiahleigh's mother.

There was still no contact between the QPS and Child Safety Services even though the QPS was aware Tiahleigh was a child from out-of-home care.

The QPS spent several hours at a local shopping centre with a photo of Tiahleigh, questioning shoppers and shopkeepers and viewing CCTV footage in an attempt to locate her.

When the case involves a missing child and a CPIU is established, the shift supervisor, district duty officer or patrol group inspector must advise the officer in charge of the CPIU, the circumstances surrounding the missing child's disappearance<sup>127</sup>. The role and responsibilities of the CPIU in a missing person's investigation are not made clear in this procedure.

**Child Protection Investigation Units (CPIU)** are units of the QPS which provide a specialist policing response to children, both as victims and offenders<sup>128</sup>.

The responsibilities of officers in charge of stations and establishments are also outlined. These include ensuring the QPRIME missing persons occurrence is assigned to an officer and properly concluded and ensuring the officer receiving the report of a missing person occurrence complies with relevant sections of the procedure<sup>129</sup>.

This review primarily focuses on information sharing about children missing from out-of-home care. Another important element for QPS missing persons investigations, particularly when trying to locate a missing child, is identifying possible lines of inquiry.

During a missing person investigation the QPS continually assesses and follows up information

provided by agencies and the public to identify lines of inquiry. Information known to the QPS concerning lines of inquiry is not routinely shared with key government agencies.

The QPS needs to consider relevant legislative frameworks, policies and practices before sharing information regarding an identified line of inquiry. Some of the factors for consideration include that any information shared does not prejudice an investigation or otherwise intervene in the proper administration of justice.

Information sharing is a complex issue. There are logically many other circumstances and contexts where sharing information may improve the safety for all children.

### Finding

The absence of routine two-way information sharing practices between the QPS and key government agencies about lines of inquiry and possible impact on agency internal assessments and decision-making policies for a child missing from out-of-home care requires further examination.

Information sharing should be considered more widely than the context of children missing from out-of-home care to include circumstances where there are incidents of concern for all children.

The process of sharing information can be inhibited where there is no clear legislated ability or policy mandate to do

<sup>127</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, pp.6-7.

<sup>128</sup> Information provided by the Queensland Police Service to QFCC, 12 April 2016, formal consultation.

<sup>129</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.7.



so for government and non-government agencies, particularly in regulated service environments. This highlights a number of possible opportunities for agencies to share information over and above what is required to improve agency internal risk assessment and decision-making policies in order to provide a safe environment for all children.

Further examination is required into whether sharing a certain level of sensitive and confidential information could improve an agency's decision-making to support the best interests of the child.

The QFCC has begun a supplementary analysis of information sharing arrangements between all parties in government and non-government agencies relating to people working with children, particularly in regulated service environments.

Different agencies, including Child Safety Services and the DET may administer or regulate different aspects of co-located child services. Adequate information sharing processes need to be in place so information sharing is not inhibited.

The supplementary review by the QFCC is broader than information technology systems. It includes consideration of what information can, and should, be shared so that all children are protected.

**Refer recommendation – 28 and 29.**

### A3.3.1 Outcome of a missing person investigation

'Chapter 12 – Missing persons' outlines specific responsibilities of officers involved when a missing person is located or information received advising they have been located. Police officer responsibilities relevant to this review include:

- *if the missing person is a child, submit a child protection [0523] occurrence on QPRIME, include where possible, the reasons for the*

*disappearance and link the child protection [0523] occurrence to the missing person occurrence and task it to the local CPIU for information;*

- *have the inquirer/parents advised that the missing person has been located, subject to the authority to disclose whereabouts;*
- *if the missing person is a child subject of a Child Protection Act 1999 order, immediately notify the location to the Child Safety Service Centre responsible for the child, or the Child Safety After Hours Service Centre after hours.*

A police officer should seek direction from their supervisor before a decision is made to keep the location of a child under 18 years confidential due to safety concerns. In the case of a request for such a decision being made for a child missing from out-of-home care, the supervisor is to advise the Child Safety Service Centre which has the responsibility for the care of the child<sup>130</sup>.

Additional procedural responsibilities relevant to this review include to:

- *interview the missing person, where possible, to ascertain the circumstances surrounding the disappearance;*
- *if the missing person is a child, consider possible child harm indicators or possible offences which may have been committed;*
- *if the missing person is a child and is at risk of harm (see Child Protection Act 1999, section 9: 'What is harm') remove the child to a place of safety and make an application for a temporary assessment order (see section 7.4.3: 'Assessment orders' of this Manual) to a children's court to have the child assessed. The Child Safety or after hours, the Child Safety After Hours Service Centre and the officer in charge of the relevant local Child Protection and Investigation Unit (CPIU) or Criminal Investigation Branch, if there is no local CPIU, should be advised of this action as soon as possible;*
- *refer the child and the family to a CPIU or other counselling services, if considered appropriate; and*

<sup>130</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.9-10.

- *arrange for the return of the missing child through Operation ‘Home Free’ if the missing child is eligible (see ‘Operation Home Free Conditions’ and ‘Operation Home Free – Form A’ on the Missing Persons Unit webpage on the QPS Corporate Intranet (Bulletin Board))<sup>131</sup>.*

If, at the conclusion of 12 months, the missing person has not been located and the person is reasonably suspected of being deceased, the reporting officer or other nominated officer completes a ‘Report to State Coroner, missing person – suspected reportable death’ within the QPRIME missing person occurrence. This form is forwarded to the QPS Missing Persons Unit who will forward the form to the Coronial Support Unit as initial advice<sup>132</sup>. If a missing person is located deceased, a report is prepared for the State Coroner.

This procedure provides clear details about the responsibilities for all levels of key officers and staff involved in a missing person investigation. These include the making of all relevant inquiries to locate or ensure the safety of the missing person and actions to be taken when the missing person is located.

**Finding**

The QPS procedure addresses information sharing in relation to the need for a police officer to determine if a child is subject to a particular court order or proceeding. It may be beneficial to outline specific procedures for information sharing between the QPS and other government departments.

Such procedures should include a joint return interview to be conducted by the QPS and Child Safety Services. This interview would help Child Safety Services to understand the circumstances leading to the child going missing; coordinate service interventions

to support the child, particularly where they were exposed to harmful situations; and, if the child went missing intentionally, support discussions with the child and their networks to undertake a holistic assessment of the child’s circumstances and plan to reduce recurrence.

**Refer recommendation – 2; 7; 8; 9; 10; 13; 14; 16; 17; 18 and 29.**

On 23 November 2015, Ross Barnett, Deputy Commissioner (Regional Operations) of the QPS, issued an interim protocol regarding police officer’s responses to notifications of missing children (under the age of 16 years) who are under the protection of Child Safety Services. This protocol was established while the QFCC completed the system review into responses to children missing in out-of-home care.

The following protocol required immediate compliance by staff and applies to a child subject to an order under the *Child Protection Act 1999*, whose disappearance is ‘out of character and concerning to family and/or carers’:

*24 hours after reported missing (and proof of life is not established) – consideration must be given for seeking authority from [Child Safety Services] to release information to the public via the media*

*48 hours after reported missing – it is mandatory for a request to be made seeking authority from [Child Safety Services] to release information (unless exceptional circumstances exist, which is then to be determined by the relevant Assistant Commissioner).*

Any signed authority, subsequent media release and requirements for ‘Amber Alerts’, continue per provisions in ‘Chapter 12 – Missing persons’<sup>133</sup>. Media releases and ‘Amber Alerts’ are further outlined later in this appendix.

<sup>131</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.9.  
<sup>132</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, pp.7-9.

The QPS confirms this interim protocol is being applied for all children from out-of-home care and the statement ‘*missing children (under the age of 16 years)*’ was an oversight during development of the protocol<sup>134</sup>. It was confirmed by the QPS the protocol was operational for all children from out-of-home care regardless of their age.

### Finding

The QPS protocol provides a stand-alone process for considerations to be given to a media release for a child missing from out-of-home care. It is important to continue to identify children missing from out-of-home care as a vulnerable group and ensure police officers are aware a media release can be requested in these circumstances.

**Refer recommendation – 2; 3; 4; 5; 7; 8; 10 and 20.**

## A3.4 QPS media releases for missing persons

The QPS is responsible for assessing when and whether to publish a media release during missing person investigations. Media releases for missing persons are dealt with on an individual basis and in accordance with the considerations outlined in the OPM.

On average, more than 6,000 missing persons are reported to the QPS per year (18 per day).

Given the number of missing person’s reports received by the QPS each day, the media must be used carefully to avoid creating public and media complacency and reducing the impact of media coverage<sup>135</sup>. However, missing children are of high concern and are more likely than other missing people (adults) to be reported to the media in an effort to find them.

The QPS OPM outlines in ‘*Chapter 12 – Missing persons*’ the requirements for general media release of information about missing persons and states the requirements for issuing of ‘Amber Alerts’. To respect the privacy of the missing person it is best practice to obtain, from the ‘authorising person’ of the missing person, signed permission for the publication of personal information about the missing person. For broadcasting Amber Alerts, signed permission for the release of personal information is sought where practical.

The release of information to the media is determined not by the status of the person, for example as a child from out-of-home care, but by the assessed risk and vulnerability of the missing person. The QPS ensures a missing child’s status as a child from out-of-home care is not disclosed. This is in accordance with provisions of the *Child Protection Act 1999* and recognises the right of privacy for individuals. Information in the QPS OPM outlines only the release of information to the media and does not address the QPS showing photographs to individual members of the community during the course of the investigation<sup>136</sup>.

Some missing persons cases may require only a single media release followed by an update if or when the person is located. Cases where new information emerges may have follow-up media releases, including renewed public appeals<sup>137</sup>. The media release and the Amber Alerts process are considered separately below.

<sup>133</sup> Queensland Police Service Circular 2015, ‘Interim protocol – release of information regarding children under the protection reported missing’, from the Deputy Commissioner (Regional Operations), circulated 23 November 2015.

<sup>134</sup> Information provided by the Queensland Police service to QFCC, 9 March 2016

<sup>135</sup> Information provided by the Queensland Police service to QFCC, 29 January 2016.

<sup>136</sup> Queensland Police Service 2015, ‘*Chapter 12 – Missing Persons*’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.2-3.

<sup>137</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

On Wednesday, 4 November 2015, the QPS decided to seek permission to issue a media release.

The QPS sought permission from Tiahleigh's carer to release information publicly about Tiahleigh. Tiahleigh's carer informed the QPS advice from Child Safety Services stated the carer is not able to provide permission.

The QPS was also in contact with Tiahleigh's mother, who gave permission for information to be released. The QPS Media and Public Affairs Branch, however, advised permission to release information publicly was required from the D-G, DCCSDS.

The media release was issued by the QPS at approximately 11.30am the following day.

#### A3.4.1 When does QPS issue general media releases?

When decisions are made about when to publicly release information, consideration should be given to the safety of the missing person and whether the release of information would assist in safely locating them<sup>138</sup>.

A QPS media release may be considered where:

- *the missing person is a child;*
- *concerns exist that the missing person may not have the freedom or ability to voluntarily return home;*
- *the physical or mental state of the missing person may be such that the missing person would not be able to consciously make a decision to return home;*
- *such release may immediately cause the missing person to come forward; or*
- *the investigation is such that community assistance is necessary to locate the missing person<sup>139</sup>.*

In accordance with the QPS OPM before an officer in charge of the station or the senior supervising non-commissioned officer provides authorisation to the investigating officer to release information publicly about a missing person case, they must:

- *[consider] the safety of the missing person*
- *[consider] the likelihood of locating the missing person*
- *liaise with the missing person's parents, relatives or inquirer (authorising person), requesting permission to release particulars of the missing person to the media*
- *obtain consent in writing from the authorising person confirming permission to release particulars of the missing person to the media, internet or other public broadcast entity and include a copy of this consent in the missing person occurrence (see QP 0950: 'Missing Person Media Authorisation') and*
- *give a direction to the officer making the request as to what action should be taken<sup>140</sup>.*

The QPS OPM further states the QPS authorising person or delegate should liaise with the missing person's parents, relatives or inquirer about the specific information to be released to minimise any misunderstandings<sup>141</sup>. The QPS OPM also reminds officers of the following legislation and procedures:

- section 121 of the *Family Law Act*, 'Restriction on publication of court proceedings'

<sup>138</sup> James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.46.

<sup>139</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.3.

<sup>140</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.4.

<sup>141</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn, p.4.

- section 189, *Child Protection Act 1999*, ‘Prohibition of publication of information leading to identity of children’ and section 194, *Child Protection Act 1999*, ‘Publication of information identifying child victim’
- section 5.6.12 of the *Management Support Manual*, ‘Information released by police seeking public assistance in the investigation of incidents and crimes’, ‘Images (including photographic)’.

### A3.4.2 Permission for media releases



**Bryan Smith,**  
**Executive Director, Foster Care Queensland**

*stated in relation to decisions about releasing information publicly about Tiahleigh’s disappearance... strict privacy provisions in the Child Protection Act 1999 were important, but flexibility was needed when a foster child is missing*<sup>142</sup>.

Issuing media releases with identifying information could present risks to the missing child by identifying the natural family, or risks to the investigation process. The QPS develops a missing person profile to ensure the media release does not identify, nor is likely to lead to the identification of, a child as being subject to any intervention or investigation by Child Safety Services.

This means the QPS is not mandated by section 189, *Child Protection Act 1999* to receive written approval from the Chief Executive (the D-G, DCCSDS) for the QPS to issue a missing person media release for a child from out-of-home care.

The QPS seeks, from the ‘authorising person’ of the child, written permission for the media release. This is a procedural requirement. An ‘authorising person’ includes a parent, relative or the inquirer. For the case of a child from out-of-home care, the QPS considers the D-G, DCCSDS as the parent.

After written permission is obtained, the QPS initiates the media release via the QPS Media and Public Affairs Branch. They are also required, as soon as practical, to advise the Officer in Charge, the district officer or supervising commissioned officer, the QPS Missing Persons Unit, the requesting officer and Crime Stoppers the media release has been distributed<sup>143</sup>.

The QPS Media and Public Affairs Branch prepares the media release, which is forwarded to the authorising QPS officer for approval of content before release. Information from the QPS for the review indicates once permission to issue a media release has been granted, the preparation and approval of content for a media release may occur within an hour, depending on factors such as availability of media staff and the time of day. Amber Alerts (which are outlined further in this appendix) receive a higher priority and have a faster approval process<sup>144</sup>.

### Finding

The QPS seeks written permission from the D-G, DCCSDS as the ‘parent’ for a media release as a matter of good practice.

The information in a missing persons media release does not breach section 189, *Child Protection Act 1999*. However, the QPS still requires written permission of the Chief Executive (the D-G, DCCSDS) and this creates unnecessary delay. Additionally, the use of the term ‘authority for media release’ in the QPS Operational Procedures Manual gives the impression written permission must be obtained and creates confusion.

The QPS Operational Procedures Manual could be amended to make clear the QPS has the discretion to publish a missing person media release for a child from out-of-home care. This would remove delays in

<sup>142</sup> Silva, K 2015, ‘Tiahleigh Palmer case prompts calls for change’, *Brisbane Times*, Accessed 15 November 2015, <http://www.brisbanetimes.com.au/queensland/tiahleigh-palmer-case-prompts-calls-for-change-20151114-gkz394.html>.

<sup>143</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, *Operational Procedures Manual*, Queensland Government, Issue 49.f1, Public edn, p.4.

<sup>144</sup> Information provided by the Queensland Police Service to QFCC, 16 February 2016.



issuing a media release as the QPS would not feel they need to seek and wait to receive, signed authority from the D-G, DCCSDS.

The QPS Operational Procedures Manual should direct the QPS to communicate with Child Safety Services about the release of information. The QPS Operational Procedures Manual should also direct the QPS to communicate with the carer, care service provider and the child's parent, as appropriate during the investigation about the specific information to be released to minimise any misunderstandings.

**Refer recommendation – 2; 3; 4; 5; 7; 8; 10 and 20.**

### A3.4.3 When is an 'Amber Alert' made?

As of 23 December 2015, the United States of American National Centre for Missing and Exploited Children 'Amber Alerts' had helped rescue and safely return 794 children<sup>145</sup>.

In Queensland, 21 alerts have been issued since the introduction of the 'Child Abduction Alerts' in 2004 and the subsequent 'Amber Alerts' introduced in 2015. Many cases involved offenders known to the child<sup>146</sup>.

On 29 September 2015, the QPS replaced the 'Child Abduction Alert', first introduced in 2004, with the Amber Alerts system. Queensland became the first Australian state or territory to introduce this type of system. This policy change enabled the public alert system, previously used solely for suspected child abductions, to be initiated for circumstances involving *'high-risk missing children...a missing child*

<sup>145</sup> National Centre for Missing and Exploited Children 2016, 'Amber Alert Success Stories', Accessed 14 January 2016, <http://www.missingkids.org/AMBER/success>.

<sup>146</sup> Reinikka, A 2015, 'Amber alert system hits Queensland', The Morning Bulletin, Accessed 28 September, <http://www.themorningbulletin.com.au/news/amber-alert-system-hits-queensland/2789946/>.

*at imminent risk of death or serious harm...a child is missing in suspicious circumstances'*<sup>147</sup>.

Amber Alerts are issued through mainstream communications, through relevant stakeholders who broadcast alerts and through the QPS social media channels such as Facebook and Twitter and alert functions<sup>148</sup>. This public alert system is similar to the Amber Alert systems used for several years in countries such as the United States, Canada and the United Kingdom.

The 'Child Abduction Alert' ceased in late 2015 and was replaced with the 'Amber Alert System'.

At the beginning of this review, the QPS provided information on its website about the 'Child Abduction Alert' rather than information reflecting their policy change to 'Amber Alerts'. For child abduction alerts, the QPS provide critical information to the media, which then interrupt normal broadcast with a dedicated alert tone and information provided by the QPS. The information is broadcast every 15 minutes until the alert is cancelled. The public is provided with contact numbers to call if they have information. The alert stops after three to four hours if the child/children are not located. Normal news services are used for future broadcasts<sup>149</sup>.

The QPS have since made 'Amber Alerts' available on the QPS website<sup>150</sup>.

<sup>147</sup> Miller, J-A the Honourable (Minister for Police, Fire and Emergency Services) 2015, 'Queensland police launch Australian-first Amber Alert system', Media Release, Queensland Government, 28 September 2016, Accessed 14 December 2015, <http://statements.qld.gov.au/Statement/2015/9/28/queensland-police-launch-australianfirst-amber-alert-system>.

<sup>148</sup> Miller, J-A the Honourable (Minister for Police, Fire and Emergency Services) 2015, 'Queensland police launch Australian-first Amber Alert system', Media Release, Queensland Government, 28 September 2016, Accessed 14 December 2015, <http://statements.qld.gov.au/Statement/2015/9/28/queensland-police-launch-australianfirst-amber-alert-system>.

<sup>149</sup> Queensland Police Service 2015, 'Child Abduction Alerts', Queensland Government, version August 2015, Accessed 14 December 2015, [www.police.qld.gov.au/EventsandAlerts/alerts/Child-Abduction-Alerts.htm](http://www.police.qld.gov.au/EventsandAlerts/alerts/Child-Abduction-Alerts.htm).

<sup>150</sup> Information provided by the Queensland Police Service to QFCC, 13 April 2016, formal consultation.



## Finding

The QPS and other relevant agencies would benefit from training regarding Amber Alerts and how these differ from the previous ‘Child Abduction Alerts’. In addition, the lack of currency of information on the QPS public website contributes to a lack of public understanding of Amber Alerts and when these are used.

### Refer recommendation – 25.

The QPS OPM outlines, in ‘Chapter 12 – Missing Persons’, the order and policies applying to Amber Alerts, including specific responsibilities for QPS staff involved in Amber Alerts. The manual outlines circumstances warranting this time-critical response, as an ‘Amber Alert’ is not always the most appropriate or effective response for missing children occurrences. Factors considered include whether, there is sufficient descriptive information for the alert to be effective and whether such an alert will assist to locate and safely recover the missing child<sup>151</sup>. The manual also directs officers to the ‘Amber Alerts guidelines’ which are available only through the QPS intranet.



### Ms Hetty Johnston, Mr Bryan Smith and Ms Nicole Morris

*agree putting out media alerts every time a child is missing is not the solution because they will lose their effectiveness<sup>152</sup>.*

**‘Amber Alerts’** are a process requiring the urgent broadcast of relevant information through the media and other means to the public to facilitate the search

<sup>151</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, p.10.

<sup>152</sup> Silva, K 2015, ‘Tiahleigh Palmer case prompts calls for change’, Brisbane Times, Accessed 15 November 2015, <http://www.brisbanetimes.com.au/queensland/tiahleigh-palmer-case-prompts-calls-for-change-2015114-gkz394.html>.

for, location and the safe recovery of an abducted child or high risk missing child.

**‘Abducted child’** means a person under the age of eighteen years who:

- is reasonably suspected of having been abducted or taken away by a person; and
- there appears to be an imminent risk of death or serious harm to them.

*It is irrelevant whether the person taking the child has lawful custody of the child, or whether the person has obtained the consent of a parent/guardian to take the child.*

**‘High risk missing child’** means a person under the age of eighteen years who:

- is missing in concerning or suspicious circumstances; and
- there appears to be an imminent risk of death or serious harm to them<sup>153</sup>.

After establishing a missing child meets the requirements for an Amber Alert, the Regional Duty Officer, Patrol Group Inspector or Detective Inspector is to:

- in each instance, liaise with the regional crime coordinator (or, if unavailable, a supervising superintendent) who will determine whether or not an Amber Alert is to be implemented and, if so, approve the alert.

Once the Amber Alert is approved the officer is to:

- ascertain if the child is subject to proceedings under the *Child Protection Act 1999*
- contact the relevant police communication centres to provide them with advice, approvals and information relating to the alert
- contact the QPS Media and Public Affairs Branch and provide sufficient information to enable an Amber Alert to be implemented
- update the regional crime coordinator (or supervising superintendent) of the Amber Alert details and any other pertinent information

<sup>153</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, p.10

On Thursday, 5 November 2015, the QPS issued a media release for Tiahleigh. This was a general media release and not an Amber Alert.

Tiahleigh's missing person case was classified as 'medium risk'. Children under 13 are now automatically assessed as 'high risk'.

- consider appointing an appropriate investigating officer as a dedicated liaison officer, as a single point of contact
- promptly communicate any changes to information, including if the child is located, to PSBA Media (QPS) and relevant police communications centres
- ensure QPRIME is kept up to date and a significant event message is submitted in a timely manner<sup>154</sup>.

### Finding

The QPS Operational Procedures Manual states *'where practicable, investigating officers are to liaise with the child's parents, relatives/inquirer to obtain permission to release particulars of the child and other associated matters for an amber alert'*. Seeking permission from a parent /guardian before broadcasting an Amber Alert is not a requirement; rather, it is part of good practice.

**Refer recommendation – 2; 3; 4; 5; 7; 8; 10 and 20.**

The Manager, QPS Media and Public Affairs Branch is required to ensure local processes are developed so there is no delay in implementing Amber Alerts.

If it is believed information relating to an Amber Alert broadcast may breach provisions of the *Child Protection Act 1999*, 'the... QPS Media and Public Affairs Branch officer responsible for releasing the

*information is to contact the Child Safety After Hours Service Centre to obtain agreement that the required written approval from the Chief Executive, Department of Communities, Child Safety and Disability Services will be given. Where email approval is given by the Child Safety After Hours Service Centre for QPS Media and Public Affairs Branch to release information, on the next business day, the Chief Executive's written approval will be sent to PSBA Media (QPS)*<sup>156</sup>. The process to allow for prior verbal approval reduces delays in broadcasting the Amber Alert.

The regional crime coordinator (or a supervising superintendent) is responsible for advising the Detective Superintendent, Child Safety and Sexual Crimes Group, State Crime Command when an Amber Alert is being broadcast and for reporting outcomes and/or recommendations following the debrief of the Amber Alert with relevant stakeholders. The Detective Superintendent, Child Safety and Sexual Crimes Group, State Crime Command provides the regional crime coordinators (or a supervising superintendent) with advice and arranges for staff to attend the Brisbane Police Communications Centre to establish a Minor Incident Room and assist with the reviewing and processing of information from the public<sup>157</sup>.

The State Duty Officer or Duty Officer at the Brisbane Police Communications Centre ensures all processes, including liaison with Policelink, are in place and working in relation to the Amber Alert<sup>158</sup>.

<sup>154</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, pp.11-12.

<sup>155</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, p.11.

<sup>156</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, pp.13-14.

<sup>157</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, p.12.

<sup>158</sup> Queensland Police Service 2015, 'Chapter 12 – Missing Persons', Operational Procedures Manual, Queensland Government, Issue 49.f1, Public edn, p.13.

### A3.5 QPS data for media releases involving missing person cases

The QPS uses a log system to record all media inquiries and releases for each matter coming to their attention. A search for key words ‘missing person’, ‘missing child’, ‘missing boy’ and ‘missing girl’ in records from the past five years found approximately 2,500 log entries. Not all log entries may have resulted in a missing person media release being issued, as the missing person may have been located before a release was issued. Some entries may relate to land and sea searches, such as lost bushwalkers or vessels and missing person media releases are not issued in these cases.

The number of QPS media releases for children from out-of-home care is not easily identifiable.

Limited information is contained in QPS log entries and information specifically for children missing from out-of-home care is not easily identifiable. In addition, Child Safety Services indicates they have no reliable internal data detailing the number of media releases made by the QPS for children from out-of-home care<sup>159</sup>.

To assist this review, the QPS manually searched their media log for media releases involving children missing from out-of-home care issued in the two months prior and two months following the introduction of their interim protocol. Results are outlined in the following table and represent only original media releases, not subsequent media releases for the same case.

**Table 10: Number of media releases for missing persons investigations<sup>160</sup>**

	28/09/2015 - 23/11/2015	24/11/2015 - 19/01/2016
<b>Total missing persons</b>	49	67
<b>Total missing children under 18 years of age</b>	25	25
<b>Total missing children under 18 years of age from out-of-home care</b>	10 (40% of all missing children cases and 20.41% of all missing person cases)	8 (32% of all missing children cases and 11.94% of all missing person cases)

<sup>159</sup> Information provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

<sup>160</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

This data indicates in the two months before the introduction of the interim QPS protocol, media releases regarding children from out-of-home care made up 40 per cent of all missing children media releases and 20.14 per cent of all missing person’s media releases. In the two months following the introduction of interim QPS protocol, the number of media releases for children from out-of-home care decreased, representing 32 per cent of all missing children cases and 11.94 per cent of all missing person’s cases.

In comparison, the total number of media releases for all children during this period stayed the same, whereas the total number of missing persons media releases increased. The timeframe used for data extraction does not allow for ready comparisons with longer term data provided by the QPS. Therefore determination of any corresponding decrease in the number of reports for children missing from out-of-home care for this period is not able to be calculated.

The following table shows the number of alerts issued per year. It is noted there are strict criteria (imminent risk of death or serious harm) for issuing these alerts and these figures do not include routine missing person’s media releases<sup>161</sup>.

**Table 11: Number of Child Abduction Alerts and Amber Alerts<sup>162</sup>**

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total number of alerts	1	1	0	0	2	1	2	2	4	3	5

<sup>161</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.  
<sup>162</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

## Appendix 4

# The role of Child Safety Services

Child Safety Services provides services to protect children from harm. Child Safety Services protects children who are at risk of harm and whose parents cannot provide care or protection for them.

In Queensland, Child Safety Services is the lead agency for child protection matters. It works in close partnership with government and non-government agencies to deliver child protection services throughout Queensland.

When a child is missing from out-of-home care, those responsible for their care and protection, including Child Safety Services, carers and service providers, have an immediate duty of care to report the child as missing to the QPS. They also have a responsibility to share information to assist the QPS missing person investigation.

“

**Cathy Taylor,**  
Deputy Director-General, Child,  
Family and Community Services,  
Department of Communities, Child  
Safety and Disability Services

*When a child is missing, we need to stop thinking this is someone else's child. We all have a role to play.*

Child Safety Services policies and guidelines use the terms ‘run away’, ‘missing’ and ‘absconding’ when describing a child whose location is unknown. These terms are defined in Chapter 2 of this report.

The QPS proposed changes to Child Safety Services policies and procedures to better support individuals

in determining whether a child is considered missing. Although the D-G, DCCSDS approved amendments to policies and procedures on 22 January 2015, the proposed changes were not fully applied<sup>163</sup>.

### Finding

Definitions included in Child Safety Services policies and guidance to determine whether a child is considered missing may still be creating barriers to effective responses by increasing the threshold that needs to be met for children to be identified as missing.

The leading risk factor which makes a child vulnerable to going missing is **child abuse and neglect**<sup>164</sup>. The presence of this risk factor in children living in out-of-home care increases their vulnerability compared with other children.

**Refer recommendation – 2; 6; 7; 8; 9; 16; 20 and 29.**

### A4.1 Guidance for staff in identifying when a child is missing

Occurrences of children missing from out-of-home care are categorised by Child Safety Services as ‘critical incidents’ (Level 2).

<sup>163</sup> Information provided by the Queensland Police Service to QFCC, 29 January 2016.

<sup>164</sup> James, M, & Anderson, J & Putt, J 2008, ‘Missing persons in Australia’, Research and Public Policy Series, no. 86, Institute of Criminology, Canberra Australia, p.xiv & p.16.

On Monday, 2 November 2015, Child Safety Services agreed a critical incident report was required in relation to Tiahleigh's disappearance.

The following day, a level-2 critical incident report under the category of *child or young person missing from their residence for more than 24 hours* was recorded, progressed and received by relevant staff.

This critical incident report was progressed four days after Tiahleigh was reported as missing to Child Safety Services.

This was when the D-G, DCCSDS first became aware of Tiahleigh's disappearance.

The 'Critical Incident Reporting Policy and Procedures' guides staff on the defining and reporting of critical incidents, to ensure efficient and effective management of the incident.

For children living in out-of-home care, a critical incident report is mandated only when a child:

- *is missing from their place of residence where there are serious concerns in relation to their vulnerability, for example, under 12 years of age, suicide risk, significant intellectual or physical disability (determination made by the Manager, Child Safety Service Centre/ Child Safety After Hours Service Centre)*
- *has been missing from their place of residence for more than 24 hours (whereabouts unknown)*
- *is absent from placement without permission for more than 48 hours (whereabouts known/contacted the Department to advise they are safe)<sup>165</sup>.*

The first point uses the words 'missing from their place of residence' without explaining whether this refers only to a child whose location is unknown, or also includes a child whose location is known.

Although the above circumstances may lead to a critical incident report being initiated, they do not automatically result in a missing person report being lodged with the QPS, particularly

if the child's whereabouts are confirmed to be known. Further guidance for staff in determining when to report a child as missing to the QPS is provided in the Child Safety Practice Manual.

The Child Safety Practice Manual advises staff to confidently determine whether the child is missing. This manual suggests staff:

- *identify any concerns for the child's safety or wellbeing*
- *check the child's likely locations*
- *alert the child's networks and if possible, mobilise their assistance in looking for and/or communicating with the child.*

The Child Safety Practice Manual further states the following specific criteria must be met before a missing person report is lodged with the QPS:

- *the child's whereabouts are unknown and*
- *there are serious concerns for the child's safety or well-being. Examples may include but are not limited to children or young people who are vulnerable because they are under 12 years of age; are a suicide risk; have a significant intellectual or physical disability; or there is a significant risk of harm.*

*In these circumstances, a missing person report should be made as soon as possible by contacting the local police station. The report can be made by*

<sup>165</sup> Department of Communities, Child Safety and Disability Services 2009, 'Critical Incident Reporting Policy and Procedures', Queensland Government.



a departmental officer, the child's carer or care service. Where the child's carer or care service is not able to make the report, then a departmental officer is responsible for reporting the child as missing to the QPS<sup>166</sup>.

The above guidance for reporting a child as missing provides examples of vulnerabilities to consider when assessing a child's safety and wellbeing. Guidance provided indicates a higher threshold for considering vulnerability in determining whether a child should be reported missing to the QPS, than the QPS definition of missing.

Child Safety Services considers a child to be vulnerable if, for example, they are at 'significant risk of harm' or have 'significant intellectual and physical disability'. The QPS considers a child to be vulnerable if there are 'fears for the safety or concerns for the welfare of that person'.

## Finding

Years of custom, practice and responding to multiple System and Practice Reviews or inquests have led to the development of multiple resources, procedures and policies which are not consistent across Child Safety Services or care service providers.

Critical incident reporting policies for care service providers are not always aligned with those of Child Safety Services. Often, carers are the first to become aware of a critical incident. Alignment of policies would help ensure relevant staff were aware of critical incidents and thus able to respond in a timely manner.

**Refer recommendation – 2; 7 and 8.**

## A4.2 Guidance for carers in identifying when a child is missing

In the *'Foster and kinship carer handbook'* the term 'run away' is used to describe a missing child. This handbook provides the following information:

### When a child goes missing

If you think the child in your care has run away, you need to:

- check with friends and neighbours
- check any 'special places' they go to
- contact your Child Safety Service Centre (between Monday to Friday 9am to 5pm) or the Child Safety After Hours Service Centre (weekdays from 5pm to 9am and on weekends) on (07) 3235 9901
- call the Police if you have serious concerns for their safety or wellbeing. For example, the child is vulnerable because they are under 12 years old, are a suicide risk, have a significant intellectual or physical disability, or there is a significant risk of harm.

If the child regularly runs away:

- talk with your Child Safety Officer about the problem
- ask your Child Safety Officer to make arrangements for you to contact police directly.

The *'Foster and kinship carer handbook'* also lists the following relevant information about school absences and truancy:

- If a child in your care has an unexplained absence from school, the school Principal will contact you as the first point of call to make sure the child is safe.
- If the whereabouts of the child is not known, the Child Safety Officer may be contacted.
- If the child has ongoing problems with truancy, the Education Support Plan should be reviewed to develop strategies to address the child's needs<sup>167</sup>.

The term 'run away' may infer some meanings which may not be helpful in the context of a missing child. One definition of runaway youth is 'those who leave

<sup>166</sup> Department of Communities, Child Safety and Disability Services 2016, *'What ifs'*, Child Safety Practice Manual, Chapter 5: Children in out-of-home care, section 14, Queensland Government.

<sup>167</sup> Department of Communities, Child Safety and Disability Services 2016, *'Foster and kinship carer handbook'* Queensland Government, Revised edn, p.60 and p.92.

Tiahleigh's carer reported Tiahleigh as missing to the QPS on Friday, 30 October 2015, the day she disappeared.

Tiahleigh's carer also contacted Child Safety Services, Tiahleigh's mother and the foster care service provider to advise them of the situation the same day.

On Monday, 2 November 2015, both Tiahleigh's carer and mother spoke with the local Child Safety Service Centre.

This was the first time Tiahleigh had been away for a whole night. Tiahleigh was scared of the dark and was not able to be located at places she had been in the past.

While Tiahleigh was often absent from her placement, in these instances she was located within a few hours. Tiahleigh's mother and carer pleaded with the community to treat Tiahleigh as a missing person and not just another 'run-away'. This time was different<sup>169</sup>.

or are forced from their homes, often returning in a relatively short time'<sup>168</sup>. This definition may not encourage the time-critical response required for a child who is missing.

### A4.3 Guidance for care services in identifying when a child is missing

*'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'*<sup>170</sup> supports non-government organisations in receipt of Placement Services Grant Funding or Transitional Placement Funding from Child Safety Services to appropriately report missing or 'absconding' children to Child Safety Services. This guide makes a clear distinction between a 'missing child' and an 'absconding child'.

<sup>168</sup> Thompson, S 2013, 'Runaway and Homeless Youth', Encyclopedia of Social Work.

<sup>169</sup> Kyriacou, K 2015, 'The desperate plea for missing Tiahleigh Palmer that came too late', The Courier Mail, Accessed 8 November 2015, <http://www.couriermail.com.au/news/queensland/the-desperate-plea-for-missing-tiahleigh-palmer-that-came-too-late/news-story/>.

<sup>170</sup> Department of Communities, Child Safety and Disability Services 2013, *'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'*, Queensland Government.

#### **Missing child**

A missing child is one where their location is unknown and there are concerns for their safety and/or wellbeing due to their vulnerability, or where their location has been unknown for more than 24 hours.

The above definition of 'missing child' may create some ambiguity for carers or non-government agency staff members in terms of a perceived need to wait 24 hours before lodging a missing person's report with the QPS. This ambiguity is especially relevant if they are not confident or skilled in assessing a child's vulnerability.

#### **Absconding child**

*An absconding child is one who has left the placement without permission, however their location is known or they display patterns of behaviour of leaving the placement without permission but always return within a certain timeframe.*

This is the only reference to 'abscond' in policies, procedures or guidelines authored by Child Safety Services.

Agencies consulted for this review expressed concern the term ‘absconding’ creates a perception of criminality and a belief it is a QPS issue to respond to. ‘Abscond’ is often associated with a fugitive. ‘Absent’ seems a more appropriate word.

*‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’<sup>171</sup> states ‘even short periods away from a placement can lead to increased risk of harm’ and provides examples of a child’s age, developmental level and vulnerability as factors to consider when determining the risk and potential response for a child. This guide identifies some children may be particularly vulnerable due to their age, disability, suicide risk or medical needs.*

### Finding

The use of the term ‘absconding’ could impede responses for children whose whereabouts are unknown or not confirmed, particularly if a child has a pattern of frequently leaving their placement. Having considered the implications of the term ‘absconding’, the QFCC proposes the use of the term ‘absent from placement’ as defined below.

#### Absent from placement:

A short period of being absent from placement without permission, where the child’s location is known or can be quickly established. This time period should consider individual factors for each child. The term absent from placement is the first step in creating a shift away from using ‘absconding’ and creating a perception of criminality and a belief it is a QPS issue to respond to.

**Refer recommendation – 6; 7 and 8.**

<sup>171</sup> Department of Communities, Child Safety and Disability Services 2013, ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’, Queensland Government.

## A4.4 Child Safety Services legislative framework for responding when a child is missing from out-of-home care

The *Child Protection Act 1999* does not include specific provisions for responding when a child is reported missing from out-of-home care. Several sections of this Act must be considered when determining the most appropriate response to reports of a child missing from out-of-home care.

Attachment 4 summarises sections of the *Child Protection Act 1999* relevant to this review, as they relate to responsibilities and decision making for a child from out-of-home care, coordination of service delivery, information sharing and the disclosure of information to another person.

The *Child Protection Act 1999* provides the overarching legislative framework relating to the protection of children in Queensland and states the safety, wellbeing and best interests of a child is the paramount principle<sup>172</sup>. The example provided for this paramount principle in the Act is,

*If the Chief Executive is making a decision under this Act about a child where there is a conflict between the child’s safety, wellbeing and best interests and the interests of an adult caring for the child, the conflict must be resolved in favour of the child’s safety, wellbeing and best interests<sup>173</sup>.*

The paramount principle of ‘the child’s safety, wellbeing and best interests’ should guide all responses, decisions, risk assessments and information-sharing processes when a child is missing from out-of-home care.

Section 5(D), *Child Protection Act 1999* sets out principles about exercising power and making decisions. Section 5D(1)(e) states, *information about a child affected by a decision under this Act should be shared –*

- (i) *only to the extent necessary for the purpose of this Act and*

<sup>172</sup> *Child Protection Act 1999* (Qld), s.4 and s.5A.

<sup>173</sup> *Child Protection Act 1999* (Qld), s.5A.

(ii) *in a way that protects the child's privacy.*

The *Child Protection Act 1999* enables the Chief Executive to make decisions about the daily care of a child living in out-of-home care and involve the carers and parents in this process<sup>174</sup>. If a child is at risk of being absent from their placement, the Chief Executive is best placed to develop the child's case plan outlining ways to support and promote the child's future wellbeing.

All people and agencies involved in a child's life should be included as part of the case plan for a child. The case plan should assist in minimising the likelihood of the child being reported as a missing person. If the whereabouts of a child living in out-of-home care becomes unknown, the Chief Executive takes action to determine their immediate and future protection and wellbeing needs.

Chapter 2, Part 1AA, *Child Protection Act 1999* states any person can make a report to Child Safety Services if they become aware of information indicating *a child has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm and does not have a parent able and willing to protect the child from the harm*<sup>175</sup>. Children living in out-of-home care are considered to not have a parent able and willing to protect them. If a person acts honestly and reasonably when informing Child Safety Services or a police officer about alleged harm or risk of harm, they are protected from liability<sup>176</sup>. In circumstances of a child missing from out-of-home care, information sharing can occur in accordance with Chapter 5A, as outlined below.

Confidentiality and privacy are important for a child living in out-of-home care and are protected within the *Child Protection Act 1999*. Chapter 5A, Part 1 of this Act enables service providers including Child Safety Services, QPS, DET and QHealth to share relevant information – meaning information a person reasonably believes should be given about a child in need of protection – while upholding and protecting the confidentiality of the information. A child's

protection and care needs are prioritised over the protection of an individual's privacy<sup>177</sup>.

Chapter 5A, Part 1 and 2, *Child Protection Act 1999* also mandates service providers such as Child Safety Services, QPS, DET and QHealth to coordinate services. The State is responsible for ensuring children in need of protection receive appropriate services to ensure their safety and wellbeing. Accordingly, government agencies are responsible for coordinating services to safely locate a child reported missing from out-of-home care, as they are a child in need of protection and concerns are held for their safety or welfare. Processes must be in place to clarify the roles and responsibilities of service providers to take coordinated action to secure the protection of a child and promote their wellbeing<sup>178</sup>.

An example of an avenue established by the Chief Executive to coordinate service delivery and multi-agency action is the Suspected Child Abuse and Neglect (SCAN) team system<sup>179</sup>.

“

**Dr Jan Connors,  
Director, Child Protection and Forensic  
Medical Service, Children's Health  
Queensland Hospital and Health Service**

*The SCAN team system has over time promoted close working relationships with colleagues across government departments, facilitating direct communication with partner agencies in urgent matters. In the past it was relatively straight forward to call an urgent SCAN team meeting within hours of a high-level concern being raised by any of the SCAN team members. Easy access to a rapid SCAN team response has been lost under the structure and administration of SCAN teams.*

<sup>174</sup> *Child Protection Act 1999* (Qld), s.7, s.12, s.13, s.14, s.51B and s.86.

<sup>175</sup> *Child Protection Act 1999* (Qld), s.10 and s.13A(1)(a).

<sup>176</sup> *Child Protection Act 1999* (Qld), s.197A.

<sup>177</sup> *Child Protection Act 1999* (Qld), s.159A, s.159C and s.159M.

<sup>178</sup> *Child Protection Act 1999* (Qld), s.159A, s.159B, s.159F and s.159G.

<sup>179</sup> *Child Protection Act 1999* (Qld), s.159I-159L.

Chapter 5A, Part 3, *Child Protection Act 1999* supports prescribed entities<sup>180</sup> to work together via the SCAN team system to share relevant information in response to the protection needs of children.

Prescribed entities, under Chapter 5A, Part 4 to 6, *Child Protection Act 1999*, are able to share relevant information with each other or another service provider. This allowance applies despite any other law otherwise prohibiting or restricting the giving of the information, for example, the *Privacy Act 1988*<sup>181</sup>. If the Chief Executive of Child Safety Services, DET, QHealth or the Police Commissioner give *relevant information* to each other or any other service provider; or a health services designated person gives *confidential information*<sup>182</sup> relevant to the protection or wellbeing of a child to the Chief Executive or an authorised officer or a police officer, this person cannot be held liable or said to have breached a code of conduct<sup>183</sup>.

#### Particular prescribed entities are:

- the Chief Executive;
- an authorised officer;
- the Chief Executive of a department that is mainly
  - adult corrective services;
  - community services;
  - disability services;
  - education;
  - housing services;
  - public health;
- the Chief Executive officer of the Mater Misericordiae Health Services Brisbane Ltd (ACN 096 708 922);
- (caa) a health service Chief Executive within the meaning of the *Hospital and Health Boards Act 2011*;

- the Police Commissioner;
- the Principal of a school which is accredited, or provisionally accredited, under the Education

(Accreditation of Non-State Schools) Act 2001.

Chapter 6, Part 6, *Child Protection Act 1999* enables a person responsible for the care of a child under this Act to use, disclose or give access to information to someone else without risk of penalty. However, the disclosure must be done in:

- their role as carer for purposes related to the child's protection or wellbeing, or
- related to the Chief Executive's functions of cooperating with government entities for the protection of the child, or
- the carer is required or permitted under this Act or another law.

This directly supports a carer of a child from out-of-home care to provide information to someone else for the purpose of safely locating a in their care who is missing. A penalty provision applies if the person receiving the information or document allowed another person to use or disclose the information or access the document, except where authorised under the *Child Protection Act 1999*, such as it relates directly to a child's protection or wellbeing or is otherwise required or permitted by law.

If the person receiving the information or document is a police officer they may disclose the information or give access to the document only to the extent necessary to perform their functions as a police officer<sup>184</sup>. When sharing information with others, such as parents, consideration must be given to any existing child protection concerns and whether a parent is to be given access to particular information<sup>185</sup>.

<sup>180</sup> *Child Protection Act 1999* (Qld), s.159M, defines particular prescribed entities. Examples of particular prescribed entities are documented in Attachment 4 of this review.

<sup>181</sup> *Child Protection Act 1999* (Qld), s.159R.

<sup>182</sup> *Child Protection Act 1999* (Qld), s.159O states the definitions of 'confidential information' and 'designated person' are outlined in the *Hospital and Health Boards Act 2011* (Qld), Schedule 2.

<sup>183</sup> *Child Protection Act 1999* (Qld), s.159Q.

<sup>184</sup> *Child Protection Act 1999* (Qld), s.187, s.188 and s.188A.

<sup>185</sup> James, M, & Anderson, J & Putt, J 2008, 'Missing persons in Australia', *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.66.



The best interests of the missing child, their safety and protection must be paramount. The publication of information about a child from out-of-home care is an additional element considered separately later in this appendix and Appendix 4.

A review of the *Child Protection Act 1999* is being undertaken in Queensland. As part of this review, confidentiality and information sharing provisions in this Act are being considered. Child Safety Services is undertaking community consultation to inform this review.

#### A4.4.1 Child Safety Services commenting publicly on children missing from out-of-home care

For this section the publication of information means to *publish it to the public by way of television, newspaper, radio or other form of communication*<sup>186</sup>.

Chapter 6, Part 6 and 7, *Child Protection Act 1999* outlines the legislative frameworks governing the publication of information about a child from out-of-home care in Queensland. This Act does not permit any publication of information (such as in the media or social media channels) by an individual that will, or is likely to, lead to the identification of a child as a child involved with the child protection system. A penalty provision applies if breached<sup>187</sup>.

Often a missing person's media release issued by the QPS is on-shared via other forms of media which attract public comment. Even without publication of the missing person media release, members of the public may publish personal comments including via the media, containing information which informs other members of the public of the child's involvement in the child protection system without prior approval of the Chief Executive (D-G, DCCSDS).

This is a breach of section 189, *Child Protection Act 1999* and the Chief Executive (D-G, DCCSDS) may take action against those members of the general public who identify the child as being subject to any intervention or investigation by Child Safety Services.

Guidance provided by Child Safety Services must ensure clarity in the ability for carers and care services to contact networks in attempting to establish a child's location. In most circumstances, this can be done without the need to publish information identifying or is likely to lead to the identification of the child as subject to intervention or an investigation by Child Safety Services.

A penalty provision also applies if an individual publishes information identifying, or is likely to lead to the identification of, a child living in Queensland as a child who:

- *has been harmed or allegedly harmed by a parent or step-parent of the child or another member of the child's family*
- *is, or allegedly is, at risk of harm being caused by a parent or step-parent of the child or another member of the child's family.*

This information can only be published with the written approval of the Chief Executive<sup>188</sup>.

The explanatory notes for these provisions, formerly known as clause 183, *Child Protection Bill 1998* provide insight into why these provisions were established. This includes the prevention of possible ongoing emotional trauma the publication of such information may have on the child and the impact the attitudes of others to hearing the information about the child, may have on the child<sup>189</sup>.

Attachment 4 provides a summary of the sections of the *Child Protection Act 1999* and the explanatory notes relevant to this review.

<sup>186</sup> *Child Protection Act 1999* (Qld), s.185.

<sup>187</sup> *Child Protection Act 1999* (Qld), s.189 (1)(a) and (b).

<sup>188</sup> *Child Protection Act 1999* (Qld), s.189 (2)(a) and (b).

<sup>189</sup> *Child Protection Bill 1998* (Qld), 'Explanatory notes', pp.50-51, Accessed 18 December 2015, [http://www.austlii.edu.au/au/legis/qld/bill\\_en/cpb1998187/cpb1998187.html](http://www.austlii.edu.au/au/legis/qld/bill_en/cpb1998187/cpb1998187.html).





**Lucas Moore,  
Queensland State Coordinator,  
CREATE Foundation**

*Children from out-of-home care do not want to be treated differently to other children. In the context of attending school, some children do not want others to know they are from out-of-home care, particularly if there are plans for reunification to the family home. This concern does not appear as significant for children on long-term guardianship orders to the Chief Executive of Child Safety Services. In the context of a child going missing and publishing information about them these same concerns could reasonably exist. Although some children may not want people to know they are from out-of-home care, some children are afraid following the recent media coverage on responses to children missing from out-of-home care no-one would know or search for them if they went missing due to the prohibition of publication of certain information.*

In determining if authorisation should be given for the publication of information about a child the Chief Executive may consider the following:

- the emotional support available to the child;
- the likely effect of the publication on the child, at present or in the future;
- the way it is proposed to publish the information;
- the estimated number of persons who will hear or see the information, as a result of its publication;
- the views of the child's parents;
- the reason for the proposed publication;
- the views of the person seeking the approval as to why the publication is in the best interests of the child<sup>190</sup>.

The *Child Protection Act 1999* also states an individual must not publish information identifying, or is likely to lead to the identification of, a person who is, or was, a child of an offence or an alleged offence

committed in relation to them. A penalty provision applies if breached. Information can be published by the Police Commissioner or Chief Executive of a public services unit, or a person authorised by them, for the purposes of an investigation of a complaint made about the offence<sup>191</sup>.

If, for example, the Chief Executive, authorised officer, police officer or someone acting under their direction, honestly and without negligence under the *Child Protection Act 1999* publishes information any liability is attached to the State<sup>192</sup>. If such an officer, with all best intentions and due consideration, were to publish information about a missing person from out-of-home care, they would not be held personally liable.

For children under the custody or guardianship of the Chief Executive, section 86(2)(a), *Child Protection Act 1999* requires the Chief Executive to notify parents with whom the child is placed. For children living in out-of-home care where there is significant risk to the safety of the child or anyone else with whom the child is living. This information is not disclosed to a parent. In circumstances where this exemption applies, government agencies also need to assess the level of risk to the missing child in disclosing information, such as a child's photo and their last known location to the public.

Child Safety Services' *'Foster and kinship carer handbook'* (revised edition 2016) provides information to foster carers about the relevant sections of the *Child Protection Act 1999* relating to the publication of information about a child from out-of-home care. The guidance provided for foster and kinship carers outlines the types of information that must not be published unless written approval is provided by the Chief Executive of Child Safety Services<sup>193</sup>.

Attachment 4 provides an overview of the specific sections within this handbook relevant to this review.

<sup>191</sup> *Child Protection Act 1999* (Qld), s.194(1) and s.(2)(d).

<sup>192</sup> *Child Protection Act 1999* (Qld), s.197.

<sup>193</sup> Department of Communities, Child Safety and Disability Services 2016, *'Foster and kinship carer handbook'* Queensland Government, Revised edn, p.89 and p.91.

<sup>190</sup> *Child Protection Regulation 2011* (Qld), s.11.

When Tiahleigh went missing, both her carer and mother worked together to try and confirm her whereabouts via social media before a formal media release was issued by the QPS.

The ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’ (February 2013), does not provide guidance for care service providers about relevant sections of the *Child Protection Act 1999* relating to the publication of information about a child from out-of-home care.

Finding

Guidance around an alert should prompt immediate responses, including checking networks and using them to help locate the child, ensuring the child has been reported as missing to the QPS, advising the parents, reporting the critical incident and updating on actions.

Child Safety Services organisational intent is to manage the situation of a child missing from out-of-home care as close as possible to the local service delivery to enable local collaboration. However, by not having a ‘missing person management plan’ or similar there is no single point for managing the incident and quick reference to information regarding actions already taken and that need to occur to support a timely and coordinated response for the child. There is also no guidance around whether different response processes are required to be taken depending on whether the child is in the custody or guardianship of the Chief Executive.

Refer recommendation – 7; 8; 9; 20 and 22.

Carers and care service providers should consult with the QPS when a child is reported missing to allow for information received through a child’s networks to be forwarded to the QPS and included as part of the ongoing investigation.

A4.5 Child Safety Services procedures for responding to a child missing from out-of-home care

A4.5.1 Information for staff

“

Bryan Smith,  
Executive Director, Foster Care Queensland

*Queensland children and young people in care have suffered significant trauma, when they are missing we need to respond swiftly with all resources available.*

In recent years updates have been made to the Child Safety Practice Manual to include content regarding procedures when a child is missing from out-of-home care, when to report a missing child to the QPS, a ‘Missing Person Report’ form and clarification around consultation with the Recognised Entity for Aboriginal and Torres Strait Islander children<sup>194</sup>.

194 Department of Communities, Child Safety and Disability Services 2015, ‘CSPM August 2011 updates’, Child Safety Practice Manual, Queensland Government, Accessed 22 December 2015, <https://www.communities.qld.gov.au/childsafety/child-safety-practice-manual/quicklinks/updates/cspm-august-2011-updates>,

The Child Safety Practice Manual states, *‘if a child in out-of-home care is missing from their placement, immediate efforts are required to locate the missing child’*. When it is clear the child is missing the responsibilities of the department are to:

- *Provide a ‘Missing person report’ to the local police. This can be provided to the local police station in person or via fax. There is no stipulated timeframe for undertaking this action.*
- *Adhere to the requirements of the ‘Critical Incident Reporting’ policy and procedures*
- *Inform the child’s parents<sup>195</sup>.*

In addition, staff are required to record an alert in Child Safety Services’ Integrated Client Management System (ICMS) to easily identify the child as currently missing. The recording of any alert in ICMS encourages consultation with the team leader and other government agencies as required. Staff are reminded to keep the ICMS alert up to date and the alert closed if circumstances change, such as the child being located<sup>196</sup>.

All staff with access to the Intranet can raise a critical incident report. Staff who have requested receipt of reports also receive information on all reports, as they are not regionally or geographically specific. This will be corrected when Child Safety Services’ new database is implemented.

Child Safety Services’ Governance team conducts a quality assurance of all reports to ensure all fields are completed and are correct. Where there is missing information, ICMS is cross-checked and the incident report is updated. Once a critical incident report is logged or submitted, it can only be updated with additional information by the Governance team<sup>197</sup>.

## Finding

Child Safety Services staff place a missing person alert on their database system, the Integrated Client Management System. There is no requirement for staff to develop a corresponding ‘missing person management plan’ to document the immediate actions and interventions taken and the activities relevant individuals and agencies will undertake to respond<sup>198</sup>. This is despite the requirements of other alerts for example suicide risk or self-harm alerts. Although these incidents require different responses, a similar amount of information would be beneficial in assisting staff to appropriately and confidently respond and plan for this issue.

Guidance around an alert should prompt immediate responses, including checking networks and using them to help locate the child, checking the child has been reported as missing to the QPS, advising the parents, reporting the critical incident and updating on actions.

Child Safety Services organisational intent is to manage the situation of a child missing from out-of-home care as close as possible to the local service delivery to enable local collaboration. However, by not having a ‘missing person management plan’ or similar there is no single point for managing the incident and quick reference to information regarding actions already taken and which need to occur to support a timely and coordinated response for the child. There is also no guidance around whether different response processes are required to be taken depending on whether the child is in the custody or guardianship of the Chief Executive.

**Refer recommendation – 7; 8; 9; 20 and 22.**

<sup>195</sup> Department of Communities, Child Safety and Disability Services 2016, *‘What ifs’*, Child Safety Practice Manual, Chapter 5: Children in out-of-home care, section 14, Queensland Government

<sup>196</sup> Department of Communities, Child Safety and Disability Services 2015, *‘What if an alert needs to be recorded in ICMS’*, Child Safety Practice Manual, Chapter 10, section 9, Queensland Government.

<sup>197</sup> Information provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

<sup>198</sup> Department of Communities, Child Safety and Disability Services 2015, *‘Responding to suicide risk behaviour’*, Child Safety Practice Manual, Chapter 10.9, section 2.

There are three Critical Incident Databases – Child Safety Services, Disability Services and a portal for Youth Justice staff. Information provided by Child Safety Services indicates it is working with the Information Services team to develop one integrated database to be tested by the regions in the near future. This will result in the potential closing of the portal for Youth Justice. Meetings have occurred with departmental staff to discuss the roles and responsibilities in advising each other for a client who is subject to dual orders i.e. a child who is on both a child protection and youth justice order. Feedback from these meetings is ongoing<sup>199</sup>.

Information sharing between Child Safety Services and other government agencies is a complex issue and should be considered more widely than the context of children missing from out-of-home care.

There are many circumstances and contexts where a continued partnership for sharing information may assist to determine and improve the ongoing safety and protection of all children at risk.

Finding

The process of information sharing between government and non-government agencies involved in administering or regulating different aspects of child services, including co-located services, may be inhibited if there is no clear legislated ability or policy mandate to do so. This highlights a number of opportunities for agencies to share information over and above what is required to improve agency internal risk assessment and decision-making policies in order to provide a safe environment for all children.

Further examination is required into whether sharing a certain level of sensitive and confidential information will improve agency decision-making to support the best interests of the child.

The QFCC has begun a supplementary analysis of information sharing arrangements between all parties in government and non-government agencies relating to people working with children, particularly in regulated service environments.

The supplementary review is broader than information technology systems. It includes consideration of what information can, and should, be shared to protect all children.

Refer recommendation – 28 and 29.

The following tables outline data from Child Safety Services on the number of reports of missing child alerts and the total number of children reported as having a missing child alert.

Table 12: Missing child alerts for children with an Indigenous status<sup>200</sup>

Year	Total number of children reported by Indigenous status	Total number of reports by Indigenous status*
2011	13	14
2012	29	29
2013	6	6
2014	7	7
2015	3	3

\* Children are counted each time a report was made.

199 Information provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

200 Information provided by Department of Communities, Child Safety and Disability Services to QFCC, 27 January 2016.

**Table 13: Missing child alerts for children with a Non-Indigenous status<sup>201</sup>**

Year	Total number of children reported by Non-Indigenous status	Total number of reports by Non-Indigenous status <sup>**</sup>
2011	22	22
2012	25	27
2013	21	24
2014	10	11
2015	15	15

\* Includes Non-Indigenous children and those whose Indigenous status is unknown or not stated.

\*\* Children are counted each time a report was made.

As previously outlined, the *Child Protection Act 1999* requires every child living in out-of-home care to have a case plan meeting the protection needs for the child. The Child Safety Practice Manual provides a minimum standard for the case plan to be reviewed every six months, or earlier in response to a significant impact on the direction or provisions within the case plan<sup>202</sup>.

A child who is missing is not a 'stated criteria' within the Child Safety Practice Manual to trigger a case plan review although this occurrence is considered a critical incident in the Critical Incident Reporting Policy and Procedure. There is no guidance in this policy and procedure to consider a review of the case plan in response to recording a critical incident report for a child.

The occurrence of a child missing from out-of-home care should indicate once the child is safely located that case management actions or the child's case plan may need to be reviewed. This means the case plan continues to meet the child's safety and wellbeing needs and provision of appropriate supports. A child who is absent from placement should also trigger a

discussion being held with the child and the child's networks to identify actions and goals to reduce the recurrence of being absent from placement and to plan for long term safety for the child.

“

### Karyn Walsh, Family Inclusion Network

*We need to ask children and young people, 'what's your story?' Asking them directly will help us to know what's happening for these young people. Only then, can we begin to understand what the best supportive interventions are.*

Research on missing children and data from the OPG indicates children are more likely to return to their family, friends or previous neighbourhood when they are absent from placement. Therefore, it is important to have a clear map of the child's networks and a case specific plan of action to respond where a child is absent from placement or their whereabouts is unknown. Sharing this information with individuals involved in case planning, supports immediate responses in establishing whether the child is missing.

Speaking with the child and their care providers to identify the reasons why the child was absent from placement or missing supports a holistic assessment to reduce recurrence and meet the child's needs. This is echoed in statements by:

- CREATE Foundation, a non-government advocacy agency for children: *Workers and carers need to speak with the child to know why they went missing or were absent from their placement. They need to keep trying to speak with the child and not give up on them. Children need to be kept involved in decisions affecting them. Workers and carers also need to support the child to be aware of the possible risk associated with 'absconding' or missing persons occurrences. Children, workers and carers need to acknowledge that a 'frequent absconder' could come to harm at any point in time<sup>203</sup>.*

<sup>201</sup> Information provided by Department of Communities, Child Safety and Disability Services to QFCC, 27 January 2016.

<sup>202</sup> Department of Communities, Child Safety and Disability Services 2015, 'Review and revise the case plan', Child Safety Practice Manual, Chapter 5.

<sup>203</sup> Meeting between QFCC and Lucas Moore from CREATE Foundation, 20 January 2016.



- Family Inclusion Network, a non-government agency working with vulnerable families and children: *The definition of ‘absconding’ and ‘missing’ is not clear. All children in these situations are vulnerable; it is more around when the QPS and Child Safety Services should make a decision to go public with information. Parents need to be kept informed from the start as they may have valuable information to assist in locating the child. An assessment of why the child is running away needs to be undertaken with the child, so others are not assuming the reasons why but actually finding out from the child themselves why they are doing it. More regular interventions with the child may assist to stop the pattern of running away*<sup>204</sup>.

A behavioural pattern of leaving a placement without permission is a complex issue. Additionally, being absent from placement can be a predictive indicator of a child becoming missing. There are various associated risks to safety, health and wellbeing when a child is missing or absent from their placement. Referring a child who is absent from their out-of-home care placement to a multi-disciplinary team for coordinated planning for the child’s protection needs would be beneficial. In the case of a missing child, a referral to a multi-disciplinary team may improve initial information sharing by agencies, support locating the child and plan actions for responding to and assessing the circumstances when the child is safely located.

In Queensland, the SCAN team system is responsible for planning and making recommendations to provide a coordinated response to complex cases where multi-agency action is required. This SCAN team system also provides an avenue for core members to undertake a holistic assessment and make recommendations on the best way for the Chief Executive of Child Safety Services to assess and respond to the protection needs of a child. This system could be used to assess the protection needs of a child from out-of-home care who is at high risk and vulnerable to becoming a missing person, or is a missing person, where concerns are held for their safety or welfare.

Finding

In the circumstance of a child missing from out-of-home care, emergency SCAN team meetings should be requested by any core member, to plan for immediate actions to respond to the child’s protection needs.

Refer recommendation – 16.

The State Coroner found in an inquest into a 14 year old boy who had gone missing and later committed suicide, that guidelines should be reviewed within the SCAN regime requiring Child Safety Services and the QPS to work more closely in a coordinated way.

Clements (2009). Findings of inquest: Inquest into the death of Andrew Scott Anderson. Brisbane: Office of the State Coroner.

Andrew was a 14-year-old boy in the care of Child Safety Services and living with his grandfather, Nelson, in Mt Gravatt East in Brisbane. In February 2005, Nelson contacted Child Safety Services to report that Andrew was missing. Nelson did not inform the QPS and Child Safety Services did not pursue the matter by re-opening a SCAN notification or requesting police assistance. Andrew later returned to Nelson’s home. In July 2005 Andrew committed suicide.

The Coroner’s report notes that the manner of Andrew’s death could not have been anticipated but there was a series of escalating incidents indicating he was in trouble and likely to come to further harm.

Where a child is missing from out-of-home care the guidelines for responding to this situation must be reviewed within the regime of the SCAN process so that there

204 Meeting between QFCC, Karyn Walsh and Susie Edwards from Family Inclusion Network, 19 January 2016.



is a timely decision made about what is to happen. Doing nothing is not an option. A review of Child Safety Services coordination of the use of SCAN agencies including QPS, DET and QHealth, should be considered.

Resources to inform and assist staff practice around risk identification, prevention, education and provision of support when responding to a child who is missing or absent from placement are limited. Information provided by Child Safety Services indicates an *‘Introduction to Working with Adolescents’* training module is being developed for staff practice on how to respond and manage high risk adolescents. The components for inclusion in this module are currently being conceptualised. The following are proposed courses:

- *Introduction to Working with Adolescents*
- *Mental Health*
- *High Risk Behaviours – including components relating to inhalants and ‘absconding’*
- *Transition to Independence*
- *Belonging.*

Further work is now underway to scope these courses, in terms of most suitable approaches, learning outcomes and timeframes. Child Safety Services anticipated the first course, *‘Introduction to Working with Adolescents’*, will be delivered in the 2016-17 financial year.

With children at risk of being missing or absent from their placement due to feelings of limited attachment to their placement/carers, or a sense that they do not ‘belong’. It is particularly important for the concept of ‘belonging’ to be discussed. The child should be appropriately supported to increase their sense of ‘belonging’ to their carers, placement and community.

Training is provided to foster and kinship carers by Placement Services Units, non-government agencies, Foster Care Queensland and Evolve in relation to many topics including:

- *Promoting Positive Behaviours*
- *Therapeutic Crisis Intervention*

- *Trauma Informed Care*
- *Suicide and self- injury: Assessment, management of risk and treatment*
- *Complex trauma and attachment in children: Providing therapeutic care*<sup>205</sup>.

## Finding

Proposed training modules for staff include a course on ‘high risk behaviours’ and ‘absent’ behaviours. There is no proposed course to provide training for staff on procedures and processes for responding to children missing from out-of-home care.

**Refer recommendation – 7; 8; 26 and 27.**

## A4.5.2 Information for carers

The *‘Foster and kinship carer handbook’* advises carers to contact the Child Safety After Hours Service Centre (CSAHC) in the event a child is missing from out-of-home care. This centre provides after-hours support, seven days a week, to deal with urgent child protection matters and critical incidents. There is a dedicated emergency number for carers<sup>206</sup>.

The *‘Foster and kinship carer handbook’* also has a section on ‘Decision-making’ for foster and kinship carers. In this section carers are provided with guidance on decisions to be made by them and those that must be made by Child Safety Services or the child’s guardian. The circumstances of a child missing from out-of-home care and the associated critical decisions required in a short period of time, are not covered within any of the examples provided for carers<sup>207</sup>.

205 Information provided by the Department of Communities, Child Safety and Disability Services to QFCC, 4 January 2016.

206 Department of Communities, Child Safety and Disability Services 2016, *‘Foster and kinship carer handbook’* Queensland Government, Revised edn, p.12; p.29; p.111.

207 Department of Communities, Child Safety and Disability Services 2016, *‘Foster and kinship carer handbook’* Queensland Government, Revised edn, pp. 39-42.

Tiahleigh's carer contacted the QPS on the day she went missing.

On that same day and beyond, Tiahleigh's carer contacted networks including friends and other students to try to establish Tiahleigh's location.

In relation to sharing information, some of the statements provided in the *'Foster and kinship carer handbook'* include:

- *You can always discuss details about the child in your care and the child's family, with your Child Safety Officer or foster and kinship care service.*
- *When disclosing information to others, consider whether it is necessary for the child's protection and wellbeing, or to perform your functions as a carer.*
- *Importantly, you need to keep confidential that a child is in care and the reasons why the child is in care.*
- *However, your social needs are important and the confidentiality provisions in the Child Protection Act 1999 are not intended to isolate carers. You can talk generally to others about a child or young person in your care* <sup>208</sup>.

Although this guidance stresses carers are not to disclose a child is from out-of-home care or the reasons why, the carers are encouraged to share information in circumstances where concerns are held for a child's protection and wellbeing. The handbook does not clearly discuss sharing information with Child Safety Services and the QPS about a child missing from out-of-home care or contacting the child's networks in an attempt to locate a missing child.

The *'Foster and kinship carer handbook'* encourages carers to contact the child's networks in attempts to establish if the child is missing, including making contact with the Child Safety Service Centre or CSAHSC. There is no direct reference to this contact extending to the child's parents or whether different communication processes are applied when the child is in the custody or guardianship of the Chief Executive of Child Safety Services. Carers are also able to and encouraged to,

report a child as missing to the QPS. It is important that carers understand this as one of their responsibilities in making decisions involving a child in their care.

Carers are advised to be careful about how much information is disclosed to others when advocating on behalf of a child. The *'Foster and kinship carer handbook'* directs the carer to contact their Child Safety Officer or foster and kinship carer service if they have any concerns about the best way to advocate for a child or their privacy and confidentiality obligations<sup>209</sup>.

### Finding

There is no guidance provided in the *'Foster and kinship carer handbook'* around talking with the child about the circumstances surrounding them missing or being frequently absent from their placement. Furthermore, this handbook does not discuss how a child missing or being absent from their placement may prompt the need for the child's case plan or case management actions to be reviewed by Child Safety Services to ensure adequate and relevant supports are in place to meet the child's protection needs and wellbeing.

Information provided to the review did not identify available training for carers on responding to children missing from out-of-home care or absent from their placement.

**Refer recommendation – 7; 8; 9; 20 and 26.**

<sup>208</sup> Department of Communities, Child Safety and Disability Services 2016, *'Foster and kinship carer handbook'* Queensland Government, Revised edn, p.90.

<sup>209</sup> Department of Communities, Child Safety and Disability Services 2016, *'Foster and kinship carer handbook'* Queensland Government, Revised edn, p.92.

### A4.5.3 Information for care service providers



**Lucas Moore,  
Queensland State Coordinator,  
CREATE Foundation**

*I have heard (from a young person formerly in care) of promising initiatives whereby residential care providers/ child safety and local police work collaboratively to establish a Police Liaison Officer for that residential – the young person reported that this seemed to improve better responses to a variety of emergency situations (including missing and ‘absconding’ young people).*

The ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’ (February 2013), states action must always be taken to provide for the safety of children. Service providers are able to interpret the information within this guide to suit their organisational setting. Although this provides flexibility, it may inadvertently result in inconsistencies in responses to children who are missing or absent from placement.

The ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’ (2013) states staff are to act like a ‘reasonable parent’ when determining how to respond to a child who is missing or absent from placement and in determining what action to take based on the identified risks to the child. Carer responses are to include taking all practical steps to establish the child’s location, checking places where they frequently attend and contacting the QPS and Child Safety Services for advice and support or the QPS specifically to make a missing person report. To assist with appropriate responses the carer or staff member is to contact their supervisor. There is no guidance around whether different response processes are required to be taken depending on whether the child is in the custody or guardianship of the Chief Executive, Child Safety Services.

Agencies are to report to Child Safety Services immediately by telephone if a child is missing or absent from their placement, the child is vulnerable and concerns are held that the child may be at risk of harm. In all other circumstances the agencies are to advise Child Safety Services ‘as soon as practical’ – ‘no later than the next working day’. A list of questions is included in the ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’ (February 2013) to assist agencies to determine if immediate reporting is warranted.

In addition, ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’ (February 2013) states, ‘if it is after hours and an immediate report is required to be made to CSAHSC, it is not necessary to regularly advise Child Safety that the child has not yet returned (unless specifically directed to do so by the CSAHSC, CSO)’. Although ongoing contact may occur, this guidance is not actively encouraging information sharing or collaborative responses between the two agencies, or the provision of ongoing support by CSAHSC to the carer/staff member of the organisation during this critical time.

Agencies are to report face-to-face to the QPS when, ‘a child is missing and there are concerns for their safety and/or welfare due to their vulnerability, or where the child has been missing for more than 24 hours’. Agencies are directed to complete the missing person’s report form within the ‘Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations’ (February 2013) and provide a copy to the QPS at the time of making the report or as soon as practicable. A copy is also provided to Child Safety Services. If the report is faxed to the police station where a child was reported missing by telephone, this must be followed up by an in-person report to the QPS.

## 66

### Detective Senior Sergeant Damien Powell, Queensland Missing Persons Unit, Queensland Police Service

*Although the Missing Persons Report form was designed for care service providers to ensure we received the right information to inform the missing person risk assessment, we have received a very low number of these forms<sup>210</sup>.*

*Child Safety Services has worked closely with the QPS in relation to updating and replacing this form with a checklist to assist the QPS with information they need when a child from out-of-home care is reported missing. This checklist does not replace the need to make an official report to the QPS<sup>211</sup>.*

#### Finding

Agencies are instructed to inform Child Safety Services and the QPS where the child has been reported as missing. When a child is missing adequate plans need to be in place to assist and support the child's return.

There is no guidance for talking with the child about the circumstances leading to them becoming missing or being absent from placement. This occurrence may prompt the need for the child's case plan or case management actions to be reviewed by Child Safety Services. This will provide adequate and relevant supports to meet their ongoing protection needs and wellbeing.

In addition, information to the review did not identify available training for staff of care services in responding to children missing from out-of-home care or absent from their placement.

**Refer recommendation – 7; 8; 9; 20 and 27.**

Data and communication with the QPS and youth services show that children in residential care are frequently reported missing from their placement (by staff) even when staff know the whereabouts of the child. This practice of reporting the absence to the QPS may be used as a behaviour management tool by inexperienced carers.

### Human Services Quality Framework, Licensing Companion Guide

Human Services Quality Framework, Licensing Companion Guide (April 2014, version 3), is a guide for service providers which provides information for compliance with licensing requirements.

In the Human Services Quality Framework, 'Licensing Companion Guide' glossary of terms, a 'missing' or 'absconding' child falls within the category of a 'critical incident'. A critical incident is defined as:

*An incident which is crucial to the:*

- *care, safety, or wellbeing of a child, staff member or member of the public;*
- *the sustainability of the care provided; or*
- *a criminal matter.*

*As a guide:*

- *any matters listed in the department's critical incident policy require immediate reporting to the department by the organisation.*
- *Matters of concern (suspected or actual harm or a breach of the statement of standards) must be reported immediately.*

<sup>210</sup> Information provided by the Queensland Police Service to QFCC, 4 February 2016.

<sup>211</sup> Information provided by the Department of Communities, Child Safety and Disability Services to QFCC, 12 April 2016, formal consultation.

Other incidents can be reported to the child's Child Safety Officer, normally within one working day<sup>212</sup>.

The *'Licensing Companion Guide'* directs the reader to the Child Safety Practice Manual where resources such as the earlier mentioned *'Foster and kinship carer handbook'* and the *'Reporting missing or absconding children to the Department of Communities, Child Safety and Disability Services: A guide for non-government organisations'* (February 2013) are located.

#### A4.5.4 Information for specific non-government agencies which provide youth services

Child Safety Services funds two program initiatives delivered by non-government providers which may come into contact with children who might be classified 'missing' and who are living in out-of-home care or are exiting care. These programs are outlined below.

#### Youth Support Services

Child Safety Services funds around 90 service outlets to deliver youth support services for vulnerable children aged 12 to 18 years. The Youth Support Model was rolled out over 2014-15 and is designed to be more responsive to the needs of children. This model delivers individualised support and case management, particularly to those children who are at most risk of disconnection from family, community or support networks, school, training or employment and who are at higher risk of harm and/or homelessness.

When funded providers are or become aware a child who they are supporting is subject to a child protection order they are required to inform Child Safety Services and to work in collaboration to provide for the support and safety of the child.

The *'Youth Support Practice Guide'* provides guidelines, information and resources to youth workers and their agencies funded under Child Safety Services' Youth Support Services program to effectively work with vulnerable children.

<sup>212</sup> Department of Communities, Child Safety and Disability Services 2014, *'Licensing Companion Guide'*, Human Services Quality Framework, Queensland Government, version 3, p.23.

The *'Youth Support Practice Guide'* outlines Child Safety Services maintains case management responsibility for the child living in out-of-home care and coordinates the child's case plan. It also outlines the duty of care to children, the expectation that Youth Support Services act to protect children from harm, including reporting concerns where necessary to Child Safety Services. This duty of care overrides confidentiality if necessary. Guidelines encourage staff to be 'alert' to the medical care needs, self-harming behaviours, suicide ideation and disclosures of risk by children. There is no mention of being alert to a 'missing' child. If a child is at ongoing risk Child Safety Services or the QPS are to be advised<sup>213</sup>.

#### The Youth Housing and Reintegration Service (YHARS)

The Youth Housing and Reintegration Service including the After Care Service Guideline outlines the processes for working together, sharing and managing information with other agencies and provides case management and services to children.

YHARS services are available in specific areas and are funded under the National Partnership on Homelessness (NPAH) 2015-17, to assist children aged 12 to 21 years who are homeless or at risk of homelessness. Funding is also provided under this agreement to deliver an After Care Service which provides brokerage for children aged 17 to 21 who are transitioning from the care of Child Safety Services and who are at risk of homelessness.

This program's guidelines state YHARS providers should contact Child Safety Services to clarify roles and expectations when the child is involved in Child Safety Services. YHARS providers are to share information and inform Child Safety Services about any safety and/or wellbeing concerns for a child. Child Safety Services maintain lead case management responsibility for the child. YHARS providers are also required to inform clients about their services' confidentiality and record keeping policies so children

<sup>213</sup> Department of Communities, Child Safety and Disability Services 2015, *'Youth Support. A practice guide for Youth Support Services'*, Queensland Government, p.62 and pp.71-78.



are aware when certain information may have to be reported to relevant authorities<sup>214</sup>.

YHARS providers must also have policies for responding when a person under 18 years is suspected as being listed missing and/or whose whereabouts are unknown. Specific guidance includes:

*Child Safety is responsible for ensuring that young people subject to statutory child protection intervention are reported as missing if their whereabouts is unknown. A YHARS staff member may be asked to make a report to police if they were the last person to see a young person who has gone missing.*

*YHARS providers are advised to ask young people whether they may be currently listed as missing when the young person first accesses the service. A young person may choose not to reveal their status as a missing person, or may be unaware that they are listed as missing. In the instance where a young person believes they may be listed as a missing person, the service is advised to support the young person to notify the Queensland Police Service or their family of their whereabouts or their wellbeing so that they are removed from the missing person's list. Alternatively, the young person may consent to another appropriate adult conveying this information to the Queensland Police Service or their family on their behalf.*

*YHARS providers are encouraged to provide as much information as possible to the Queensland Police Service about any young person who may need to be listed as missing. However, it is inappropriate for the YHARS providers to obtain additional intrusive information if they believe a young person may one day need to be listed as missing. For example, it is intrusive and inappropriate to photograph young people or make records of tattoos or distinguishing marks<sup>215</sup>.*

These two models should be more consistent in guidance provided to service providers around identifying and responding to children missing from out-of-home care.

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<sup>214</sup> Department of Communities, Child Safety and Disability Services 2014, 'Guidelines for service delivery: Youth Housing and Reintegration Service including After Care Service', Queensland Government, p.8, p.14 and p.21.

<sup>215</sup> Department of Communities, Child Safety and Disability Services 2014, 'Guidelines for service delivery: Youth Housing and Reintegration Service including After Care Service', Queensland Government, p.29.



# Appendix 5

## The role of the Department of Education and Training (DET)

The DET aims to deliver education and training services which are world class. The DET aims to provide Queensland children with the education and skills they need to contribute to the economic and social development of Queensland.

When a child is reported as missing, the child's school may be contacted by the QPS to obtain information about their pattern of attendance and networks if relevant to the missing person investigation. This contact may need to occur outside school hours.

### Finding

The DET does not have an after-hours contact number the QPS can call to obtain necessary information about a missing child's school attendance record, their networks, or other relevant information to assist their investigation. This may impact the QPS's ability to conduct a timely assessment for a child who is reported missing, particularly if the occurrence aligns with a weekend or holiday period.

**Refer recommendation – 14 and 17.**

*the school by the parent, or the student if they are living independently.*

- *'leisure activities: unauthorised' absence – Undertaking a leisure activity such as shopping, visiting friends and relatives, or fishing, is not considered a reasonable excuse for an absence from school.*
- *'any other reason for absence: unauthorised' absence – The principal should use their professional judgement in determining whether other reasons given by the parent, or the student if they are living independently, are reasonable explanations for a student's absence. If the reason given is not a reasonable excuse, the principal should document the decision and record the absence<sup>216</sup>.*

The DET also provides guidance on the reason codes to be used for defining a full or part day absence for a child<sup>217</sup>. There is no absence code specified for use if a child is reported missing. The DET advises in the circumstances of a child being reported as missing, schools use the reason code 'Other'<sup>218</sup>. The explanation for this code details it is to be used when the excuse provided is determined reasonable by the Principal, such as medical and dental appointments, religious observances, funerals and legal matters<sup>219</sup>. The requirement on schools to use this code in the circumstances of a missing child is not overly evident.

### A5.1 Defining an 'absent' child

When the whereabouts of an enrolled child of compulsory schooling or compulsory participation phase is unknown, the term 'absence' is used in procedures and guidelines by the DET. In recording school absences, where a reasonable excuse has not been provided, the DET provides guidance on using the following terms:

- *'unexplained' absence – When no explanation for a student absence has been offered to*

<sup>216</sup> Department of Education and Training 2015, 'Roll Marking in State School: Guidelines for determining whether excuses for student absences are considered reasonable excuses' Queensland Government.

<sup>217</sup> Department of Education and Training 2015, 'Roll marking in state schools, Table 1 – Absence codes for full or part day absence' Queensland Government.

<sup>218</sup> Information provided by the Department of Education and Training to QFCC, 14 January 2016.

<sup>219</sup> Department of Education and Training 2015, 'Roll marking in state schools, Table 2 – Absence reason codes for reasonable excuse', Queensland Government.

Tiahleigh was shown to be well supported at the school with Pastoral Care. She had a number of absences from school, but was not known to leave school without permission.

On Friday 30 October 2015, investigations commenced into Tiahleigh's disappearance. At approximately 4pm, the QPS unsuccessfully attempted to contact the office of Tiahleigh's school by telephone.

## A5.2 DET legislative framework for responding when a child living in out-of-home care is absent from school

To assist with meeting the objectives of the *Education (General Provisions) Act 2006*, in providing opportunities for a child to engage in high-quality education, the responsibilities for education of a child is placed on the parents and the State. The *Education (General Provisions) Act 2006* further states the State educational institutions are to operate as safe and supportive learning environments<sup>220</sup>. There is no specific legislated requirements under this Act outlining how staff should respond when a child from out-of-home care is reported missing. The term 'missing' is not used. Therefore, for the purposes of this review legislation, policies and procedures relating to a child's attendance at school have been considered.

In the *Education (General Provisions) Act 2006* attendance is defined as, 'a child attends a State school or non-State school only if the child complies with the school's requirements about physically attending, at particular times, its premises or another place'<sup>221</sup>. The parent's obligation is to make sure their child, if of compulsory school age<sup>222</sup>, 'attends the State school or non-State school, on every school day, for the educational program in which the child is enrolled, unless the parent has a reasonable excuse'<sup>223</sup>. The *Education (General Provisions) Act 2006* broadly identifies enrolment requirements and levels of participation for compulsory schooling and

compulsory participation phase<sup>224</sup>. The *Education (General Provisions) Regulation 2006*, provides further requirements for recording absences.

The *Education (General Provisions) Regulation 2006*, mandates the Principal of a state school to record the absence of a student in a way defined by the Chief Executive of the DET. A student under this Regulation is considered to have an unexplained absence if the school has not been informed the student will be absent and notified of the reasons for the absence.

Unless determined inappropriate (such as the child is living independently or the student is not a child) the Principal must inform the student's parent/guardian about any absence and ask the parent/guardian to provide a reason for the absence.

If the absence is or was an unexplained absence, the Principal may report the absence to the QPS and or Child Safety Services if appropriate. If a student's absence is not an unexplained absence yet the Principal is not reasonably satisfied about the reason provided, they may ask the parent/guardian of the student for a reason<sup>225</sup>. There are no specific timeframe requirements within legislation for recording or notifying student absences to parents.

The *Education (General Provisions) Act 2006* states a student's personal information should not be recorded, used or disclosed unless permitted or required under this Act or another Act, or with the consent of a child's parent if the child is unable to provide consent, or with the written consent of the Chief Executive of the DET

<sup>220</sup> *Education (General Provisions) Act* (Qld) 2006, s.5(1)(a), 2(a) & 2(b).

<sup>221</sup> *Education (General Provisions) Act* (Qld) 2006, s.177.

<sup>222</sup> *Education (General Provisions) Act* (Qld) 2006, s.9 defines compulsory school age between at least 6 years and 6 months to less than 16 years, unless the child has completed year 10.

<sup>223</sup> *Education (General Provisions) Act* (Qld) 2006, s.176.

<sup>224</sup> *Education (General Provisions) Act* (Qld) 2006, s.231 defines compulsory participation phase as being between the time when a child stops being of compulsory school age and ends when they gain a certificate of achievement, senior statement, certificate III or certificate IV; or has participated in eligible options for 2 years post compulsory school age; or turns 17 years of age.

<sup>225</sup> *Education (General Provisions) Regulation* (Qld) 2006, s.18-21.

in circumstances such as being reasonably satisfied it is necessary to assist in averting a serious risk to the life, health or safety of a person. Information may also be disclosed by the Chief Executive of the DET to a law enforcement agency if he/she is reasonably satisfied the information relates to a criminal offence or breach of law imposing a penalty or sanction<sup>226</sup>. These sections of this Act support the DET to share information they hold with another agency to assist with securing the protection and safety of a child from out-of-home who is reported as missing.

Attachment 4 provides a summary of specific sections of the *Education (General Provisions) Act 2006* relevant to this review.

### A5.3 DET procedures for responding when a child living in out-of-home care is absent from school

When a child's whereabouts is unknown during school hours, the educational facility initially deals with this as an 'absence'. The responsibility to explain a child's absence falls on the parent. Although procedures encourage timely notification of a child's absence to their parent/carer, this may occur up to three days following the child's absence.

In situations such as a child going missing during school hours, a delay in notifying the parent/carer, delays the point in time from when a parent/carer may identify the need to take steps to determine their child's whereabouts. It is well documented when a child is missing time plays a critical factor in their safe location.

The DET's '*Managing Student Absences and Enforcing Enrolment and Attendance at State Schools*' procedure (20/11/2015, version 3.15) provides processes for, '*managing student absences and enforcing parents obligations*

*to ensure children are enrolled and attend school on every school day or participate full time in their eligible option*'.

The '*Managing Student Absences and Enforcing Enrolment and Attendance at State Schools*' procedure (20/11/2015, version 3.15) outlines the following response when any child is absent from a DET educational program:

*Parents...providing a satisfactory reason for these absences, unless the student is an adult or it is not appropriate to contact the student's parents, in which case an explanation should be sought directly from the student. Parents should provide a reason for a child's absence as soon as possible after the absence.*

*Early identification of students whose attendance is not regular is crucial to minimising student absences. Schools must consider taking reasonable steps to follow-up unexplained absences as soon as possible or ideally within three days of the absence. Schools and regions may need to work closely with other agencies to support parents to meet their obligations in regard to the enrolment and attendance or participation of their child.*

*Where a student has ceased to attend school and is not enrolled in another school, educational institution or with a Registered Training Organisation and is not registered for home education (or undertaking full-time employment for a student in the compulsory participation phase), the region should pursue the failure to enrol process. Failure of parents to enrol a child at school is a separate issue from a child who is reported as missing to the QPS and requires a specific process to be followed by DET staff.*

*For principals in the communities of Aurukun, Coen, Doomadgee, Hopevale and Mossman Gorge additional processes apply in respect of failure to enrol or attend under section 41 of the Family Responsibilities Commission Act 2008.*

This procedure further identifies that the Authorised Officers in Schools (Principals, Deputy Principals and Head of Campus) are to implement strategies to manage and monitor absences, including:

- *identify when a student is absent for three or more consecutive days, or where there is a pattern of persistent unexplained absences, or where a student's attendance rate is reasonable considered unsatisfactory*

<sup>226</sup> *Education (General Provisions) Act (Qld) 2006*, s.426 & 426(4A).

- *take reasonable steps to follow-up unexplained absences as soon as possible, or ideally within three days of the absence.*

The *‘Managing Student Absences and Enforcing Enrolment and Attendance at State Schools’* procedure identifies information sharing occurrences between the DET authorised officers in regions and the QPS relating to prosecutions for failure to enrol, attend or participate.

The *‘Managing Student Absences and Enforcing Enrolment and Attendance at State Schools’* procedure clearly outlines the circumstances which must be met before a student’s enrolment can be treated as having ended. In circumstances when a child ceases to attend school and is not enrolled in another school, educational institution or organisation, is not registered for home education and does not meet the age criteria for full-time employment, the failure to enrol process should be pursued by the region.

The DET should closely monitor any failure to enrol, attend or participate by children living in out-of-home care and notify Child Safety Services accordingly. This means the DET need to have a strategy in place to know which children are from out-of-home care and monitor changes to their enrolment status to instigate prompt follow-up.

A weekly report is provided to the DET, Assistant Director-General of State Schools – Operations to assist with monitoring attendance levels of students from out-of-home care. This report provides data on state school attendance levels of all students and students from out-of-home care and includes a regional breakdown.

This report also provides an overview of attendance levels for all students and students from out-of-home care who attend Independent Public Schools<sup>227</sup>.

In 2016, the State Schools Division of DET appointed a dedicated Principal Advisor, Student Protection in each of the seven DET regions and central office. These positions report to the Executive Director, Student Protection from the start of 2016.

The Principal Advisors support schools in responding to student protection matters by providing a single point of contact for support and advice to Principals, school leaders and regional staff. They also monitor data for children from out-of-home care and provide schools with up-to-date information about supports available.

This is a joint initiative funded by DET and Child Safety Services.

The DET’s, *‘Roll Marking in State Schools’* procedure (20/11/2015: V3.12) outlines the process for principals to follow when recording a student’s attendance and absence at a state school.

The *‘Roll Marking in State Schools’* procedure (20/11/2015: V3.12) outlines the process for uploading daily student attendance and absence to OneSchool if using an electronic roll-marking system, or at least every three days if hard copy rolls are used.

This procedure requires the Principal to follow processes for school attendance and absence and appointing appropriate officers who understand their responsibilities when marking the roll and undertaking data entry. This procedure is prescriptive in terms of the processes of roll marking and has several documents attached to assist staff including absent reason coding and flowcharts for recording absences. This procedure states, *‘where students are absent from a class, report the absence in a timely manner in accordance with the school’s procedures’*. The Principal is also to, *‘develop and document a school communication process for parents to use when notifying school of their child’s absence and make this publicly available through the school’s website, newsletter and enrolment package’*.

<sup>227</sup> Information provided by the Department of Education and Training to QFCC, 9 December 2015.



The Principal of a state school can obtain further information and guidance on their responsibilities for attendance through accessing the *'Roll Marking in State schools: Processes for principals to follow to ensure school record attendance and absences'* document. This roll marking guideline outlines the following specific timeframes for marking a child's attendance:

- *at the beginning of the school day and prior to the beginning of the afternoon session in prep year, primary and special schools*
- *at the beginning of the school day and for each lesson in secondary schools*
- *schools may use methods such as absentee slips that are completed, initialled and provided to the office for the purpose of reconciling student absences during the day*<sup>228</sup>.

The *'Roll Marking in State schools: Processes for principals to follow to ensure school record attendance and absences'* states the Principal is to, *'establish processes for following up unexplained absences with parents as soon as practicable, but within 3 days of any unexplained absence'*. The use of the phrase *'as soon as practicable'* slightly differs to the phrase *'as soon as possible'* used in the *'Managing Student Absences and Enforcing Enrolment and Attendance at State Schools'* procedure.

The DET advised they intend to amend the *'Roll Marking in State schools: Processes for principals to follow to ensure school record attendance and absences'* and *'Managing Student Absences and Enforcing Enrolment and Attendance at State Schools'* procedures to address this inconsistency<sup>229</sup>.

Some schools are also trialling QParents, a website allowing parents of children attending Queensland state school to access secure online information about their child and to communicate directly with the child's school<sup>230</sup>. QParents includes access to a child's attendance record and provides another avenue for

parents to communicate with the school and update them on a child's details or let the school know when a child may be absent, has to leave early or provide explanation for unexplained absences.

Each individual school must decide if they wish to sign up to QParents. When a school signs up to QParents, the Principal nominates one parent to manage the student's information. This parent is required to go through a registration and online identity verification process. Parents who do not have enough documents to verify their identity are unable to register. Parents with only a certain level of identity documents will have limited access to their child's information. Once the registration process is completed the nominated parent can delegate access to another parent or carer and determine the level of information about their child another person can view. A delegated viewer cannot update a child's information.

QParents can only be accessed through the internet therefore any parent who does not have access to the internet cannot access QParents and will need to continue using traditional ways of communicating with the school about their child<sup>231</sup>.

A five step approach is outlined in the DET's *'Every Day Counts'* resource to assist and guide schools on improving attendance records. In this approach one of the steps is to *'record and follow-up student absences'*. This step states, *'it is important that schools develop consistent and effective follow-up processes for unexplained student absences. Timely follow-up is a key preventative strategy in reducing absenteeism. It makes it harder for students to miss school without being detected. It also enables parents, who may not be aware that their child is absent, to take action'*<sup>232</sup>.

Information from the DET confirms there is no consistent process for notifying 'parents' about a child's non-attendance. Schools are

<sup>228</sup> Department of Education and Training 2015, *'Roll Marking in State schools: Processes for principals to follow to ensure school record attendance and absences'*, Queensland Government, p.1.

<sup>229</sup> Information provided by the Department of Education and Training to the QFCC, 15 April 2016, formal consultation.

<sup>230</sup> Department of Education and Training 2015, *'QParents'*, Accessed 28/01/2016, <https://qparents.qld.edu.au/#/login>.

<sup>231</sup> Queensland Government 2014, *'QParents'*, Accessed 28 January 2016, <http://www.qld.gov.au/education/schools/information/pages/qparents.html>.

<sup>232</sup> Department of Education and Training 2015, *'The five step approach'*, Every day counts, Queensland Government, Accessed 10 December 2015, <http://education.qld.gov.au/everydaycounts/schools/the-five-step-approach.html>.

able to determine their own processes and systems for following up absences with parents based on the DET’s guidelines. Processes vary between schools and can include an automated text message using a system such as IDAttend<sup>233</sup> or a phone call, to the parent/ carer<sup>234</sup>. It is therefore unknown which systems are currently being used, by how many schools and their effectiveness in addressing local, geographical and cultural needs.

**Finding**

Despite the important role all schools play in a child’s daily routine and requirements for state-schools to mark attendance more than once during the day it is not mandated for same day notification to ‘parents’ of the child’s absence from school. This could delay the ‘parent’ establishing that a child’s whereabouts is unknown and taking protective action to locate the child.

**Refer recommendation – 11 and 13.**

During consultation with Independent Schools Queensland and the Queensland Catholic Education Commission, both agencies advised if the DET updated their policies, procedures and guidance for notification of student absences and responding to children missing from out-of-home care as a result of this review, they too would align their policies, procedures and guidelines to these updates<sup>235</sup>. Both agencies identified a need for consistent policy standards for responding to children missing from out-of-home care across both the non-state and state schooling sector.

233 IDAttend is computer software program specifically for tracking and reporting student attendance at schools (<http://www.idattend.com.au/idattend.html>).

234 Information received from the Department of Education and Training by QFCC, 14 January 2016.

235 Information provided by Independent Schools Queensland to the QFCC, 5 February 2016 and the Queensland Catholic Education Commission to the QFCC, 17 February 2016.

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**Dr Lee-Anne AM,  
Executive Director, Queensland  
Catholic Education Commission**

*It is timely for the Queensland Government to consider how the various government departments and authorities intersect around the governance of child protection requirements for state and non-state schools and other organisations working with children and young people, with the aim of improving consistency in oversight and implementation. The Queensland Catholic Education Commission is committed and keen to work with Government and all sectors to improve the consistency and effectiveness of [their] responses to all aspects of student protection<sup>236</sup>.*

A5.3.1 Child Safety Services and DET

There is no higher priority for the DET than protecting children from harm.

Information sharing between the DET and other government agencies is a complex issue and should be considered more widely than the context of children missing from out-of-home care.

There are many circumstances and contexts where a continued partnership for sharing information may assist to determine and improve the ongoing safety and protection of all children at risk.

**Finding**

The process of information sharing between government and non-government agencies responsible for administering or regulating different aspects of child services, including co-located services, may be inhibited if there is no clear legislated ability or policy mandate to do so. This highlights a number of opportunities for agencies to share

236 Information provided by the Queensland Catholic Education Commission to the QFCC, 17 February 2016.



information over and above what is required to improve agency internal risk assessment and decision-making policies in order to provide a safe environment for all children.

Further examination is required into whether sharing a certain level of sensitive and confidential information will improve an agency's decision-making in the best interests of the child.

The QFCC has begun a supplementary analysis of information sharing arrangements between all parties in government and non-government agencies relating to people working with children, particularly in regulated service environments.

The supplementary review is broader than information technology systems. It includes consideration of what information can, and should, be shared to protect all children.

**Refer recommendation – 28 and 29.**

The DET's 'Information sharing under Child Protection Act 1999' procedure (24/8/15: version 4.2) outlines the DET's responsibilities as a prescribed entity under the *Child Protection Act 1999*, in sharing information.

The DET, Principal Advisors, Student Protection manage student protection matters effectively and efficiently and ensure students and families receive appropriate levels of support when required. The Principal Advisors support enhanced understanding across the state schooling sector. They provide advice on student protection reporting processes, student protection training, student and school support, student safety and re-engagement and students from out-of-home care to share information and support the best interests of the child.

The 'Information sharing under Child Protection Act 1999' procedure (24/8/15: version 4.2) states relevant information can be shared to:

- ensure a child or unborn child's safety and wellbeing
- enable a coordinated service response meeting the needs of students and their families.

*The Director-General of DET authorises certain departmental officers to give or receive relevant information, while otherwise maintaining the confidentiality of the information, in order to contribute to a whole-of-government response to child protection issues.*

The 'Information sharing under Child Protection Act 1999' procedure requires all requests for information to delegated officers to be made in writing using the DET's 'Sharing information for child protection' form. A verbal request can be made in an emergency. A delegated officer may consult with a senior guidance officer or the DET, SCAN representative when:

- assistance or support is required to request or respond to a request to share relevant information
- information is needed about a relevant statutory or agency requirement.

This procedure also directs staff to further resources on the DET's intranet site, such as the *Student Protection Guidelines*. A full list of delegated officers under section 159M(2) and 159N, *Child Protection Act 1999* is outlined in the DET's Legislative Delegations, 'Delegations of Director-General's Powers, s159M and s159N of the Child Protection Act 1999' (May 2014). Included in this list is staff at a school, regional and central office level<sup>237</sup>. The DET has advised this document was reviewed and updated with a new version released in March 2016.

The DET's 'Disclosing Personal Information to Law Enforcement Agencies' procedure outlines protocols for disclosing a student's personal information and a non-student's personal information to law enforcement agencies.

<sup>237</sup> This list is located at <http://ppr.det.qld.gov.au/pif/authorities/Authorities%20and%20Delegations/Director-Generals%20delegations%20under%20Child%20Protection%20Act%201999.pdf>.

Although the ‘*Disclosing Personal Information to Law Enforcement Agencies*’ procedure (28/1/15: version 3.2) states a written request must be received, the delegated officer can release information without a written request when necessary to divert a ‘serious risk to the life, health or safety of a person’ or when in the ‘public interest’. The release of information is completed in a ‘timely’ manner and the appropriate forms used. Following are directions for determining if circumstances exist to warrant disclosure of personal information to the QPS:

***Guidelines for determining ‘serious risk to the life, health or safety of a person’***

*A disclosure of personal information on this basis should be made only in emergency situations. The risk must be significant and require disclosure of information to assist in averting the risk of bodily injury, illness, death or a threat to a person’s safety. The threat does not have to apply to an identifiable person and could be a threat to the public generally.*

***Guidelines for assessment of the ‘public interest’***

*The term ‘public interest’ has no fixed meaning. What is ‘in the public interest’ will vary according to the circumstances.*

*Public interest considerations should be weighed up and considered in light of the right of a student to have the confidentiality of her/his personal information protected.*

Some of the examples of public interest considerations include:

- *protection of children*
- *open and accountable government.*

***Guidelines for assessment of the ‘public interest’***

*In making the decision as to whether disclosure is in the public interest, the decision maker is required to consider all of the relevant circumstances of the matter.*

*The person requesting disclosure must provide detailed information justifying their request so the decision maker is in a position to weigh the competing interests. Failure to provide this*

*information may result in the balance remaining in favour of preserving confidentiality<sup>238</sup>.*

The DET has several procedures and guidelines providing specific processes for information sharing. The DET procedures are clear in highlighting the specific legislative frameworks governing these procedures and the responsibilities place on the identified officers. These procedures do require a certain level of interpretation in the circumstances of a child missing from out-of-home care. Provision of information from the requestor, such as the QPS, may be required to assist a DET employee to determine and clearly understand their responsibilities and respond appropriately. The level of skill and experience an employee has in undertaking such an assessment could impact on the level and timely provision of information to another government agency when responding to a child from out-of-home care.

### A5.3.2 School-based Police Officers

The QPS has a presence in some state secondary schools as part of the School Based Policing Program. This program is a joint initiative between the QPS and the DET and operates under a Memorandum of Understanding with funding provided by QPS. In 2013, the then government committed to increasing the program to 50 School-based Police Officer positions serving 55 schools<sup>239</sup>.

School-based Police Officers, ‘*form partnerships within the school community to identify and develop appropriate community safety and crime prevention strategies that address local issues and are aimed at ensuring Queensland school communities are safe and secure*’<sup>240</sup>. The duties and responsibilities of School-based Police Officers are determined at a regional

<sup>238</sup> Department of Education and Training 2015, ‘*LEA 1: Request to release personal information to assist in averting a serious risk to the life, health or safety of a person OR where the disclosure is in the public interest*’, Queensland Government, p.3 and p.4, Accessed 17 December 2015, [ppr.det.qld.gov.au/education/community/Procedure%20Attachments/Disclosing%20Student%20Personal%20Information%20to%20the%20Queensland%20Police%20Service/LEA-1.DOC](http://ppr.det.qld.gov.au/education/community/Procedure%20Attachments/Disclosing%20Student%20Personal%20Information%20to%20the%20Queensland%20Police%20Service/LEA-1.DOC).

<sup>239</sup> Information provided by the Queensland Police Service to QFCC, 12 April 2016, formal consultation.

<sup>240</sup> Department of Education and Training 2013, ‘*School-based Police Officers*’, Accessed 22 December 2015, <http://education.qld.gov.au/schools/healthy/school-based-police-officers.html>.

Tiahleigh's carer advised the school on Monday 2 November 2015 that Tiahleigh's disappearance was reported to the QPS. Her carer also spoke with the school's Guidance Officer.

The School-based Police Officer provided local, on-the-ground assistance on the same day through making inquiries with school staff and students.

On the following day, the School-based Police Officer conducted patrols to try to locate Tiahleigh.

level. There can be some variations across regions depending upon the needs of the region<sup>241</sup>.

Commonly, this program supports student welfare, students at risk of offending or becoming involved in the juvenile justice system, assists children to understand law and legal processes and encourages the school community to implement strategies to prevent crime and support proactive policing. Where appropriate, School-based Police Officers may deal with police-related matters within the community<sup>242</sup>.

There is no reference in this program's Memorandum of Understanding (this is currently under review) or staff induction booklet to procedures relating to a School-based Police Officer's role in missing persons investigations. However, regions can allocate resources as necessary and may use the connections made by School-based Police Officers in schools to facilitate the gathering of information for a missing person investigation<sup>243</sup>.

In consideration of the primary role of the QPS in a missing person case, a School Based Policing Program which targets risk factors to prevent occurrences, provides community education and support around missing person investigations could benefit students and the community to better understand risks and issues when a child is missing. However, the School Based Policing Program is currently offered in no more than 50 schools and there is no valid way of confirming

that the proportion of children from out-of-home care who are at risk of going missing would have access to this service<sup>244</sup>.

Another initiative in some schools is the 'Adopt-a-Cop' or 'Adopt-a PLO' program where a volunteer police officer or Police Liaison Officer (PLO) attends a school. The aim of this program is to build positive relationships between the QPS and the school community. Although this program generally operates in primary and secondary schools it may also operate in special schools, early childhood centres and community groups<sup>245</sup>. This is not a direct service delivery program like the School-based Policing Program, however plays an important role in supporting children to develop positive relationships and to feel comfortable approaching and speaking with a police officer.

## A5.4 The role and use of CCTVs in schools

Some public comments surrounding Tiahleigh's case involved an appeal for the installation of closed-circuit television (CCTV) systems in schools as a way to assist missing person's investigations. The DET advised as of 15 January 2016 there is in excess of 202 schools that have CCTV systems of varying sizes and capability.

CCTV systems in schools are used to monitor and respond to issues of deliberate damage to school facilities during school hours and possible evidence gathering after hours. CCTV installations are managed in accordance with technical specifications being

<sup>241</sup> Information provided by the Queensland Police Service to QFCC, 4 March 2016.

<sup>242</sup> Department of Education and Training 2013, 'School-based Police Officers', Queensland Government, Accessed 22 December 2015, <http://education.qld.gov.au/schools/healthy/school-based-police-officers.html>.

<sup>243</sup> Information provided by the Queensland Police Service to QFCC, 4 March 2016.

<sup>244</sup> Information provided by the Queensland Police Service to QFCC, 12 April 2016, formal consultation.

<sup>245</sup> Queensland Police Service 2014, 'Adopt-a-Cop', Queensland Government, Accessed 11 March 2016, <https://www.police.qld.gov.au/programs/cscp/schools/adoptcop/>.

developed by the School Security Program in partnership with qualified third party consultants and are subject to available funds<sup>246</sup>.

Although the QPS may look at CCTV footage as part of its investigation process to confirm a last known sighting of a missing person, the installation of CCTVs in schools is not specifically undertaken to assist missing person's investigations.

The risks and benefits to missing person investigations around all schools installing CCTVs is unclear and further research into this issue would be required. Therefore no relevant findings are made in this report.



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**Kate Jones, Education Minister,**

*states CCTV cameras have been provided to any principal who requested them. She further states, 'I think all principals have to have a look at the security at their school... there is funding available for security cameras and other security measures where principals feel they need to toughen up'<sup>247</sup>.*

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<sup>246</sup> Information was provided by the Department of Education and Training to QFCC, 15 January 2016.

<sup>247</sup> ABC News 2015, 'Tiahleigh Palmer suspected murder: school security debated as community mourns 12yo girl', *ABC News online*, Accessed 15 January 2016, <http://www.abc.net.au/news/2015-11-09/candlelight-vigl-12yo-tiahleigh-palmer-security-cameras/6922926>.

# Appendix 6

## The role of Queensland Health (QHealth)

QHealth is responsible for managing Queensland's public health system. Public health services are provided through 16 Hospital and Health Services which are each governed by a Hospital and Health Board.

When a child is reported as missing, QHealth may be contacted by the QPS to obtain information about the child's health history, particularly if the child has ongoing or recent health concerns which are relevant to the missing person investigation.

Children's Health Queensland Hospital and Health Service is a specialist state-wide service providing patient and family centred care to children and young people from across Queensland. This service operates out of the Brisbane metropolitan area, but works in partnership with other hospital and health services in Queensland to deliver children's services across the state<sup>248</sup>.

### Finding

Government agencies appear to have limited awareness of the Children's Health Queensland Hospital and Health Service. Children's Health Queensland has specific areas of state-wide responsibility including being consulted in the development of state-wide policies and guidelines relating to children's health and wellbeing. This service was not identified in any information provided by QHealth to the Review team.

### Refer recommendation – 18.

<sup>248</sup> Information provided by the Children's Health Queensland Hospital and Health Service to QFCC, 17 March 2016.

### A6.1 Defining children who are missing or 'absent from placement'

There is no specific information in QHealth policies or procedures for defining a child as missing or 'absent from placement' for the context of this review.

### A6.2 QHealth legislative framework for responding when a child from out-of-home care is missing

QHealth has no legislative provision for responding when a child is missing from out-of-home care.

The objective of the *Public Health Act 2005* 'is to protect and promote the health of the Queensland public'<sup>249</sup>. One of the ways in which this is achieved is through 'protecting children who have been harmed or are at risk of harm when the children present at health service facilities'<sup>250</sup>.

Chapter 5, Part 3, *Public Health Act 2005* provides provisions in relation to child abuse and neglect matters. The overarching principle is 'the welfare and best interests of a child are paramount'<sup>251</sup>. One of the provisions provides for the relationship with the *Child Protection Act 1999*<sup>252</sup>. Where there is an inconsistency between orders under the *Public Health Act 2005* and the *Child Protection Act 1999*, the staff member must firstly comply with the requirements of the order under the *Child Protection Act 1999*<sup>253</sup>. Therefore, when actions are taken by the Chief Executive of Child Safety Services under the *Child Protection Act 1999*, for a child

<sup>249</sup> *Public Health Act 2005* (Qld), s.6.

<sup>250</sup> *Public Health Act 2005* (Qld), s.7(d).

<sup>251</sup> *Public Health Act 2005* (Qld), s.185(1).

<sup>252</sup> *Public Health Act 2005* (Qld), s.186.

<sup>253</sup> Queensland Health 2015, 'Guideline Care and Treatment Order for a Child', Queensland Government, Accessed 13 April 2016, <https://www.health.qld.gov.au/qhpolicy/docs/gdl/qh-gdl-942.pdf>.



missing from out-of-home care, QHealth, including Hospital and Health Services employees, are guided by the provisions of the *Child Protection Act 1999*.

In addition, the *Hospital and Health Boards Act 2011*, ‘provides safeguards to protect the confidentiality of information that identifies persons who have received public sector health services’<sup>254</sup>. One of the guiding principles is, ‘the best interests of users of public sector health services should be the main consideration in all decisions and actions under this Act’<sup>255</sup>.

Part 7, *Hospital and Health Boards Act 2011* provides clear guidelines for when confidential information may be disclosed by a Designated Person<sup>256</sup>. Some of the exceptions provided include, when the disclosure is required or permitted by an Act or law; is in a child’s best interests; is necessary to assist in lessening or preventing a serious risk to life, health or safety of a person; the relevant Chief Executive has in writing authorised the disclosure; or the disclosure is to a person for the protection, safety or wellbeing of a child. These sections are summarised in Attachment 4.

The legislative frameworks within health relating to protecting a person’s confidential information are important so as not to deter individuals from seeking required health and medical assistance through the public health system. However, it does not appear to be the intent of these provisions to limit designated health staff from disclosing confidential information about a child reported missing from out-of-home care to another government agency if it relates to the child’s best interests, protection, safety or wellbeing.

### A6.3 QHealth procedures for responding when a child from out-of-home care is missing

QHealth’s ‘*Information sharing in child protection*’ guideline (19/01/2015) supports Hospital and Health Services to have consistent and best practice for information sharing.

The ‘*Information sharing in child protection*’ guideline (19/01/2015) identifies the responsibilities of employees, contractors and consultants in relation to the *Child Protection Act 1999*. This guideline stipulate staff legislated responsibilities (as previously outlined in this appendix), such as:

- delegated staff members are tasked with making the determination of whether they consider information in their possession to be relevant information as per the definition in the *Child Protection Act 1999* (outlined previously in this appendix). If a staff member is unable to determine this they are guided to seek appropriate internal advice such as from legal services, the Child Protection Liaison Officer, or the Child Protection Advisor
- if Child Safety Services requests information under section 159N(1), *Child Protection Act 1999* relevant information regarding the child is to be provided to the Chief Executive or delegated officer of Child Safety Services
- staff are to comply with section 159M, *Child Protection Act 1999* in sharing relevant information with other prescribed entities and service providers, such as the Chief Executive of DET, Child Safety Services (or authorised officer) or the Police Commissioner
- staff are to share ‘confidential information’ in accordance with section 159O, *Child Protection Act 1999*
- staff are to comply with confidentiality requirements of Part 7, section 142, *Hospital and Health Boards Act 2011*, unless section 145 applies
- Staff are to comply with privacy requirements in the National Privacy Principles set out in Schedule 4, *Information Privacy Act 2009*. This includes information collected about children and their families as a result of providing services to them.

All information sharing undertaken by QHealth is to be recorded and filed. The ‘*Information sharing in child protection*’ guideline also directs staff to the ‘*Reporting a reasonable/reportable suspicion of child abuse and neglect*’ guidelines.

<sup>254</sup> *Hospital and Health Boards Act 2011* (Qld), s.12.

<sup>255</sup> *Hospital and Health Boards Act 2011* (Qld), s.13(a).

<sup>256</sup> ‘Designated persons’ is defined in Appendix 4 of this review.



Child Protection Liaison Officers provide one point of contact regarding child protection matters for QHealth staff, the QPS and Child Safety Services regarding Hospital and Health Service clients.

The Memorandum of Understanding for 'Confidential information disclosure' (26/07/2013: 1) between Health and the QPS outlines processes for disclosing confidential information.

This Memorandum of Understanding (MOU) for 'Confidential information disclosure' (26/07/2013: 1) encourages a Designated Person<sup>257</sup> to disclose verbally and in writing certain confidential information relating to alleged criminal offences and missing persons to the QPS in accordance with the MOU.

In relation to missing persons this MOU states:

*From time to time the QPS require certain confidential information to locate and confirm the safety of a missing person. In some instances, the QPS may not suspect a missing person has engaged in alleged criminal conduct, but the Department of the HHS [Hospital and Health Service] may hold certain confidential information, which can assist the QPS with missing persons investigations. Disclose of certain confidential information in these circumstances is provided for at clause 4.3 of this MOU<sup>258</sup>.*

- Clause 4.3 - QPS Requesting information from Designated Persons to assist with locating missing persons states,  
*Where the QPS is attempting to locate a Missing Person who is a current or former Patient, a Designated Person may disclose the following Confidential Information to QPS officers, upon request by a QPS officer:*

- *where QPS officers provide the Designated Person with the Patient's name:*
  - *confirmation that the Patient attended the Facility; and*
  - *the Patient's contact details; and*
  - *if relevant, the Patient's General Medical Condition; or*
- *where QPS officers provide a sufficient description of the Patient to enable the Designated Person to identify the patient:*
  - *the Patient's name; and*
  - *the Patient's contact details; and*
  - *if relevant, the Patient's General Medical Condition.*

*A Designated Person may disclose Confidential Information under clause 4.3 in a statement to the QPS to assist them to locate a Missing Person<sup>259</sup>.*

- Clause 4.4. of the MOU allows a Designated Person to provide a statement to the QPS to locate a missing person subsequent to the QPS obtaining confidential information via other lawful means.
- Clause 4.4 - Designated Persons providing written statements to the QPS states,  
*To remove doubt, the following provisions operate in conjunction with section 43 of the HHB Act [Hospital and Health Boards Act 2011] allowing disclosure of Confidential Information required or permitted by law, for example, under a search warrant and may also operate in conjunction with section 160 of the HHB Act where a Public Interest Disclosure has been obtained.*  
*In addition to the provision of a Statement in the circumstances outlined in clauses 4.1.2, 4.2.2 and 4.3.2 of this MOU, a Designated Person may provide a statement to assist the QPS to:*
  - *investigate an alleged Criminal Offence, regardless of where it occurred; and/or*
  - *prosecute an Alleged Offender; and/or*
  - *locate a Missing Person;*

<sup>257</sup> 'Confidential information' and 'designated person' is defined in the *Hospital and Health Boards Act 2011* (Qld), s.139.

<sup>258</sup> Memorandum of Understanding between Queensland Health and Queensland Police Service 2013, 'Confidential information disclosure', Queensland Government, section E, p.3.

<sup>259</sup> Memorandum of Understanding between Queensland Health and Queensland Police Service 2013, 'Confidential information disclosure', Queensland Government, p.7-8.

*subsequent to the QPS obtaining evidence containing Confidential Information via other lawful means such as a search warrant or a subpoena.*

*For example, where the QPS execute a search warrant and obtain a Patient's Health Records containing Confidential Information, a Designated Person, at the request of the QPS, is authorised to give a Statement to provide any additional Information, context, meaning, opinion and/or other comments about the Confidential Information contained in the Health Record<sup>260</sup>.*

The MOU generally requires the QPS to request information via letter, email, facsimile, in person contact by a QPS Liaison Officer. The QPS is to explain the purpose for which they require the confidential information and the type of confidential information considered relevant. However, the final decision on relevance is up to the Designated Person.

Any statements obtained by the QPS through this MOU may be disclosed to third parties by the QPS for the purposes intended under this MOU, without approval under section 151(2) of the *Hospital and Health Boards Act 2011* or reference back to QHealth, or a Hospital and Health Service<sup>261</sup>.

Although this MOU states preference for patient consent to the disclosure of confidential information be sought where appropriate, disclosure can still occur without this. Disclosing confidential information relating to a missing person to the QPS under this MOU does not negate a Designated Person's responsibilities to report certain conduct to other regulatory bodies, if relevant, including reporting child protection concerns as per the *Child Protection Act 1999* to Child Safety Services. This MOU states parties will acknowledge the conditions of disclosing confidential information, observe the confidentiality of the information disclosed under this MOU and each party has their own legislative requirements with respect to collection, use and disclosure of information<sup>262</sup>.

<sup>260</sup> Memorandum of Understanding between Queensland Health and Queensland Police Service 2013, '*Confidential information disclosure*', Queensland Government, p.8.

<sup>261</sup> Memorandum of Understanding between Queensland Health and Queensland Police Service 2013, '*Confidential information disclosure*', Queensland Government, p.9-10.

<sup>262</sup> Memorandum of Understanding between Queensland Health and Queensland Police Service 2013, '*Confidential information disclosure*', Queensland Government, p.12-14.

# Appendix 7

## The role of the Office of the Public Guardian (OPG)

The OPG is an independent statutory body with responsibilities to support and protect the rights of children living in out-of-home care. One way to do this is through the Community Visitor Program (CVP).

If a Community Visitor (CV) becomes aware through contact with a child's carer that the child is reported as missing, the CV may contact Child Safety Services to confirm they have been notified and share relevant information to assist the QPS missing person investigation.

### Office of the Public Guardian

*If a child is running away, something is missing for them, something is not right.*

Different perspectives from parties involved in the child's life need to be considered in terms of how to best manage a child running away. Furthermore, how a child's information is interpreted and assessed for risk, can vary between agencies. This highlights a need to train staff to build skill and experience in undertaking a risk assessment when a child is missing or at risk of going missing<sup>263</sup>.

According to the OPG, a CV is to visit every child coming into care, or re-entering care. The frequency of face-to-face visits depends on the child's needs. A child can also make contact directly with their CV by phone or email between visits<sup>264</sup>.

<sup>263</sup> Statements made by Office of the Public Guardian staff (Catherine Moynihan, Leanne Goodwin and Trevor Gear) during meeting with the QFCC, 10 December 2015.

<sup>264</sup> Office of the Public Guardian, 'Fact sheet for children and young people. How can you community visitor (CV) help?' Accessed 10 December 2015, [http://www.publicguardian.qld.gov.au/\\_\\_data/assets/pdf\\_file/0008/447866/opg-factsheet-community-visitors-children-final.pdf](http://www.publicguardian.qld.gov.au/__data/assets/pdf_file/0008/447866/opg-factsheet-community-visitors-children-final.pdf).

### A7.1 Prioritising visits by Community Visitors

Section 57 of the *Public Guardian Act 2014* is used by the OPG, CVP, to determine how often a child should be visited<sup>265</sup>. As a general principle, more frequent visits (monthly or bi-monthly) occur for:

- children under six (6) years of age
- children who are non-verbal
- children new to care, re-entering care, new to placement, placement breakdowns
- children at visitable sites
- children with high or complex needs
- children with physical or intellectual disability or high health care needs
- Indigenous children
- children leaving care (e.g. nearing reunification, transitioning from care)
- children who have repeated issues/concerns raised
- children known to the youth justice system.

Children residing in residential facilities or youth detention are visited monthly. The OPG is currently reviewing its practice framework to ensure CVs have a sound appreciation of risk for a child and the relevant factors involved. The OPG is working to document guidelines to determine or assess visiting frequency, which will involve a policy on setting a visiting schedule, accompanied by practice guidelines as part of its review<sup>266</sup>.

<sup>265</sup> A visitable home and visitable site is defined in the *Public Guardian Act 2014*, s.51. Generally a visitable home is an out-of-home care placement. A visitable site for a child means a residential facility, detention centre, boot camp, corrective services facility or an authorised mental health service where the child is staying.

<sup>266</sup> Information provided by the Office of the Public Guardian to QFCC, 15 February 2016.

This Queensland Child Protection Commission of Inquiry supported the continuation of the CVP in Queensland for children living in out-of-home care. It recommended those children considered ‘most vulnerable’ included children at risk of being absent from their placement and for these children to continue to be regularly visited by a CV<sup>267</sup>.

### Finding

The OPG is currently reviewing its Practice Framework, which will include development of guidelines to determine visiting frequency. The Queensland Child Protection Commission of Inquiry highlighted the need for CVs to frequently visit children who are absent from their placement as one identified group of most vulnerable children. This is reflected in section 57(2)(f), *Public Guardian Act 2014*, ‘whether a child has moved out of visitable locations without the approval of the chief executive (child safety), as one of the factor the Public Guardian may have regard to when deciding whether to visit a child’.

**Refer recommendation – 15.**

## A7.2 OPG procedures for responding when a child is missing from out-of-home care or absent from their placement

The ‘*Business operations and information exchange protocol*’ (January 2015), between Child Safety Services and the OPG outlines the role and responsibilities of the OPG in visiting children staying at a visitable home or site, the principles of working together, reporting harm to a child to Child Safety Services and exchanging information in the best interests of the child.

The ‘*Business operations and information exchange protocol*’ (January 2015) identifies CVs seek to resolve concerns for a child at a local level with Child Safety Services and more complex matters involving legal proceedings affecting a child with lawyers and advocates for the OPG. This protocol does not identify specific information exchange processes between agencies in the circumstances of a child missing from out-of-home care. The OPG has provided information which is outlined below about proactive examples of their information exchange processes with Child Safety Services.

If a CV is aware a child is absent from their placement due to reports they felt they did not fit in at the placement, or were too far from family, the CV will advocate for a more appropriate placement for the child. In circumstances where the QPS needs to be made aware of the matter, such as where the absence from placement impacts on a child’s bail conditions or reporting requirements, the QPS will be contacted.

When a CV becomes aware a child’s placement has ended due to a child ‘self-placing’, the CV will determine whether further action is required to support the child. This includes confirming with the placement provider or Child Safety Services whether they are aware of where the child has gone and whether the QPS should be contacted. The response of a CV will be dependent on the particular individual case.

In cases where the child has ‘self-placed’, the CV will seek to monitor the child or that a safety plan is in place, as appropriate. If the child has self-placed with family, the CV will work with Child Safety Services to determine whether the placement is safe, or could be safe with appropriate supports. This may result in a change to the child’s order or the child leaving care if they are no longer considered to be in need of protection.

If a child has ‘self-placed’ at another location, the CV may determine it would be appropriate to seek supports to help the child transition to independence<sup>268</sup>.

<sup>267</sup> Queensland Child Protection Commission of Inquiry 2013, ‘*Taking responsibility: A roadmap for Queensland child protection*’, Queensland Government, p.415.

<sup>268</sup> Information provided by the Office of the Public Guardian, Community Visitor Program to QFCC, 24 December 2015.

Generally, a CV is assigned to a ‘visitable location’ (for example a foster or kinship carer placement, residential site or supported accommodation) rather than to a child. In this regard, the CV could develop a longer relationship with the care provider than the child. When the child moves to another placement, the CV generally does not move with them. The CV would only stay the same for the child if the CV also visits the child’s new placement location. When this is not the case, the child will be allocated the CV assigned to their new placement location.

Although appropriate handover and/or introductions are undertaken this change may impact on the child’s ability to form a trusting relationship with the CV if they think the CV is connected to the placement location (hence the carer) rather than to them. This is particularly relevant if the child experiences several placement changes and subsequently several different CVs during their time living in out-of-home care. The OPG has advised CV training emphasises the CVs role as being the voice of the child and not the carer and also reinforces this important message through communications with foster care agencies. The OPG advises decision-making in allocating a CV will seek to accommodate the best interests of the child wherever possible<sup>269</sup>.

<sup>269</sup> Information provided by the Office of the Public Guardian, Community Visitor Program to QFCC, 22 February 2016.



# Appendix 8

## Approaches of other Australian and international jurisdictions

Some of the international guidance and protocols around joint partnership responses by government and non-government agencies for children who run away or go missing from care, stress the importance of having consistent, agreed definitions of occurrences such as ‘missing’, ‘runaway’, ‘abducted’ and ‘away from placement without authorisation’. These documents include:

- Department of Education (January 2014), *‘Statutory guidance on children who run away or go missing from home or care’*, United Kingdom.
- Trafford Safeguarding Children Board, *‘Children and young people who go missing from care’*, United Kingdom.
- Bristol Safeguarding Children Board (January 2015: Part 3), *‘Strategy for children missing from home or care’*.
- Child Welfare League of United States of America (2005), *‘Children missing from care: The law-enforcement response’* and the *‘Best Practice Guidelines: Children missing from care’*, United States.
- Workingham Children’s Services Procedures Manual (October 2015), section 1.4.4, *‘Missing and absent children and young people’*.

In relation to publicly commenting about a child missing from out-of-home care, in the United Kingdom, the Trafford Safeguarding Children Board, states they will consult with the relevant child protection agency however the police *‘reserve the right to publicise the child if there are serious concerns for the welfare of that child’*. They are however to inform the agency so the agency can inform the parents. They also inform the ‘Missing People’ charity of all high risk cases within four hours of them being reported, medium risk cases within 72 hours and low risk within 14 days of them being reported. Additionally, they may also

use the United States of American National Centre for Missing and Exploited Children (NCMEC) website to publish information about the child<sup>270</sup>.

The inquiry into the murder of two young girls at Soham who had been reported missing, found the need for improved information management systems, consistent understanding of critical incidents, coordinated responses and existing arrangements for providing a single point of contact for specialist advice in connection with critical incidents to be reviewed.

**Bichard (2004), The Bichard Inquiry report. London: The Stationery Office.**

**Flanagan (2002), A report on the investigation by Cambridgeshire Constabulary into the murders of Jessica Chapman and Holly Wells at Soham on 4 August 2002. Summary of conclusions and recommendations. HM Inspectorate of Constabulary.**

On August 4, 2002, Jessica Chapman and Holly Wells disappeared and were reported missing from their town of Soham, Cambridgeshire, UK. On August 17, their bodies were found. In December 2003, Ian Huntley was convicted of the murders. His partner, Maxine Carr, was convicted of conspiring to pervert the course of justice. Maxine worked as a classroom assistant at the girls’ school. Ian Huntley worked as a caretaker at another school (Flanagan, 2002).

<sup>270</sup> Trafford Safeguarding Children Board 2016, *‘Children and young people who go missing from care’*, p.13, Accessed 6 January 2015, <https://www.trafford.gov.uk/about-your-council/children-families-and-wellbeing/docs/childrens-homes-policies-and-procedures/children-and-young-people-who-go-missing-from-care.pdf>.

Huntley was known to the police in relation to eight sexual offences. This information was not found during Huntley's pre-employment check.

The Bichard Inquiry was established in 2004 to examine the child protection procedures in Humberside Police and Cambridgeshire Constabulary (Bichard, 2004).

The initial response by police on the evening of August 4 was good, but 'when details of the incident were recounted to the on call senior officer covering the area, a decision was made which effectively resulted in nothing further being done until officers reported on early shift... A greater sense of urgency could and in my view should have been immediately adopted to recognise the critical nature of this incident...' (Flanagan, 2002).

On the morning of August 5, the matter was still being treated as a routine missing-from-home enquiry. It was not until the afternoon of August 5, a sense of urgency became apparent among senior officers (Flanagan, 2002).

Some recommendations from the Bichard Inquiry relevant to this review included:

- A national IT system for England and Wales to support police intelligence should be introduced as a matter of urgency.
- The Code of Practice must clearly set out the key principles of good information management (capture, review, retention, deletion and sharing), having regard to policing purposes, the rights of the individual and the law.
- Introduce a 'register' for those who wish to work with children, or vulnerable adults.
- All posts, including those in schools, involve working with children and vulnerable adults, should be subject to the Enhanced Disclosure regime.

Some recommendations from the Flanagan report relevant to this review included:

- During this review, it became apparent, at national level, there is an inconsistency of understanding as to the nature of critical incidents and the implication for forces dealing with them. It is recommended Association of Chief Police Officers agree a definition and a clear framework to facilitate the management of such incidents and for which suitable training can be provided.
- The ACPO (Crime) and the National Centre for Policing Excellence consider how mutual aid arrangements for major investigations can be enhanced, for example along the lines of arrangements in relation to public disorder.
  - Comment: This consideration to include the concept of small forces pooling investigative resources or individual lead forces being identified as centres of excellence for specific types of investigation, even beyond their force boundaries.
- The National Centre for Policing Excellence review existing arrangements for providing a single point of contact for specialist advice in connection with critical incidents.
- Once it becomes clear the matter is a critical incident, a chief officer should formally consider the demands on the Senior Investigating Officer and who is best placed to meet those demands so appropriate appointments are made. This decision and the related considerations should be formally recorded.

During November and December 2015, a scan of legislative frameworks relevant to this review was conducted across each Australian state and territory and New Zealand. Specific sections of legislation identified as being relevant to this review is outlined in Attachment 4. As each Australian state and territory has its own legislative frameworks governing responses by agencies when responding to a child missing from out-of-home care, there is no overarching national approach.

Some agencies and research bodies have worked hard to raise the profile of missing person’s issues in Australia. The Australian NMPCC intends their ‘PLEASE’ (Prevention, Location, Education, Awareness, Support and Evaluation) policy framework (also known as ‘PLEaS’ principles) becomes a national integrated approach for agencies and individuals when responding to missing persons issues.

PLEASE FRAMEWORK

This framework involves:

- **Prevention:** identifying measures to prevent people from going missing and presenting options for people in crisis.
- **Location:** promoting and facilitating a national coordinated approach to the early location of missing persons.
- **Education:** improving agency responsiveness to missing persons and their families.
- **Awareness:** heightening the profile of missing persons and associated issues and impacts.
- **Support:** addressing the impact on families and friends and providing access to appropriate support.
- **Evaluation:** ensuring value is added through evaluating programs and agency responses<sup>271</sup>.

The concepts underlying the PLEASE framework are not new. The PLEASE framework is similar to other principles and approaches described in various international research studies on the topic of missing persons. However, despite the work undertaken by the Australian NMPCC, Australian search agencies and groups such as the New South Wales Families and Friends of Missing Persons Unit, little progress has been made in Queensland or Australia to maintain missing person’s issues, particularly for children, as a government priority.

271 Australian Federal Police, ‘Going missing is not a crime – but there are alternatives’, Fact Sheet, National Missing Person Coordination Centre, Accessed 15 January 2016, <http://www.missingpersons.gov.au/~media/mp/files/pdfs/please%20policy%20principles.pdf>.

Given the risks to a person’s safety and wellbeing when they go missing, more steps could be taken to assist the community to better understand missing person’s issues. There is a need for more research specific to children who go missing, including children from out-of-home care, Aboriginal and Torres Strait Islander children, children from CALD backgrounds, children who have an intellectual disability and children for whom sexual orientation may be a risk factor for going missing. Furthermore, data relating to missing persons in Australia should be released annually by law enforcement agencies and by child protection agencies for those children missing from out-of-home care. This will assist to learn more about the extent of this issue.

Additionally, further education and support is required for agencies, workers, carers, children and the public on the best ways to identify and respond to children who may be at risk of going missing or who are reported missing, regardless of whether they reside with their parent/guardian or are from out-of-home care. This may assist in building confidence in current and future processes of responding to missing children and, not surprisingly, increase positive outcomes for children and their families.

A8.1 Family Court of Australia – Magellan

Finding

Although collaborative processes exist between the QPS Missing Persons Unit and the local police station assigned a missing person investigation, there could be benefits in enhancing the overall strategic responsibility of missing person investigations. This would involve developing a case-management system to better liaise with Child Safety Services and other relevant agencies to conduct risk assessment and construct an appropriate plan according to risk.

*Refer recommendation – 2.*

In Australia, Magellan is a case-management model used by the Family Court of Australia in post-separation matters involving serious allegations of physical or sexual abuse of children<sup>272</sup>. The Magellan model is used in all states and territories of Australia, except for Western Australia<sup>273</sup>. It involves significant collaboration with agencies external to the court, such as child protection agencies and aims to expedite cases through the court processes and reduce trauma for children.

When a person applies for a parenting order and includes a *Notice of Child Abuse, Family Violence, or Risk of Family Violence* (Form 4)<sup>274</sup>, the case is recorded on the Magellan list. The case is managed by the Magellan team, including judges, registrars and family consultants; ideally, the same team manages the case for the entire process. Initial steps include making interim orders to protect the child until the case comes to trial; ordering a report from the child protection agency; and ordering appointment of an independent children's lawyer<sup>275</sup>. The aim is to finalise Magellan cases within six months of their being placed on the Magellan list.

The Family Court of Australia and the Australian Institute of Family Studies reviewed the Magellan model<sup>276</sup>. Stakeholders identified Magellan processes were characterised by cooperation between agencies, a focus on children's best interests and timeliness of dealing with cases.

The review of the Magellan model also compared Magellan cases with Magellan-like cases, which is similar cases dealt with prior to the adoption of the

Magellan procedure<sup>277</sup>. The review showed Magellan cases had fewer court events (6.2 compared to 10.9), fewer judicial officers (3.4 compared to 5.7), a shorter total duration (shorter by 4.6 months) and had greater involvement of the statutory child protection system in comparison to Magellan-like cases.

#### A8.1.1 Developing a pilot governance model for responding to children missing from out-of-home care

There could be benefit in developing a specialist pilot governance model, similar to the Magellan model to review systems and databases to better record information about missing children and review risk assessment processes to better understand vulnerabilities.

The proposed model could look to address systemic issues and undertake research and advocacy as required on missing person's issues.

Additionally, the proposed model would support improved communication between agencies and develop specialist strategic operational responses. This would be achieved through leveraging off existing localised governance teams within the QPS (including the QPS Missing Persons Unit) and Child Safety Services who provide direct responses to children missing from out-of-home care and the SCAN team system.

Similar to the Magellan model, the proposed model could review appropriateness of local risk assessments and missing children investigation plans right from the start of the investigation. The model could look to fast track and 'front load resources' and recommend appropriate child-focused responses to local teams including:

- access to school, health or welfare records
- expert input and assessments
- additional police officers or other agency personnel to work in coordination or enlisting community support
- information from relevant state or territory welfare authorities early in the information gathering phase.

<sup>272</sup> Higgins, D. J. 2007, 'Cooperation and coordination: An evaluation of the Family Court of Australia's Magellan case-management model', Canberra: Family Court of Australia.

<sup>273</sup> Family Court of Australia 2007, 'Family Court processes evaluated', Accessed 18 February 2016, <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/reports-and-publications/media-releases/2007/>.

<sup>274</sup> Higgins, D. J. 2007, 'Cooperation and coordination: An evaluation of the Family Court of Australia's Magellan case-management model', Canberra: Family Court of Australia.

<sup>275</sup> Family Court of Australia 2015, 'Child abuse allegations', Accessed 18 February 2016, <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/family-law-matters/family-violence/child-abuse-allegations>.

<sup>276</sup> Higgins, D. J 2007, 'Cooperation and coordination: An evaluation of the Family Court of Australia's Magellan case-management model', Canberra: Family Court of Australia.

<sup>277</sup> Higgins, D. J 2007, 'Cooperation and coordination: An evaluation of the Family Court of Australia's Magellan case-management model', Canberra: Family Court of Australia.

Through the proposed model non-government agencies or experts could be brought in to assist in reviewing information and providing recommendations for local team responses.

## Finding

The Magellan model used by the Family Court of Australia highlights the benefits and efficiencies in an overall strategic model of responsibility for particular cases. This model could be applied to missing person investigations involving children, including children from out-of-home care.

The proposed model would be established to provide strategic operational responses for children missing from out-of-home care. However once established and reviewed consideration could be given to expanding the model to include all missing children reported to the QPS.

The benefits of implementing a model similar to the Magellan model for missing person investigations for children should be explored. Under such a model, information about children missing from out-of-home care cases would be forwarded to the pilot team for the entire investigation to enhance the overall strategic responsibility and efficiency of the investigation.

The proposed model would make recommendations around issues such as consistent recording of information, best practice risk assessment frameworks, fast track high risk cases of children missing from out-of-home care and make recommendations to support immediate appropriate responses and investigation plans by local teams.

## Refer recommendation – 2.

## A8.2 Law enforcement agencies

In each Australian state and territory the police take a recognised lead role in directly responding to and investigating reports about missing person occurrences. Their responses are governed by the legislative frameworks, policies, procedures and guidelines of their jurisdiction.

Throughout Australia reporting a person as missing is not a crime, nor is it a crime to go missing. In addition, there is no waiting period, you do not have to wait 24 hours to report someone missing. This is also consistent with New Zealand practices<sup>278</sup>.

The NMPCC defines ‘missing’ as *‘anyone who is reported missing to the police, whose whereabouts is unknown and there are fears for the safety or welfare of that person’*<sup>279</sup>. The QPS (Operational Procedures Manual) defines ‘missing’ as *‘a person, whether an adult or child, reported to police whose whereabouts are unknown and where there are fears for the safety or concerns for the welfare of that person’*<sup>280</sup>.

Across Australian states and territories the following definitions are used to define a ‘missing person’:

- New South Wales – *‘anyone who is reported missing to police, whose whereabouts are unknown and there are fears for the safety or concern for the welfare of that person’*<sup>281</sup>.
- Australian Capital Territory – *‘any person, whether an adult or child, reported to police whose whereabouts are unknown and where any of the following conditions apply: fears for their safety; concerns for their welfare; suspicious circumstances’*

<sup>278</sup> Australian Federal Police 2015, ‘Filing a report’, National Missing Persons Coordination Centre, Accessed 23 November 2015, [www.missingpersons.gov.au/report-a-missing-person/filing-report](http://www.missingpersons.gov.au/report-a-missing-person/filing-report); & New Zealand Police, ‘How to report a missing person’, Accessed 3 December 2015, [www.police.govt.nz/missing-persons/how-report-person-missing](http://www.police.govt.nz/missing-persons/how-report-person-missing).

<sup>279</sup> Australian Federal Police 2012, ‘AFP National Guideline on missing persons (ACT policing)’, National Missing Persons Coordination Centre, Accessed 23 November 2015, <http://www.afp.gov.au/~media/afp/pdf/ips-foi-documents/ips/publication-list/cn00005%20missing%20persons%20actp.pdf>.

<sup>280</sup> Queensland Police Service 2015, ‘Chapter 12 – Missing Persons’, Operational Procedures Manual, Queensland Government, Issue 49.1, Public edn.

<sup>281</sup> NSW Police Force 2014, ‘Missing Persons’, Missing Persons Unit, NSW Government, Accessed 25 November 2016, [www.police.nsw.gov.au/community\\_issues/missing\\_persons](http://www.police.nsw.gov.au/community_issues/missing_persons).



*surrounding their disappearance; a person deceased or living whose identity is unknown*<sup>282</sup>.

- Victoria – a person considered missing when they are *‘reported to police and their whereabouts are unknown; and there are fears for the safety or concerns for the welfare of that person, including any person in an institution (not including a prison or gaol)’*<sup>283</sup>.
- Tasmania – *‘a missing person is anyone reported missing to police, whose whereabouts are unknown and where there are concerns for the safety or welfare of that person’*<sup>284</sup>.
- South Australia – *‘the whereabouts of someone is unknown, you fear for their safety, you have concerns for their welfare’*<sup>285</sup>.
- Western Australian and Northern Territory – it was difficult to locate appropriate information on the police website.

In New Zealand, a missing person is defined as someone whose whereabouts are unknown and serious fears for their safety and welfare are held. Individuals must attend a police station to lodge a full missing person report<sup>286</sup>.

Each Australian state and territory has a Missing Persons Unit or equivalent which supports local police during missing person’s investigations. The Australian NMPCC website is prominent during an internet search on ‘missing person’ in Australia.

Information about how police in other Australian states and territories specifically respond when a child is reported missing from out-of-home care is not easily accessible in the public domain. Commonly, due to the high number of missing person’s reports received, Australian police rely on risk assessments to determine

case priority for investigation. Generally, priority ratings are divided into high, medium and low risk. High risk may include children and older people, other considerations to risk include risk of harm to self or the public and whether the behaviours is out of character for the missing person<sup>287</sup>.

Relevant information for responding to any person reported as missing could be located in some police handbooks, manuals or protocols, including:

- the New South Wales Police Force Handbook outlines statutory exclusions on the publication of information, including identifying a child as a ward of the state<sup>288</sup>. In relation to missing persons, the handbook states:
  - any police station can accept a missing person report and a report should be taken in person. The police officer taking the report is responsible for immediately assessing the risk to the person and community, recording the risk rating in the Missing Person Event and informing their supervisor of the report for immediate verification. All inquiries performed until the missing person is located is the responsibility of the Officer in Charge
  - the supervisor determines if it is appropriate to forward the information to another Local Area Command and ensures information is kept up to date and forwarded to the supervisor next on shift
  - details for a missing person is to be recorded onto COPS, with a warning when appropriate and the creation of a case on the Case Management System. A checklist offers a framework for managing suspicious cases is also provided<sup>289</sup>.
- the Victorian *‘Protocol between Department of Human Services – Child Protection and Victoria Police’* (2012), Chapter 18 deals with the responsibilities for each agency in the situation of a child missing from out-of-home care and states, *‘Victoria Police must take a missing persons report in respect of every child reported as missing’* and must conduct an investigation

<sup>282</sup> Australian Federal Police 2015, ‘ACT missing persons’, Accessed 24 November 2015, [www.police.act.gov.au/crime-and-safety/missing-persons/act\\_missing\\_persons](http://www.police.act.gov.au/crime-and-safety/missing-persons/act_missing_persons).

<sup>283</sup> Victoria Police 2014, ‘Missing Persons’, Accessed 24 November 2015, [www.police.vic.gov.au/content.asp?Document\\_ID=258](http://www.police.vic.gov.au/content.asp?Document_ID=258).

<sup>284</sup> Tasmania Police 2016, ‘Missing Persons’, Accessed 25 November 2015, [www.police.tas.gov.au/what-we-do/missing-persons/](http://www.police.tas.gov.au/what-we-do/missing-persons/).

<sup>285</sup> South Australia Police, ‘Missing Persons’, Accessed 3 December 2015, [www.police.sa.gov.au/services-and-events/make-a-report-to-the-police/report-missing-persons](http://www.police.sa.gov.au/services-and-events/make-a-report-to-the-police/report-missing-persons).

<sup>286</sup> New Zealand Police, ‘How to report a missing person’, Accessed 3 December 2015, [www.police.govt.nz/missing-persons/how-report-person-missing](http://www.police.govt.nz/missing-persons/how-report-person-missing).

<sup>287</sup> James, M, & Anderson, J & Putt, J 2008, ‘Missing persons in Australia’, *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia, p.xiv.

<sup>288</sup> NSW Police Force Handbook 2015, p.240 and p.250.

<sup>289</sup> NSW Police Force Handbook 2015, pp.264 - 270.

into any report of a missing person meeting the criteria for a missing person. Chapter 20 outlines the protocols for sharing information and working together at a local level. This protocol outlines a range of situations when an organisation may use or disclose information in line with the Information Privacy Principles contained in Schedule 1 of the *Information Privacy Act* and the *Children, Youth and Families Act 2005*.

- the Tasmania Police Manual states ‘*Members shall immediately attend to and investigate all reports of missing persons*’<sup>290</sup>. The manual also outlines:
  - the initial action to be taken when obtaining details for a Missing Person Report, such as notifying the parent or next of kin if they did not make the report, commencing immediate enquiries and the recording of information and checking of all relevant database systems and informing the Supervisor, Divisional Inspector, Duty Officer and/or Detective Inspector depending on the urgency of the situation and/or the circumstances surrounding the disappearance of the missing person
  - the supervisor’s responsibilities include entering the report on the database and all relevant persons have been informed of the report. It is of note that the informing supervisor is to check if a child is subject to a court order under the *Family Law Act 1975* (Commonwealth) and note this in the report. There is no mention in this section of noting if a child is from out-of-home care.
  - all responsibilities attributed to the Divisional Inspector, Detective Inspector, Commander and the Missing Persons Unit
  - within the first 24 hours of the initial report, the reporting person is to be contacted and provided with a progress update<sup>291</sup>.

#### A8.2.1 Issuing a media release

Of the guidelines reviewed for law enforcement agencies, similar processes to those found in Queensland were identified in other Australian states and territories. This included the need to assess the appropriateness and likely effectiveness of making a public statement and identifying the officers

<sup>290</sup> Tasmania Police Manual, 2010, p.321.

<sup>291</sup> Tasmania Police Manual, 2010, pp.321 – 323.

authorised to approve a media release involving a child missing from out-of-home care.

The NSW, Families and Friends of Missing Persons Unit suggests discussing with the Officer in Charge any plans to involve the media or publicise the case (including social media). Furthermore, consideration should be given to the nature of the investigation and for sensitive matters it may not be appropriate to go to the media. Consideration may need to be given to what forms of media (print, television, radio, internet) may be the most appropriate to raise the profile of the specific case<sup>292</sup>.

The NSW Police Force Handbook states an ‘Authority for Publicity’, allowing the release of information about the missing person is to be provided by a parent, relative, next of kin, guardian or in special circumstances the person making the report. The Handbook further states, ‘*if a parent, relative or guardian does not agree to media involvement and genuine fears are held for safety of the missing person, refer the matter to your Local Area Commander for a decision*’<sup>293</sup>.

The Tasmania Police Manual states the Divisional Inspector is to be notified, approval for the media release is to be obtained and the District Commander is to be notified prior to a media release. The Missing Persons Unit is to obtain a media release written authority of the parent, next of kin or person making the report. In addition they are to ‘manage and coordinate community and public awareness campaigns and projects’, with the issuing of a media release completed via the Police Media and Marketing Services<sup>294</sup>.

In New Zealand the police advise the public to consult with them before approaching the media and outline police ‘*will usually encourage the use of media if the missing person is a young child, elderly person, has an urgent medical need or there are grave concerns for their safety and wellbeing*’<sup>295</sup>.

<sup>292</sup> Department of Attorney General and Justice 2001, ‘*Someone is Missing: Can the media help you?*’ (REV 05/2011), Families and Friends of Missing Persons Unit, NSW Government, p.2.

<sup>293</sup> NSW Police Force Handbook, 2015, pp.266-267.

<sup>294</sup> Tasmania Police Manual, 2010, pp.323-324.

<sup>295</sup> New Zealand Police, ‘*Missing person – working with the media*’, Accessed 3 December 2015, <http://www.police.govt.nz/missing-persons/advice-and-support/working-with-media>.

Similarly to Queensland, guidelines do not provide detail on what carers can disclose, as this falls within the legislative framework of child protection agencies which are then responsible for providing appropriate guidance and direction on this issue for children missing from out-of-home care.

## A8.3 Child protection agencies

### A8.3.1 Legislative frameworks for responding to children missing from out-of-home care

The leading role of the state or territory to promote a shared partnership approach between government departments, agencies and individuals is seen in legislation across Australian jurisdictions. The scan of child protection legislation did not identify any government agency roles, responsibilities or timeframes for sharing information specifically when a child is missing from out-of-home care.

In New South Wales (NSW), Part 2, section 122, *Children and Young Persons (Care and Protection) Act 1998* under the issue of homelessness notes, ‘*the police will notify the Secretary [means the Secretary of the Department of Family and Community Services] of the details of children who have been reported to the police as missing. If the Secretary becomes aware that a child reported as missing is safe, the Secretary is required to advise the police that the child is safe but not of the whereabouts of the child. The purpose of this provision is to avoid wasting resources in having the police search for missing children whose whereabouts are known to the Secretary. The parents should be informed that the child is safe, but nothing in this section requires any person to reveal the whereabouts of the child to a person other than the Secretary.*’

Although this is a stand-out section in legislation, the requirement not to share information about the child’s whereabouts, particular if the child’s whereabouts is known, however they have not safely returned to their placement, could be counter-productive in supporting joint agency return interviews, case planning and data recording.

Each Australian state and territory’s legislation outlined consistent, broad messaging around promoting a safe and nurturing environment for

children; ‘keeping children safe from harm’; and the best interests for a child being paramount. Some of the legislation, although not specifically for responding to a child reported missing from out-of-home care, reflects the responsibility of providing for the overall safety, welfare and wellbeing of a child. Legislation also outlined the role of a carer in being able to participate in decision making involving a child in their care.

To varying degrees, all state and territory legislation includes sections relating to the exchange of information between certain agencies and the restriction on the use of information provided. Legislation provides provisions around maintaining confidentiality of information and protection from liability for providing relevant information. The power to do so is outlined in relation to how information sharing relates to the administration of the particular Act in mention, the requirement to do so by law, if authorised to, or when making decisions or managing risks about the safety, welfare and well-being of an individual, or the care and protection of children or groups of children.

Some of the language used within legislation to assist agencies to make decisions when it comes to the sharing of information about a child include, ‘reasonable’, ‘safety’, ‘welfare’ or ‘wellbeing’ of children, ‘providing appropriate care’, ‘acting in good faith’, or ‘best interests of the child’, ‘may’ provide information and ‘relevant’ or ‘protected’ information.

In New Zealand the *Children, Young Persons and Their Families Act 1989* does not specifically address missing persons from out-of-home care, with the exception of Chapter 4 - Youth Justice, which addresses the situation of children ‘absconding’ when they are on supervision with residence orders<sup>296</sup>. The New Zealand child protection legislation does state similar principles to Australian legislation in terms of the welfare and interests of a child being paramount. It also promotes the well-being of children, provides for their protection from harm, abuse, neglect, ill-treatment and deprivation. Additionally, for decisions

<sup>296</sup> *Children, Young Persons, and Their Families Act 1989* (New Zealand), s.311(1) states a supervision with residence order applies, ‘if a charge against a young person is proved before a Youth Court, the court may make an order placing the young person in the custody of the chief executive for a period of not less than 3 months and not more than 6 months’.

to be made and implemented in a timely manner, New Zealand promotes and encourages the cooperation between organisations providing services for children and their families and the sharing of information to keep children safe when at risk of harm<sup>297</sup>.

New Zealand child protection legislation, its concepts and terms, are similar to those used in Queensland child protection legislation and to other Australian jurisdictions.

New Zealand is also faced with similar challenges which have been raised throughout this review attracting recommendations to improve joint agency response and education for staff.

**Office of the Chief Coroner of New Zealand (2013). Recommendations recap: A summary of coronial recommendations and comments made between 1 July and 30 September 2013. Auckland: Office of the Chief Coroner.**

**Case number: CSU-2010-AUK-001596 – 2013 NZ CorC 122**

The deceased was a 13-year-old boy who died in a car accident while under the care of New Zealand's Child, Youth and Family (CYF). Three months before his death, the deceased went missing from foster care and a police officer filed a missing person report. The police officer phoned the boy's social worker but the call was not returned. The police officer took no further action.

One month before the child's death, the child was picked up by a police officer. The officer saw the missing person alert, but did not know the child was supposed to be in CYF custody. The officer returned the boy to his stepmother's address. The recommendations recap document says: *'Had the police intelligence system included a note about his placement in CYF custody, as well as his missing person*

*status, he could have been returned to CYF care... This reflects a systems failure in the police alert system. CYF has no specific policy on how to handle situations where children have run away from their placement'.*

#### **Some of the Coroner's recommendations relevant to this review included:**

- The Commissioner of Police and the Chief Executive of the Ministry of Social Development finalise, as a matter of priority, the national joint Police – CYF policy on the management of children in CYF care who are reported as missing (the new joint policy). In addition, joint training for police and CYF staff on the new joint policy should be undertaken in all regions of New Zealand.
- The New Zealand Police assess what steps are needed to ensure all police staff are familiar with the requirements of the national Missing Persons policy and whether training on the new joint policy should be mandatory for all police.
- The Chief Executive of the Ministry of Social Development considers whether the new joint policy on its own provides sufficient guidance and structure to help its staff manage children in CYF care who have been reported as missing, or whether further internal practice guidance is needed.

#### **A8.3.2 Policies for responding to children missing from out-of-home care**

Each Australian state and territory provides some level of guidance for responding to critical events, missing children, or 'absconding' from out-of-home care. The level of detail within available policies, procedures and guidelines varies greatly. In particular, Victoria and Western Australia appear to provide a higher level of guidance specific to children missing from out-of-home care.

<sup>297</sup> *Children, Young Persons, and Their Families Act 1989* (New Zealand), s.4, s.5, s.6 and s.13.



## Finding

Of the policies reviewed across Australian states and territories, various terms were used to describe occurrences where a child is away from their placement without permission, such as a child being 'absent', 'missing', 'absconded', 'whereabouts unknown', or 'unauthorised absence'.

## Refer recommendation – 6.

As in Queensland, this highlights the need for policies and guidance for all agencies involved in responding to a child missing from out-of-home care to have an agreed understanding of the definitions and corresponding required actions. Establishing consistency will enable agencies and individuals to recognise the point in time (following a child's whereabouts being confirmed as unknown and concerns for their safety, welfare and/or wellbeing established) when appropriate and immediate action must be taken to report them as 'missing' to police.

Cross-jurisdictional guidance highlighted factors such as a child's pattern of behaviours, previous history of missing or being absent from their placement without permission, age and vulnerability to be considerations when undertaking a risk assessment for the child.

Victoria provides procedural processes and advice on the event of a missing person. Steps for responding include:

- If a child protection practitioner does not know the whereabouts for a child with whom they are involved they must make a Missing Person Report (MPR) to police and advise their supervisor the same working day they became aware the child was missing.
- The MPR may be lodged by a parent or carer if the child is in their care however if they do not lodge a MPR the case manager must lodge a MPR with the police<sup>298</sup>.

<sup>298</sup> Department of Health and Human Services, 'Missing person's report' procedure, Child Protection Manual, Victorian Government, Accessed 3 December 2015, [www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report](http://www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report).

- It is the responsibility of the community service organisation to lodge a MPR if the child is living in out-of-home care<sup>299</sup>.

The following information is an excerpt from Victoria's Child Protection Manual, 'Missing persons report' procedure.

*The case practitioner is to:*

- *advise your supervisor on the same working day you learn that a child protection client is missing*
- *ensure an MPR is lodged with the police*
- *make reasonable attempts to locate the child*
- *complete an incident report*
- *initiate an alert in CRIS and brief AHCPEs*
- *if the missing child is living in out-of-home care, ensure the MPR has been lodged*
- *ensure the parents of the missing child know their child is missing and inform them of the actions taken. Advise your supervisor that you have informed the parents*
- *consider the need for a children's court search warrant and the need for police to search premises or to take a child into emergency care when located. Record the decision and rationale on CRIS*
- *consider an interstate alert if you think the child has left the state. Speak to the divisional interstate liaison officer for assistance*
- *liaise regularly with police while the child is missing*
- *notify the police immediately if the child is located and provide written confirmation to the police to withdraw the MPR*
- *if the child remains missing, consult with your supervisor about whether to issue a missing persons media release.*

*The team manager or supervisor is to:*

- *decide what action is to be taken within eight hours of being notified a child is missing*
- *record the rationale for decisions about the missing child on CRIS, or ensure that the rationale is recorded*

<sup>299</sup> Department of Health and Human Services, 'Missing person's report – advice', Child Protection Manual, Victorian Government, Accessed 3 December 2015, [www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/missing-persons-report](http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/missing-persons-report).



- if the child remains missing, consider whether to issue a missing persons media release. Consider the child's age, vulnerability, previous behaviour, risk, progress of police investigation and the length of time the child has been missing. Consult the child protection operations manager about the decision
- to issue a missing persons media release, seek endorsement from the Director Child Protection or Assistant Director Child Protection.

#### Community service organisation tasks include:

- make a MPR to the police if a child residing in an out-of-home care service is missing
- advise child protection that the child is missing and complete an incident report. If the MPR is lodged after hours, confirm this with child protection the next working day.

#### Secure welfare service unit manager tasks include:

- make an MPR to police and complete a category one incident report if a child cannot be located and is missing from a secure welfare service
- advise the Director Secure Services and the relevant divisional Director Child Protection or Assistant Director Child Protection
- contact the divisional office to determine whether a children's court warrant should be sought
- advise Secure Welfare Services on-call manager and AHCPEs if a child absconds after hours or on the weekend
- contact Streetwork Outreach Service to seek assistance in locating the child
- complete an incident report.

#### Child protection operations manager tasks

- Steps are outlined in terms of consulting with relevant persons in the department and the police about a media release.

#### Director Child Protection or Assistant Director Child Protection tasks

- if a missing child remains missing consider whether to authorise a missing persons media release
- inform the child's parents of the intention to publish information. Parents must be consulted

if the child is not subject to a guardianship or long-term guardianship to Secretary order.

#### Director Child Protection tasks

- Steps are outlined in terms of undertaking required action in preparation for publishing information about the missing child<sup>300</sup>.

In addition to the above, the 'Missing persons report – advice', states:

- under a MPR the police have no powers to apprehend, detain or return the child to a placement without a warrant. The police are responsible for informing the person who made the MPR of the child's whereabouts. On locating a missing child, the police are able to speak to the child and encourage the child to return to his or her placement;
- a MPR remains live on police records until such time as the missing person is located or police are notified of the child's return<sup>301</sup>.

In Western Australia, the Caseworker Practice Manual provides policy guidance to child protection workers and carers when a child in the Chief Executive's Officer's (CEO's) care is missing. Both the child protection worker and carer must make every effort to locate the child. If the child is not located a 'missing person report' must be made to the local police. It is the responsibility of the child protection worker to confirm a missing person report has been made with police once informed by the carer a child is missing.

Once a report is lodged an alert is placed in 'Assist'. If appropriate the child's parents are informed. An immediate report must be lodged with the Western Australia police by the carer and child protection worker for 'high risk cases'.

#### High risk factors include where the child:

- may be, or is, suicidal or has a history of recent self-harming behaviour

<sup>300</sup> Department of Health and Human Services, 'Missing person's report' procedure, Child Protection Manual, Victorian Government, Accessed 2 February 2016, [www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report](http://www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report).

<sup>301</sup> Department of Health and Human Services, 'Missing person's report- advice', Child Protection Manual, Victorian Government, Accessed 2 February 2016, [www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/missing-persons-report](http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/missing-persons-report).

- *is highly distressed and/or has mental health issues*
- *may be affected by alcohol and/or other drugs*
- *is sick, injured or on medication*
- *has stated intent to harm others*
- *has stated the intent to commit a crime, cause damage or arson*
- *is known to be in the company of someone of concern – for example, the person has a history of serious offending or inappropriate relationship with the child*
- *is young or otherwise particularly vulnerable*<sup>302</sup>.

The Western Australia foster carer handbook indicates the incident of a missing person must be immediately reported by the carer. The carer must contact a child protection worker, or Crisis Care after hours, or the relevant non-government agency, if a child is missing from their placement for any period longer than one hour. It is the child protection worker or the non-government agency's responsibility to notify the Western Australia Police<sup>303</sup>.

The Western Australia Police and the Department for Child Protection and Family Support have a MOU '*CPFS and WAPOL Processes When A Child in the Care of the CEO Absconds From a CPFS Residential Care Facility or Secure Care*'. This MOU outlines agreed responsibilities and procedures to be undertaken by each agency when a child is missing from a Departmental managed residential care facility or secure care<sup>304</sup>.

The Western Australia '*Residential Care Practice Manual*', outlines procedures for when a child has 'absconded'. This Manual differentiates responses for 'absconders' into two categories. 'High risk absconder' requires immediate action to inform the Western Australia Police and an Incident Report Number is provided. 'Low or medium risk absconder' requires the carer to confirm with the

police the child has been missing for longer than 12 hours for an Incident Report to be generated. As of 1 July 2010, the Western Australia Police and the Department of Child Protection have an agreed protocol for reporting children who 'abscond'<sup>305</sup>.

Child protection policies in New Zealand outline a missing person is any person '*whose whereabouts are unknown (when they are unable to be contacted and no-one knows where they are) and there are fears for their safety or serious concerns for their welfare and vulnerability*'<sup>306</sup>. In this situation the carer contacts emergency services, then rings Child, Youth and Family (CYF) and the social worker places a case note in the client record system. The policy clearly states carers are not to leave voicemail messages but must speak to an officer directly.

In New Zealand when a child runs away from their home and their whereabouts is known or can be quickly established, they are not defined in policy as 'missing' but as an 'unauthorised absence'. Contact is still to be made with CYF to discuss and monitor the situation in case escalation to a 'missing' person is required<sup>307</sup>.

Similarly to Queensland, guidance around information sharing between government agencies is not always specific to the situation of a child reported missing from out-of-home care or absent from their placement. The relevant policies, procedures and guidelines across the state and territory often reference information sharing for any child in the context of risk of harm for a child, concerns for a child's safety, welfare and wellbeing, or that the sharing of information is in the best interests of the child. Some examples include:

- Australian Capital Territory Community Services Directorate specifically states the Directorate will not use or share personal information with another individual without consent except under

<sup>302</sup> Department of Child Protection 2015, '*7.12 When children in the CEO's care are missing*', WA Government, Accessed 24 December 2015, <http://manuals.dcp.wa.gov.au/manuals/cpm/Pages/12WhenChildrenintheCEO'sCareareMissing.aspx>.

<sup>303</sup> Foster Care Association of Western Australia 2013, '*Foster Care handbook for Foster Families*', s.14.9.

<sup>304</sup> Department of Child Protection 2015, '*7.12 When children in the CEO's care are missing*', WA Government, Accessed 24 December 2015, <http://manuals.dcp.wa.gov.au/manuals/cpm/Pages/12WhenChildrenintheCEO'sCareareMissing.aspx>.

<sup>305</sup> Department of Child Protection 2011, '*Residential Care Manual*', p.48-49.

<sup>306</sup> Child Youth and Family, '*Information for caregivers – reporting and managing missing children and young people*', New Zealand, Accessed 1 December 2015, [www.cyf.govt.nz/info-for-caregivers/caregiver-handbook/caregiver-handbook-introduction.html](http://www.cyf.govt.nz/info-for-caregivers/caregiver-handbook/caregiver-handbook-introduction.html).

<sup>307</sup> Child Youth and Family n.d, '*Information for caregivers – reporting and managing missing children and young people*', Accessed 1 December 2015, [www.cyf.govt.nz/info-for-caregivers/caregiver-handbook/caregiver-handbook-introduction.html](http://www.cyf.govt.nz/info-for-caregivers/caregiver-handbook/caregiver-handbook-introduction.html).

specified circumstances such as, *‘lessen or prevent a serious threat to the life, health or safety of any individual’*, or *‘reasonably believes that the collection is reasonably necessary to help locate a person who has been reported as missing’*<sup>308</sup>.

- Victoria provides advice around the efforts taken to locate a missing child and considerations to be given when determining to most appropriate response to locate a child in terms of the child’s best interests and possible risk of harm and where relevant consideration to interstate alerts<sup>309</sup>.
- South Australia has a broad framework for sharing sensitive information and protecting privacy for children under the guardianship of the Minister for Families and Communities. This is outlined in the *‘Information Sharing and Client Privacy Statements’* (2005) document. This document outlines information flow from and to the Minister or delegate. In disclosing information to other persons, this information should be in the best interests of the child and necessary to arrange for the child’s education or provision of medical or other services for the child.
- Western Australia’s guidance states *‘confidential information specific to the child’s or his/her family’s circumstances should not be shared unless this is necessary to protect the child’s wellbeing. If you have concerns about the child in your care, their family, your safety or that of your family, you should contact the child protection worker who has case management responsibility (referred to as the child’s case manager)’*<sup>310</sup>. Government and non-government agencies are able to access the *‘Working together for a better future for at risk children and their families’* to provide guidance on this issue<sup>311</sup>.
- Northern Territory has an information sharing framework supporting ‘information sharing

authorities’ to work collaboratively and share information in a timely manner to ensure the safety and wellbeing of a child. The person must hold a *‘reasonable belief - an honest belief which is well founded’* (more than a suspicion) the information assists to assess, take action or provide a service relating to the safety or wellbeing of a child<sup>312</sup>.

### A8.3.3 Publicly commenting about a child from out-of-home care

To varying degrees, all Australian states and territories have legislative frameworks prohibiting certain information about a child, mainly as it relates to the child being subject to a court proceeding, application and/or an order, being publicly released. Attachment 4 provides an overview of some of these sections. These legislative frameworks are similar to those found in section 189, *Child Protection act 1999*.

Documents providing guidance to foster and kinship carers on their ability to make public comment in the circumstances when a child placed in their care is missing varies across Australian jurisdictions. Victoria and Western Australia provide specific guidance on this issue.

The Victorian Department of Health and Human Services launched a new child protection manual on 1 December 2015. In this manual the *‘Missing persons report’* procedure and *‘Publication of identifying details’* procedure provides detailed, specific practice requirements for media involvement if a child is missing. These procedures identify the level of consultation and approval required for a media release and outlines what approvals are required if prohibited information under the *Children, Youth and Families Act (CYFA) 2005* is requested for publication. The *‘Missing persons report’* procedure provides guidance around the type of information which can be published about a child missing from out-of-home care. This procedure states, *‘section 534 of the CYFA does not prohibit publication of information about a child, such as name, age and photographs, provided the information does not identify the child*

308 Australian Capital Territory Community Services, *‘Privacy Policy’*, Territory Privacy Principle 6 – use or disclosure of personal information, ACT Government, Accessed 3 December 2015, [www.communityservices.act.gov.au/home/full\\_privacy\\_statement](http://www.communityservices.act.gov.au/home/full_privacy_statement).

309 Department of Health and Human Services 2016, *‘Missing persons report- advice’*, Child Protection Manual, Accessed 3 December 2015, [www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/missing-persons-report](http://www.cpmanual.vic.gov.au/advice-and-protocols/advice/critical-incidents/missing-persons-report).

310 Department of Child Protection and Family Support 2015, *‘Information Sheet: Confidentiality’*, p1.

311 Department of Child Protection 2012, *‘Working together for a better future for at risk children and families’*.

312 Northern Territory Government, *‘Information Sharing: The care and Protection of Children’*, Accessed 3 December 2015, [www.childrenandfamilies.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/74/66.pdf&siteID=5&str\\_title=Information%20Sharing%20FAQ.pdf](http://www.childrenandfamilies.nt.gov.au/library/scripts/objectifyMedia.aspx?file=pdf/74/66.pdf&siteID=5&str_title=Information%20Sharing%20FAQ.pdf).

*as being subject to proceedings in the children's court or subject to a children's court order*<sup>313</sup>.

In Western Australia, the *'Information sheet: confidentiality'* states, in accordance with section 237, *Children and Community Services Act 2004*, *'carers must not provide any information or material about a child in your care to the media or any other media source (for example newspaper, television, radio and internet media), or allow media access to the child. [Carers] must not publish photos, video or other material on the Internet or any other form of communication such as Facebook, YouTube or email that will, or is likely to, lead to the identification of the child'*<sup>314</sup>.

Identification of a child from out-of-home care in the media can only be done with the consent of the Director-General of the Department for Child Protection and Family Support<sup>315</sup>. The Western Australian Casework Practice Manual states, *'where it is deemed appropriate to seek assistance from the public in locating the missing child, approval is required from the Executive Director (Country or Metropolitan Services) and Director-General, as a media statement will identify the child as being in care. Following approval (or concurrently), the district director will be required to provide as much information as possible about the child to the Director, Corporate Communications for a media statement to be prepared. Information to provide includes the child's, name and age; when they were last seen and what they were wearing; and physical description and a photograph (if possible)'*<sup>316</sup>.

The above documents assist with providing clear guidance to government agencies and carers on the types of information which can be

published and where appropriate outline the specific processes and approvals to be obtained before information about a child missing from out-of-home care is publicly released.

## A8.4 Education services

### A8.4.1 Legislative frameworks for responding to children missing from out-of-home care

The scan of legislation governing public school education systems in each Australian state and territory did not identify any specific agency roles and responsibilities in responding to or sharing information specific to when a child is reported missing from out-of-home care. No specific legislative mandates about any child reported 'missing' was identified.

Legislation within each state and territory outlines specific requirements for a child's attendance at school, unexplained absences and the requirement on the parent/guardian/carer to inform the school if a child is or has not attended an educational facility or program on any given day. These requirements were applicable to all children of compulsory school age enrolled at an educational facility, with no identified specific subsections for children from out-of-home care.

In each Australian state or territory the Principal or authorised officer/delegate is responsible for monitoring a child's school attendance. Legislation to varying degrees outline the maintenance and record keeping requirements of school's for recording a student's attendance. This includes the provision of information contained in school attendance databases to authorised persons.

In New Zealand, section 31(3) and (3A) of the *Education Act 1989* states every board or sponsor will by any means *'take all reasonable steps to ensure the attendance of students enrolled at its school'*.

<sup>313</sup> Department of Health and Human Services 2016, *'Missing person's report'*, procedure, Child Protection Manual, Accessed 3 December 2015, [www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report](http://www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/missing-persons-report); and Department of Health and Human Services 2016, *'Publication of identifying details'*, procedure, Child Protection Manual, Accessed 3 December 2015, <http://www.cpmanual.vic.gov.au/policies-and-procedures/critical-incidents/publication-identifying-details>.

<sup>314</sup> Department of Child Protection and Family Support 2015, *'Information Sheet: Confidentiality'*, p1.

<sup>315</sup> Foster Care Association of Western Australia 2013, *'Foster Care handbook for Foster Families'*, section 7.2.

<sup>316</sup> Department of Child Protection 2015 *'7.12 When children in the CEO's care are missing'*, WA Government, Accessed 24 December 2015, <http://manuals.dcp.wa.gov.au/manuals/cpm/Pages/12WhenChildrenintheCEO'sCareareMissing.aspx>.



#### A8.4.2 Policies for responding to children missing from out-of-home care

A scan of Australian state and territory public school policies did not identify any policies specifically address responding to a child reported missing from out-of-home care. Similar to Queensland policies and procedures, guidance is generally provided in terms of a child's absence from school. A summary of information is located in Attachment 6.

School attendance policies reviewed, defined the relevant department's overarching duty of care responsibilities for all students. They outlined the responsibilities for the time when a student's attendance is to be marked which tends to be more than once in a school day and the provision of information contained in attendance records to authorised persons. New Zealand also has similar provisions around attendance in their *Education (School Attendance) Regulations 1951*.

Australian states and territories generally the Principal of a school is the person responsible for follow up action when a child's non-attendance at school is of concern or unexplained. Although in most instances, contact with the parent, guardian or carer is made the same day a student is absent, follow up action and confirmation of the non-attendance can extend over several days. In some instances up to three days. This could make it difficult for education staff and parents to promptly identify if a child, may be 'missing' and take action. Informing a parent of a child's absence tends to occur via a telephone call, email, or text message from the school to a child's parent.

To varying degrees, sharing information, communication and working with other agencies to enhance interventions around a child's school attendance is broadly outlined. In some instances guidance relates specifically to helping to locate a missing person. For example, New South Wales policy states, *'if concerns include not sighting the child Principals must, as soon as possible contact the NSW Police Force to request that a child safety check be undertaken'*<sup>317</sup>.

<sup>317</sup> Department of Education 2015, 'School Attendance Policy', NSW Government, Student Attendance in Government Schools Procedures, PD 2005 0259, Learning and Engagement Directorate 2015, section 3.15.

Some Australian states and territories have staff specifically providing support to students around attendance, for example attendance officers, home school liaison officers and Aboriginal student liaison officers who monitor attendance of students. It is unclear what role these staff do or could play when a child is reported missing from out-of-home care.

### A8.5 Health services

#### A8.5.1 Legislative frameworks for responding to children missing from out-of-home care

The scan of legislation governing public health systems in each Australian state and territory and New Zealand did not identify any agency roles and responsibilities in responding to or sharing information specific to when a child is reported missing from out-of-home care per scope of this review.

#### A8.5.2 Policies for responding to children missing from out-of-home care

The scan of policies and guidelines for public health systems in Australian state and territory and New Zealand did not identify any guidance specific to when a child is reported missing from out-of-home care per the scope of this review.

In New South Wales general advice for public health staff states there may be special circumstances where personal and/or medical information is disclosed in other situations, such as when is necessary to find a missing person<sup>318</sup>.

<sup>318</sup> NSW Health 2011, 'Your Healthcare Rights and Responsibilities – A guide for NSW Health staff', p.9; and NSW Health 2011, 'Your Healthcare Rights and Responsibilities – A guide for patients, carers and families', p.18.



# Attachment 1

## Acronyms

	Acronyms
Child Protection Investigation Unit	CPIU
Child Protection Order	CPO
Child Safety After Hours Service Centre	CSAHSC
Child, Youth and Family, New Zealand	CYF
Community Visitor (Community Visitor Program, Office of the Public Guardian)	CV
Community Visitor Program	CVP
Department of Communities, Child Safety and Disability Services	Child Safety Services
Department of Education and Training	DET
Director-General, Department of Communities, Child Safety and Disability Services	D-G, DCCSDS
Integrated Client Management System (Child Safety database)	ICMS
Office of the Public Guardian	OPG
Operational Procedures Manual	OPM
Memorandum of Understanding	MOU
National Centre for Missing and Exploited Children (United States of America)	NCMEC
National Missing Persons Coordination Centre (funded by the Australian Government and hosted by the Australian Federal Police)	NMPCC
Queensland Family and Child Commissioner	QFCC
Queensland Health	QHealth
Queensland Police Service	QPS
Queensland Police Records and Information Management Exchange (database)	QPRIME
Suspected Child Abuse and Neglect	SCAN
Youth Housing and Reintegration Service	YHARS

# Attachment 2

## Diagrams and Tables

Diagram and Table number	Table heading
Table 1	Children (under 18 years) reported missing to the QPS per year and the number located per year
Table 2	Children (16 years or younger) reported missing to the QPS
Table 3	Total number of distinct children living away from home
Table 4	Total number of children recorded as 'absconded', self-placed, missing or location unknown from out-of-home care
Table 5	Total number of records of children recorded as 'absconded', self-placed, missing or location unknown from out-of-home care
Table 6	Children with a placement end reason of 'child has absconded'
Table 7	Immediate and long-term risks for a child when they go missing
Table 8	Participation in or exposure to risky situations reported by children while on the run
Table 9	Reasons reported by children for 'absconding' or considering 'absconding' or self-placing
Diagram 1	Processes for reporting and responding when a child is missing
Table 10	Number of media releases for missing persons investigations
Table 11	Number of 'Child Abduction' and 'Amber Alerts'
Table 12	Missing child alerts for children with an Indigenous status
Table 13	Missing child alerts for children with a Non-Indigenous status

# Attachment 3 – Correspondence for the review



Premier of Queensland  
Minister for the Arts



For reply please quote: SocPol/KJ – TF/15/21234 – DOC/15/190934

10 NOV 2015

Ms Cheryl Vardon  
Principal Commissioner  
Queensland Family and Child Commission  
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Website [www.thepremier.qld.gov.au](http://www.thepremier.qld.gov.au)

Dear Principal Commissioner

I am writing in relation to the tragic death of the 12-year-old girl, Tiahleigh Palmer, who was first reported missing on 30 October 2015.

Clearly, the immediate priority is for the Queensland Police Service to conduct and conclude its investigations into the tragedy. However, I am keenly aware of the need to ensure that the child safety, education, health and police service system worked effectively when concerns were first raised about her disappearance.

In particular, and consistent with part 3 of the *Family and Child Commission Act 2014 (Qld)*, I am writing to request that you undertake a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

I ask this because it is essential that the Government's systems work together to provide timely and appropriate information that is actioned responsively when critical incidents like this occur. I want to ensure that everything possible was done when concerns were first raised about Tiahleigh's recent disappearance.

I look forward to your report and recommendations about any laws, policies, practices and services that may require change as a result of your findings.

Yours sincerely

**ANNASTACIA PALASZCZUK MP**  
**PREMIER OF QUEENSLAND**  
**MINISTER FOR THE ARTS**

Queensland Family and Child Commission  
When a child is missing



Queensland  
**Family & Child**  
Commission

Telephone: [REDACTED]  
Reference: OPC/D15/42246  
Your Reference: SocPol/KJ – TF/15/21234 – DOC/15/190934

18 November 2015

The Honourable Anastacia Palaszczuk MP  
Premier of Queensland and Minister for the Arts  
PO Box 15185  
CITY EAST QLD 4002

Dear Premier

Thank you for your letter dated 10 November 2015 requesting that the Queensland Family and Child Commission (QFCC) undertakes a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

The objective of the review is to establish whether the Government's systems are working together to provide timely and appropriate information that is actioned responsively when critical incidents occur, like the recent disappearance of the 12-year-old girl, Tiahleigh Palmer.

A copy of the terms of reference for the review is attached for your information.

The review will consider current legislative frameworks, relevant policies and guidelines relating to missing or absconding children in out-of-home care.

Interviews with government and non-government stakeholders are expected to be completed by the end of 2015, with analysis and follow-up interviews undertaken in January 2016.

A report with the findings of the review and proposed recommendations will be provided in February 2016. It is expected that this report will outline any further actions that are recommended as a result of the review, which may include amendments to legislation.

Regular briefings on the progress of the review will be provided to your office, the Department of the Premier and Cabinet and other key stakeholders.

I have written to the Directors-General of the Departments of Communities, Child Safety and Disability Services, Education and Training, Queensland Health, the Commissioner of Police and the Acting Public Guardian to advise them of the terms of the reference and to seek their cooperation in the review process.

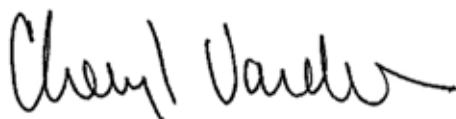
I have also encouraged them not to wait for the outcome of the review and to take any appropriate action to improve their own policies and procedures.

Level 22, 53 Albert Street,  
Brisbane Qld 4000  
PO Box 15217,  
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Website [www.qfcc.qld.gov.au](http://www.qfcc.qld.gov.au)  
[www.talkingfamilies.qld.gov.au](http://www.talkingfamilies.qld.gov.au)

Additionally, I have asked the Director-General of the Department of Communities, Child Safety and Disability Services to immediately notify me of any children in out-of-home care reported missing during the course of this review.

If you or your officers have any queries in relation to this matter they may contact me on [REDACTED] or [REDACTED]; or Nicole Blackett, Executive Officer, on [REDACTED] or [REDACTED].

Yours sincerely



Cheryl Vardon  
**Principal Commissioner**  
Queensland **Family and Child** Commission

cc:

Dave Stewart, Director-General, Department of the Premier and Cabinet (DPC)

Christine Castley, Senior Executive Director, Social Policy, DPC

Attachments:

1. Terms of Reference: QFCC Review 2/2015 – Responses to missing children in out-of-home care





Telephone: [REDACTED]  
Reference: D16/2288  
Your Reference: SocPol/KJ – TF/15/21234 – DOC/15/190934

Queensland  
**Family & Child**  
Commission

3 March 2016

The Honourable Anastacia Palaszczuk MP  
Premier of Queensland and Minister for the Arts  
PO Box 15185  
CITY EAST QLD 4002

Dear Premier

I refer to my letter of 18 November 2015 in relation to your request that the Queensland Family and Child Commission (QFCC) undertake a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

I am writing to let you know that the final report will be provided to you by the end of this month.  
[REDACTED]

I am currently in the process of finalising a draft of the report and after that I will provide the Directors-General of the Departments of Communities, Child Safety and Disability Services, Education and Training, Queensland Health, the Commissioner of Police and the Acting Public Guardian with an opportunity to review a draft of the report.

If you or your officers have any queries in relation to this matter they may contact me on [REDACTED]  
or [REDACTED].

Yours sincerely

Cheryl Vardon  
Principal Commissioner  
Queensland Family and Child Commission

cc:

Dave Stewart, Director-General, Department of the Premier and Cabinet (DPC)  
Graham Fraine, Deputy Director-General, Policy, DPC

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Queensland  
**Family & Child**  
Commission

Telephone: [REDACTED]  
Reference: OPC/D15/42253

18 November 2015

Mr Michael Hogan  
Director-General  
Department of Communities, Child Safety and Disability Services  
GPO Box 806  
BRISBANE QLD 4001

Dear Mr Hogan *Michael*

On 10 November 2015 the Premier wrote to me requesting that the Queensland Family and Child Commission (the Commission) undertakes a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

The objective of the review is to establish whether the Government's systems are working together to provide timely and appropriate information that is actioned responsively when critical incidents occur, like the recent disappearance of the 12-year-old girl, Tiahleigh Palmer.

The review will consider current legislative frameworks, relevant policies and guidelines relating to missing or absconding children in out-of-home care.

Interviews with government and non-government stakeholders are expected to be completed by the end of 2015, with analysis and follow-up interviews undertaken in January 2016. A report with the findings of the review and proposed recommendations is expected to be finalised by February 2016.

A copy of the Premier's letter and the terms of reference for this review are attached for your information.

I wish to meet with you as soon as possible to discuss the review and the information we will be seeking from your agency. I would also appreciate my office being provided with the contact details of key officers within your agency in order to arrange interviews.

While all efforts will be made to complete the review in a timely manner, it will still be some months before a final report and recommendations is delivered. I know that you will be pursuing any appropriate action to consider your own policies and procedures during this period.

I am requesting also that I am notified immediately of any children in out-of-home care reported missing or as absconded during the course of this review.

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[www.talkingfamilies.qld.gov.au](http://www.talkingfamilies.qld.gov.au)

If you or your officers have any queries in relation to this matter they may contact me on [REDACTED] or [REDACTED]; or Nicole Blackett, Executive Officer, on [REDACTED] or [REDACTED].

Yours sincerely



Cheryl Vardon  
**Principal Commissioner**  
Queensland Family and Child Commission

**Attachments:**

1. Letter from the Premier to the Principal Commissioner, QFCC, dated 10 November 2015
2. Terms of Reference for *QFCC Review 2/2015 – Responses to missing children in out-of-home care*



Queensland  
Family & Child  
Commission

Telephone: [REDACTED]  
Reference: OPC/ D15/42254

18 November 2015

Dr Jim Watterston  
Director-General  
Department of Education and Training  
PO Box 15033  
BRISBANE QLD 4002

Dear Dr Watterston

On 10 November 2015 the Premier wrote to me requesting that the Queensland Family and Child Commission (the Commission) undertakes a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

The objective of the review is to establish whether the Government's systems are working together to provide timely and appropriate information that is actioned responsively when critical incidents occur, like the recent disappearance of the 12-year-old girl, Tiahleigh Palmer.

The review will consider current legislative frameworks, relevant policies and guidelines relating to missing or absconding children in out-of-home care.

Interviews with government and non-government stakeholders are expected to be completed by the end of 2015, with analysis and follow-up interviews undertaken in January 2016. A report with the findings of the review and proposed recommendations is expected to be finalised by February 2016.

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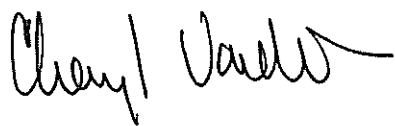
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If you or your officers have any queries in relation to this matter they may contact me on [REDACTED] or [REDACTED]; or Nicole Blackett, Executive Officer, on [REDACTED] or [REDACTED].

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[www.talkingfamilies.qld.gov.au](http://www.talkingfamilies.qld.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cheryl Vardon', with a stylized, flowing script.

Cheryl Vardon  
**Principal Commissioner**  
Queensland **Family and Child** Commission

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1. Letter from the Premier to the Principal Commissioner, QFCC, dated 10 November 2015
2. Terms of Reference for *QFCC Review 2/2015 – Responses to missing children in out-of-home care*





Queensland  
Family & Child  
Commission

Telephone: [REDACTED]  
Reference: OPC/ D15/42265

18 November 2015

Mr Michael Walsh  
Director-General  
Department of Health  
GPO Box 48  
BRISBANE QLD 4001

Dear Mr Walsh

On 10 November 2015 the Premier wrote to me requesting that the Queensland Family and Child Commission (the Commission) undertakes a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

The objective of the review is to establish whether the Government's systems are working together to provide timely and appropriate information that is actioned responsively when critical incidents occur, like the recent disappearance of the 12-year-old girl, Tiahleigh Palmer.

The review will consider current legislative frameworks, relevant policies and guidelines relating to missing or absconding children in out-of-home care.

Interviews with government and non-government stakeholders are expected to be completed by the end of 2015, with analysis and follow-up interviews undertaken in January 2016. A report with the findings of the review and proposed recommendations is expected to be finalised by February 2016.

A copy of the Premier's letter and the terms of reference for this review is attached for your information.

I wish to meet with you as soon as possible to discuss the review and the information we will be seeking from your agency. I would also appreciate my office being provided with the contact details of key officers within your agency in order to arrange interviews.

While all efforts will be made to complete the review in a timely manner, it will still be some months before a final report and recommendations is delivered. I know that you will be pursuing any appropriate action to consider your own policies and procedures during this period.

If you or your officers have any queries in relation to this matter they may contact me on [REDACTED] or [REDACTED]; or Nicole Blackett, Executive Officer, on [REDACTED] or [REDACTED].

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[www.talkingfamilies.qld.gov.au](http://www.talkingfamilies.qld.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cheryl Vardon', with a long horizontal flourish extending to the right.

Cheryl Vardon  
**Principal Commissioner**  
Queensland Family and Child Commission

Attachments:

1. Letter from the Premier to the Principal Commissioner, QFCC, dated 10 November 2015
2. Terms of Reference for *QFCC Review 2/2015 – Responses to missing children in out-of-home care*



Queensland  
**Family & Child**  
Commission

Telephone: [REDACTED]  
Reference: OPC/ D15/42271

18 November 2015

Ms Julia Duffy  
Acting Public Guardian  
Office of the Public Guardian  
PO Box 13554  
GEORGE STREET QLD 4003

Dear Ms Duffy

*Julia*

On 10 November 2015 the Premier wrote to me requesting that the Queensland Family and Child Commission (the Commission) undertakes a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

The objective of the review is to establish whether the Government's systems are working together to provide timely and appropriate information that is actioned responsively when critical incidents occur, like the recent disappearance of the 12-year-old girl, Tiahleigh Palmer.

The review will consider current legislative frameworks, relevant policies and guidelines relating to missing or absconding children in out-of-home care.

Interviews with government and non-government stakeholders are expected to be completed by the end of 2015, with analysis and follow-up interviews undertaken in January 2016. A report with the findings of the review and proposed recommendations is expected to be finalised by February 2016.

A copy of the Premier's letter and the terms of reference for this review is attached for your information.

I would like to meet with you as soon as possible to discuss the review and any assistance your agency may be able to provide.

If you or your officers have any queries in relation to this matter they may contact me on [REDACTED] or [REDACTED]; or Nicole Blackett, Executive Officer, on [REDACTED] or [REDACTED].

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Yours sincerely

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Cheryl Vardon  
**Principal Commissioner**  
Queensland **Family and Child** Commission

Attachments:

1. Letter from the Premier to the Principal Commissioner, QFCC, dated 10 November 2015
2. Terms of Reference for *QFCC Review 2/2015 – Responses to missing children in out-of-home care*



Queensland  
**Family & Child**  
Commission

Telephone: [REDACTED]  
Reference: OPC/ D15/42270

18 November 2015

Mr Ian Stewart  
Commissioner of Police  
Department of Health  
GPO Box 1440  
BRISBANE QLD 4001

Dear Mr Stewart

On 10 November 2015 the Premier wrote to me requesting that the Queensland Family and Child Commission (the Commission) undertakes a broad whole-of-Government systems review of arrangements in place for responding to missing or absconding children in out-of-home care.

The objective of the review is to establish whether the Government's systems are working together to provide timely and appropriate information that is actioned responsively when critical incidents occur, like the recent disappearance of the 12-year-old girl, Tiahleigh Palmer.

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Yours sincerely

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Cheryl Vardon  
**Principal Commissioner**  
Queensland **Family and Child** Commission

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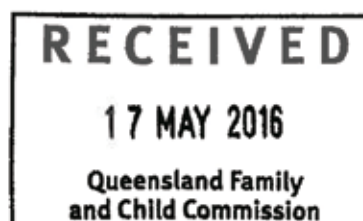


For reply please quote: SocPol/RMG –TF/16/6738

Department of the  
Premier and Cabinet

17 MAY 2016

Ms Cheryl Vardon  
Commissioner  
Queensland Family and Child Commission  
PO Box 15217  
Brisbane City East QLD 4002



Dear Cheryl

Further to our conversation earlier today, the Premier has requested me to write seeking your assistance to undertake a review into information sharing relating to people working with children, including those in out of home care.

The Queensland Family and Child Commission's (QFCC) report, *When a Child is Missing*, considered the way in which information was shared between various government agencies, particularly, the Department of Communities, Child Safety and Disability Services, the Department of Education and Training and the Queensland Police Service (QPS).

The Queensland Government considers that the continued partnership and sharing of information between these three agencies, and any other relevant entity, subsequent to the discovery of Tiahleigh is relevant to determining the ongoing safety and protection of children.

As discussed with you, the Queensland Government is seeking further advice and assessment on the systems in place to protect all children, focusing on the sharing of relevant information between government and non-government agencies following the suspicious death of a child in out of home care. The supplementary analysis will need to consider what information can, and should, be shared to ensure all children are protected, including those in out of home care.

[REDACTED]

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100 George Street Brisbane  
PO Box 15185 City East  
Queensland 4002 Australia  
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Facsimile [REDACTED]  
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ABN 65 959 415 158

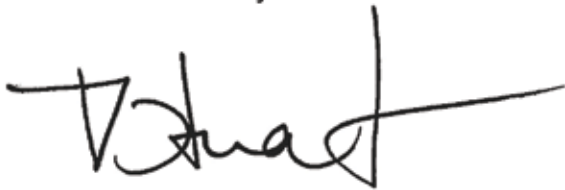
I would also ask that the QFCC undertake this work in the context of a systems review rather than as a review specifically of the circumstances concerning Tiahleigh and the ongoing investigation into her death.

The systems review should consider whether a risk assessment framework should be developed by QPS to inform decision making around the appropriate release of sensitive and confidential information to relevant government agencies, and other entities, to ensure children at risk of serious harm are protected.

Given the issues involved with the sharing of sensitive and highly confidential information, and the implications that can flow from disclosures, it may be helpful for the QFCC to seek the expertise of an experienced person with an understanding of the complex legal issues that may be involved. I am happy to work with you to ensure you have all the support needed to undertake this further work, please do not hesitate to contact me if you require any assistance.

I appreciate your assistance with this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Stewart', with a long horizontal stroke extending to the right.

Dave Stewart  
Director-General

# Attachment 4

## Queensland legislative frameworks and Australian cross-jurisdictional comparison

### At4.1 Queensland legislative frameworks

#### At4.1.1 Child Safety Services

The following table is a summary of the sections of the Child Protection Act 1999 relating to responsibilities, decision making and information sharing for a child living in out-of-home care relevant to this review.

#### ***Child Protection Act 1999***

##### **Section 5E Obtaining child's views**

- (1) When giving a child an opportunity to express their views under this Act—
  - (a) language appropriate to the age, maturity and capacity of the child should be used; and
  - (b) communication with the child should be in a way that is appropriate to the child's circumstances; and
  - (c) if the child requires help to express their views, the child should be given help; and
  - (d) the child should be given an appropriate explanation of any decision affecting the child, including a decision about the development of a case plan or the effect of the decision or the case plan; and
  - (e) the child should be given an opportunity and any help if needed, to respond to any decision affecting the child.
- (2) Nothing in this section requires a child to express a view about a matter.
- (3) This section does not apply to a court.

##### **Section 7 Chief executive's functions**

- (1) For the proper and efficient administration of this Act, the chief executive's functions are—
  - (a) providing, or helping provide, information for parents and other members of the community about the development of children and their safety needs; and
  - (b) providing, or helping provide, preventative and support services to strengthen and support families and to reduce the incidence of harm to children; and
  - (c) providing, or helping provide, services to families to protect their children if a risk of harm has been identified; and

- (d) providing, or helping provide, services for the protection of children and responding to allegations of harm to children; and
- (e) providing, or helping provide, services that encourage children in their development into responsible adulthood; and
- (f) helping Aboriginal and Torres Strait Islander communities to establish programs for preventing or reducing incidences of harm to children in the communities; and
- (g) providing support and training to approved carers to help them care for children under this Act; and
- (h) negotiating and reviewing a statement of commitment between the State and organisations with an interest in the care of children under this Act that includes the provision of support and resources by the department to approved carers; and
- (i) promoting a partnership between the State, local government, non-government agencies and families in taking responsibility for and dealing with the problem of, harm to children; and
- (j) promoting a partnership between the State and foster carers that recognises the integral part played by foster carers in caring for children under this Act; and
- (k) promoting and helping in developing coordinated responses to allegations of harm to children and responses to domestic violence; and
- (l) cooperating with government entities that have a function relating to the protection of children or provide services to children in need of protection or their families; and
- (m) ensuring access by children in care to advocacy services and cooperating with the services to help ensure that the children's concerns are dealt with; and
- (n) consulting with clients of the department and of organisations involved in providing services relating to the purpose of this Act and with client representative groups; and
- (o) consulting with recognised entities about the administration of this Act in relation to Aboriginal and Torres Strait Islander children; and
- (p) reviewing, under chapter 7A, the department's involvement with certain children who have since died or who have suffered serious physical injury—
  - (i) to facilitate ongoing learning and improvement in the provision of services by the department; and
  - (ii) to promote the accountability of the department; and
- (q) providing, or helping provide, public education about child abuse and neglect and to encourage people whose occupation involves responsibility for children and members of the public to report suspected child abuse and neglect to the chief executive; and
- (r) collecting and publishing, or helping to collect and publish, information and statistics about—
  - (i) harm to children; and
  - (ii) the life outcomes of children in care; and
  - (iii) the relationship between the criminal justice system and the child protection system; and
- (s) promoting and conducting research into—



- (t) the causes and effects of harm to children; and
    - (i) the life outcomes of children in care; and
    - (ii) the relationship between the criminal justice system and the child protection system; and
  - (u) encouraging tertiary institutions to provide instruction about harm to children and its prevention and treatment.
- (2) In this section —

**children in care** means children in the chief executive's custody or guardianship.

## **Section 12 What is effect of custody**

- (1) This section applies if—
- (a) an authorised officer or police officer takes a child into the chief executive's custody; or
- Note—*  
Under section 18, a child at immediate risk of harm may be taken into custody.
- (b) the chief executive has custody of a child under a care agreement; or
  - (c) the chief executive or someone else is granted custody of a child under an assessment order, temporary custody order or child protection order.
- (2) The chief executive, or other person granted custody of the child, has—
- (a) the right to have the child's daily care; and
  - (b) the right and responsibility to make decisions about the child's daily care.

## **Section 13 What is effect of guardianship**

If the chief executive or someone else is granted guardianship of a child under a child protection order, the chief executive or other person has—

- (a) the right to have the child's daily care; and
- (b) the right and responsibility to make decisions about the child's daily care; and
- (c) all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, wellbeing and development of the child.

## **Section 14 Substantiation of alleged harm**

- (1) If the chief executive becomes aware (whether because of notification given to the chief executive or otherwise) of alleged harm or alleged risk of harm to a child and reasonably suspects the child is in need of protection, the chief executive must immediately—
- (a) have an authorised officer investigate the allegation, assess whether the alleged harm or risk of harm can be substantiated and, if it can, assess the child's protective needs; or
  - (b) take other action the chief executive considers appropriate.

- (2) If the chief executive reasonably believes alleged harm to a child may involve the commission of a criminal offence relating to the child, the chief executive must immediately give details of the alleged harm to the police commissioner.
- (3) Subsection (2) applies whether or not the chief executive suspects the child is in need of protection.

## Section 51B

### What is a *case plan*

- (1) A **case plan** for a child is a written plan for meeting the child's protection and care needs.
- (2) A case plan may include any of the following matters—
  - (a) a goal or goals to be achieved by implementing the plan;
  - (b) arrangements about where or with whom the child will live, including interim arrangements;
  - (c) services to be provided to meet the child's protection and care needs and promote the child's future wellbeing;
  - (d) matters for which the chief executive will be responsible, including particular support or services;
  - (e) the child's contact with the child's family group or other persons with whom the child is connected;
  - (f) arrangements for maintaining the child's ethnic and cultural identity;
  - (g) matters for which a parent or carer will be responsible;
  - (h) a proposed review day for the plan.

## Section 51D

### How case planning must be carried out

- (1) The chief executive must ensure case planning for a child is carried out in a way—
    - (a) that enables timely decision-making; and
    - (b) that is consistent with the principles for administering this Act; and
    - (c) that encourages and facilitates the participation of—
      - (i) the child; and
      - (ii) the child's parents; and
      - (iii) other appropriate members of the child's family group; and
      - (iv) for an Aboriginal or Torres Strait Islander child—Aboriginal or Torres Strait Islander agencies and persons; and
- Note* – Section 6(5) requires consultations, negotiations, family group meetings and other proceedings involving an Aboriginal person or Torres Strait Islander to be conducted in a way and in a place that is appropriate to Aboriginal tradition or Island custom.
- (v) other appropriate persons; and
  - (d) that facilitates input from other appropriate entities; and

*Example of input from another entity*—information given by a local health agency about services available to a family

- (e) that gives priority to the child's needs for long-term stable care and continuity of relationships; and
- (f) that enables the persons involved to understand it.

*Examples for paragraph (f) —*

- 1 The chief executive should explain the case planning process to a child using language appropriate to the child's age, language skills and circumstances.
  - 2 The chief executive should tell a child's parents about child protection concerns and explain steps in the case planning process to them, in a way that helps them to understand, ask questions and participate in any discussion. For a parent from a non-English speaking background, this may involve the use of an interpreter.
- (2) The chief executive must give participants in case planning the information they reasonably need to participate effectively.
  - (3) The information must be given to the participants in a timely way to facilitate their effective participation.

## **Section 86 Chief executive to notify parents of placing child in care—child protection order**

- (1) This section applies if the child is in the chief executive's custody or guardianship under a child protection order.
- (2) Subject to subsections (3) and (4), the chief executive must, as soon as practicable after deciding in whose care to place the child, give written notice of the decision to the child and the child's parents stating the following—
  - (a) the person in whose care the child is placed and where the child is living;
  - (b) the reasons for the decision;
  - (c) the child or child's parent may apply to the tribunal to have the decision reviewed;
  - (d) how and the time within which, the child or child's parent may apply to have the decision reviewed;
  - (e) any right the child or child's parent has to have the operation of the decisions stayed.
- (3) Before complying with subsection (2), the chief executive must consider the matters prescribed under a regulation.
- (4) If, after considering the matters, the chief executive reasonably suspects compliance with subsection (2) would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the chief executive may decide not to comply with the subsection.
- (5) If the chief executive makes a decision under subsection (4), the chief executive must give written notice of the decision to the child and the child's parents stating the following—
  - (a) that the chief executive has decided not to tell the child's parents the person in whose care the child is placed and where the child is living;
  - (b) the reasons for the decision;
  - (c) the child or child's parent may apply to the tribunal to have the decision reviewed;

- (d) how and the time within which, the child or child's parent may apply to have the decision reviewed;
  - (e) any right the child or child's parent has to have the operation of the decisions stayed.
- (6) Subsection (2) does not apply if the chief executive is satisfied it is not reasonably practicable for the chief executive to give the notice because the child is placed in the person's care for less than 7 days.

## Section

122

## Statement of standards

- (1) The chief executive must take reasonable steps to ensure a child placed in care under section 82(1) is cared for in a way that meets the following standards (the statement of standards)—
  - (a) the child's dignity and rights will be respected at all times;
  - (b) the child's needs for physical care will be met, including adequate food, clothing and shelter;
  - (c) the child will receive emotional care that allows him or her to experience being cared about and valued and that contributes to the child's positive self-regard;
  - (d) the child's needs relating to his or her culture and ethnic grouping will be met;
  - (e) the child's material needs relating to his or her schooling, physical and mental stimulation, recreation and general living will be met;
  - (f) the child will receive education, training or employment opportunities relevant to the child's age and ability;
  - (g) the child will receive positive guidance when necessary to help him or her to change inappropriate behaviour;
  - (h) the child will receive dental, medical and therapeutic services necessary to meet his or her needs;
  - (i) the child will be given the opportunity to participate in positive social and recreational activities appropriate to his or her developmental level and age;
  - (j) the child will be encouraged to maintain family and other significant personal relationships;
  - (k) if the child has a disability—the child will receive care and help appropriate to the child's special needs.
- (2) For subsection (1)(g), techniques for managing the child's behaviour must not include corporal punishment or punishment that humiliates, frightens or threatens the child in a way that is likely to cause emotional harm.
- (3) For subsection (1)(j), if the chief executive has custody or guardianship of the child, the child's carer must act in accordance with the chief executive's reasonable directions.
- (4) The application of the standards to the child's care must take into account what is reasonable having regard to—
  - (a) the length of time the child is in the care of the carer or care service; and
  - (b) the child's age and development.

## Chapter 5A – Service delivery coordination and information exchange

### Part 1 – Preliminary

#### Section 159A

#### Purpose

The purpose of this chapter is to provide for service providers to appropriately and effectively meet the protection and care needs of children and promote their wellbeing by—

- (a) coordinating the delivery of services to children and families; and
- (b) exchanging relevant information, while protecting the confidentiality of the information.

#### Section 159B

#### Principles for coordinating service delivery and exchanging information

The principles underlying this chapter are as follows—

- (a) the State is responsible for ensuring that children in need of protection receive protection and care services that ensure their safety and promote their wellbeing;
- (b) the State is responsible for ensuring that children and families receive the family support services that they need in order to decrease the likelihood of the children becoming in need of protection;
- (c) the chief executive has the primary responsibility for investigating, assessing and responding to allegations of harm to children, including by making plans for their protection and care;
- (d) each service provider should contribute, within the provider's own sphere of responsibility, to assessing and meeting the protection and care needs of children and supporting their families;
- (e) children in need of protection and children who may become in need of protection and their families should receive coordinated services that meet their needs in a timely and effective way;
- (f) service providers should work collaboratively and in a way that respects the functions and expertise of other service providers;
- (g) because a child's safety, wellbeing and best interests are paramount, their protection and care needs take precedence over the protection of an individual's privacy.

#### Section 159BA

#### Who is a relevant child

In this chapter—

**relevant child** means—

- (a) a child in need of protection; or
- (b) a child who may become a child in need of protection if preventative support is not given to the child or the child's family.



**Section  
159C**

**What is relevant information**

(1) In this chapter—

**relevant information** means—

- (a) in relation to giving information to the chief executive or an authorised officer—information that the holder of the information reasonably believes may—
    - (i) help an authorised officer to investigate an allegation of harm or risk of harm to a child or assess a child’s need for protection; or
    - (ii) help the chief executive take action, or decide if he or she reasonably suspects a child is in need of protection, under section 14; or
    - (iii) help an authorised officer to investigate or assess, before the birth of a child, the likelihood that the child will need protection after he or she is born; or
    - (iv) help the chief executive in offering help and support to a pregnant woman under section 21A; or
    - (v) help the chief executive to develop, or assess the effectiveness of, a child’s case plan; or
    - (vi) help the chief executive to assess or respond to the health, educational or care needs of a relevant child; or
    - (vii) otherwise help the chief executive to make plans or decisions relating to, or provide services to, a relevant child or the child’s family; or
  - (b) in relation to giving information to another service provider—information that the holder of the information reasonably believes may help the service provider to—
    - (i) decide whether information about suspected harm or risk of harm to a child should be given to the chief executive; or
    - (ii) decide whether information about an unborn child who may need protection after birth should be given to the chief executive; or
    - (iii) help the chief executive to offer help and support to a pregnant woman under section 21A; or
    - (iv) assess or respond to the health, educational or care needs of a child in need of protection; or
    - (v) otherwise make plans or decisions relating to, or provide services to, a child in need of protection or the child’s family; or
    - (vi) offer help and support to a child or child’s family to stop the child becoming a child in need of protection; or
  - (c) in relation to the chief executive giving information to a service provider under section 159M(4)—information that the chief executive reasonably believes may help the service provider to—
    - (i) assess or respond to the health, educational or care needs of a relevant child; or
    - (ii) otherwise make plans or decisions relating to, or provide services to, a relevant child or the child’s family.
- (2) Relevant information may be information about—
- (a) a relevant child, the child’s family or someone else; or
  - (b) a pregnant woman or her unborn child.

- (3) Relevant information may be comprised of facts or opinion.
- (4) Relevant information does not include information about a person's criminal history to the extent it relates to a conviction—
  - (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11 of that Act.
- (5) Relevant information does not include information mentioned in subsection (1), definition relevant information, paragraph (b)(ii) or (iii) unless the mother of the unborn child or pregnant woman agrees to the information being provided to the other service provider before it is provided.

## Section 159D

### Other definitions for chapter 5A

In this chapter—

**prescribed entity** means each of the following entities—

- (a) the chief executive;
- (b) an authorised officer;
- (c) a licensee;
- (ca) the public guardian;
- (d) the chief executive of a department that is mainly responsible for any of the following matters—
  - (i) adult corrective services;
  - (ii) community services;
  - (iii) disability services;
  - (iv) education;
  - (v) housing services;
  - (vi) public health;
- (da) the chief executive officer of the Mater Misericordiae Health Services Brisbane Ltd (ACN 096 708 922);
- (daa) a health service chief executive within the meaning of the *Hospital and Health Boards Act 2011*;
- (e) the police commissioner;
- (f) the principal of a school that is accredited, or provisionally accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*;
- (g) the person in charge of a student hostel;
- (h) the chief executive of another entity, that provides a service to children or families, prescribed under a regulation.

**service provider** means—

- (a) a prescribed entity; or
- (b) another person providing a service to children or families; or
- (c) a recognised entity.

***student hostel* means—**

- (a) a student hostel established under the *Education (General Provisions) Act 2006*, section 15(b); or
- (b) a student hostel operated with an allowance paid under the *Education (General Provisions) Act 2006*, section 368(1)(e).

**Chapter 5A – Service delivery coordination and information exchange****Part 2 – Service delivery coordination****Section 159F Service providers' responsibilities**

Service providers must take reasonable steps to coordinate decision-making and the delivery of services to relevant children and their families in order to appropriately and effectively meet the protection and care needs of children and support their families.

**Section 159G Chief executive's responsibilities**

- (1) The chief executive is responsible for—
  - (a) ensuring ways exist to coordinate the roles and responsibilities of service providers in promoting the protection of children, child protection services and family support services; and
  - (b) establishing ways to coordinate the roles and responsibilities of service providers relating to—
    - (i) investigating and assessing particular cases of harm to children; and
    - (ii) taking action to secure the protection of children and promote their wellbeing.
- (2) One of the ways in which the chief executive is to fulfil the responsibility under subsection (1)(b) is by establishing and participating in the SCAN system under part 3.

**Chapter 5A – Service delivery coordination and information exchange****Part 3 – The SCAN System****Section 159I Establishment of system**

The chief executive must establish a SCAN system under this part.

*Note—*

**SCAN** stands for 'Suspected Child Abuse and Neglect'.

## Section 159J

### Purpose

- (1) The purpose of the SCAN system is to enable a coordinated response to the protection needs of children.
- (2) The purpose is to be achieved by facilitating—
  - (a) the sharing of relevant information between members of the system; and
  - (b) the planning and coordinating of actions to assess and respond to children’s protection needs; and
  - (c) a holistic and culturally responsive assessment of children’s protection needs.

## Section 159K

### Members

The members of the SCAN system are—

- (a) the following entities (the **core members**)—
  - (i) the chief executive;
  - (ii) the chief executive of the department mainly responsible for public health;
  - (iii) the chief executive of the department mainly responsible for education;
  - (iv) the police commissioner;
  - (v) in relation to the protection needs of an Aboriginal or Torres Strait Islander child—a recognised entity for the child; and
- (b) from time to time, other service providers contributing to the operation of the system by invitation of the core members.

## Section 159L

### Responsibilities of the core members

The responsibilities of the core members are as follows—

- (a) to contribute to the operation of the SCAN system through representatives who have appropriate knowledge and experience in child protection;
- (b) to use their best endeavours to agree on recommendations to give to the chief executive about assessing and responding to the protection needs of particular children and, for that purpose, to—
  - (i) share relevant information about the children, their families and other relevant persons; and
  - (ii) identify relevant resources of members or other entities;
- (c) to take the action required under the recommendations;
- (d) to monitor the implementation of the recommendations and review their effectiveness;
- (e) to invite and facilitate contributions from other service providers with knowledge, experience or resources that would help achieve the purpose of the SCAN system.

## Chapter 5A – Service delivery coordination and information exchange

### Part 4 – Information exchange

#### Section 159M

#### Particular prescribed entities giving and receiving relevant information

- (1) This section applies to the following prescribed entities—
  - (a) the chief executive;
  - (b) an authorised officer;
  - (c) the chief executive of a department that is mainly responsible for any of the following matters—
    - (i) adult corrective services;
    - (ii) community services;
    - (iii) disability services;
    - (iv) education;
    - (v) housing services;
    - (vi) public health;
  - (ca) the chief executive officer of the Mater Misericordiae Health Services Brisbane Ltd (ACN 096 708 922);
  - (caa) a health service chief executive within the meaning of the *Hospital and Health Boards Act 2011*;
  - (d) the police commissioner;
  - (e) the principal of a school that is accredited, or provisionally accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*.
- (2) A prescribed entity mentioned in subsection (1) may give relevant information to any other service provider.
- (3) A service provider may give relevant information to a prescribed entity mentioned in subsection (1).
- (4) The chief executive may give, to any other service provider, relevant information mentioned in section 159C(1), definition relevant information, paragraph (c).

#### Section 159N

#### Information requirement made by chief executive or authorised officer

- (1) If the chief executive or an authorised officer asks a prescribed entity for particular relevant information in the entity's possession or control, the entity must comply with the request.
- (2) For subsection (1), information is not taken to be in the prescribed entity's control merely because of an agreement between the prescribed entity and another entity under which the other entity must give the information to the prescribed entity.
- (3) Subsection (1) does not apply to relevant information if the prescribed entity reasonably considers that—



- (a) giving the information could reasonably be expected to—
    - (i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or
    - (ii) prejudice an investigation under the Coroners Act 2003; or
    - (iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or
    - (iv) endanger a person's life or physical safety; or
    - (v) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and
  - (b) it would not be in the public interest to give the information.
- (4) A person does not commit an offence merely by failing to comply with subsection (1).

## Chapter 5A – Service delivery coordination and information exchange

### Part 5 – Release of health information or information relevant to a coronial investigation

#### Section 159O

#### **Release of information by a health services designated person**

- (1) A health services designated person may, for this Act, give a relevant person or the Childrens Court confidential information if—
  - (a) for a relevant person or the Childrens Court—the information is relevant to the protection or wellbeing of a child; or
  - (b) for a relevant person who is the chief executive and without limiting paragraph (a)—the information is relevant to the chief executive's review under chapter 7A.
- (2) Subsection (1)(a) includes the giving of information, before a child is born, that is relevant to the protection or wellbeing of the child after he or she is born.
- (3) This section does not limit a power or obligation under this chapter to give relevant information.
- (4) In this section—

***confidential information*** see the Hospital and Health Boards Act 2011, schedule 2.

***designated person*** see the Hospital and Health Boards Act 2011, schedule 2.

***health services designated person*** means a designated person.

***relevant person*** means—

- (a) the chief executive; or
- (b) an authorised officer; or
- (c) a police officer.

## Chapter 5A – Service delivery coordination and information exchange

### Part 6 – Protection from liability and interaction with other laws

#### Section **Protection from liability for giving information**

##### 159Q

- (1) This section applies if a person, acting honestly, gives information in compliance with this chapter.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person cannot be held to have—
  - (a) breached any code of professional etiquette or ethics; or
  - (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsections (2) and (3)—
  - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
    - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
    - (ii) is not liable to disciplinary action for giving the information.

#### Section **Interaction with other laws**

##### 159R

- (1) This chapter does not limit a power or obligation under another Act or law to give relevant information.
- (2) This part applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

*Examples of other laws for subsection (2)—*

*Education (General Provisions) Act 2006, section 426*

*Hospital and Health Boards Act 2011, section 142(1)*

*Youth Justice Act 1992, section 288*

*Police Service Administration Act 1990, section 10.1*

## Chapter 6 – Enforcement and legal proceedings

### Part 6 – Confidentiality

#### Division 2 – Confidentiality in relation to administration of Act

#### Section 185

#### Definitions for part 6

In this part—

**publish**, for information, means to publish it to the public by way of television, newspaper, radio or other form of communication.

**this Act** includes the *Children’s Services Act 1965*.

*Note—*

See section 250.

#### Section 187

#### Confidentiality of information obtained by persons involved in administration of Act

(1) This section applies to a person who—

(a) is or has been—

- (i) a public service employee, a person engaged by the chief executive, or a police officer, performing functions under or in relation to the administration of this Act; or
- (ii) a licensee or the executive officer of a corporation that is a licensee; or
- (iii) a person employed or engaged by a licensee to perform functions under or in relation to the administration of this Act; or
- (iv) an approved carer or other person in whose care a child has been placed under this Act; or
- (v) a member of, or person employed or engaged by, a recognised Aboriginal or Torres Strait Islander agency; or
- (vi) a recognised entity or member of a recognised entity; or
- (vii) a person attending a case planning meeting or participating in another way in the development of a child’s case plan; or
- (viii) a person participating in the revision of a child’s case plan; or
- (ix) a member of the SCAN system, or a representative of a member, performing functions under or in relation to chapter 5A, part 3; or
- (x) a prescribed entity, or person engaged by a prescribed entity, performing functions under or in relation to chapter 5A, part 4; or
- (xi) a person allowed to view a document or information under section 113; and

(b) in that capacity acquired information about another person’s affairs or has access to, or custody of, a document about another person’s affairs.

(2) The person must not use or disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (3) However, the person may, subject to section 186, use or disclose the information or give access to the document to someone else—
- (a) to the extent necessary to perform the person's functions under or in relation to this Act; or
  - (b) if the use, disclosure or giving of access is for purposes related to a child's protection or wellbeing; or

*Example—*

An approved carer in whose care a child has been placed under this Act may disclose relevant information about the child to a person, including, for example, a school teacher or member of the carer's immediate family, to help the person understand and meet the child's needs.

- (c) if the use, disclosure or giving of access—
  - (i) relates to the chief executive's function of cooperating with government entities that have a function relating to the protection of children or that provide services to children in need of protection or their families; or
  - (ii) is for the performance by the chief executive (adoptions) of his or her functions under the Adoption Act 2009; or
  - (iii) is otherwise required or permitted under this Act (including, for example, this division or section 159M) or another law.
- (4) Also, the person may disclose the information or give access to the document—
  - (a) to another person, to the extent that the information or document is about the other person; or
  - (b) to the chief executive or an authorised officer, to enable the proper administration of chapter 4.
- (5) To remove any doubt, it is declared that a person participating in the development, implementation or revision of a child's case plan under this Act is performing a function under this Act.
- (6) In this section—

***recognised Aboriginal or Torres Strait Islander agency*** means a recognised Aboriginal or Torres Strait Islander agency under this Act before the commencement of the *Child Safety Legislation Amendment Act 2005*, section 64.

## Section 188

### **Confidentiality of information given by persons involved in administration of Act to other persons**

- (1) This section applies if the chief executive, an authorised officer, another prescribed entity, a police officer or anyone else in the course of performing functions under or in relation to the administration of this Act, gives a person (the receiver) information or a document about another person's affairs.
- (2) The receiver must not use or disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (3) However, the receiver may, subject to section 186, use or disclose the information or give access to the document to someone else—
  - (a) if the use, disclosure or giving of access is authorised by the chief executive under section 189B; or
  - (b) if the use, disclosure or giving of access is for purposes directly related to a child's protection or wellbeing; or
  - (c) if the use, disclosure or giving of access is for purposes directly related to obtaining information requested by the chief executive under section 246C; or
  - (d) if the use, disclosure or giving of access is otherwise required or permitted by law.

## Section 188A

### Police use of confidential information

- (1) This section applies if a police officer acquires information as provided for in section 187(1).
- (2) The officer and any other police officer to whom the information is disclosed under this section, may use the information to the extent necessary to perform his or her functions as a police officer.
- (3) A police officer must not use the information under this section for an investigation or for a proceeding for an offence unless the officer, or another police officer, has consulted with the following entities about the proposed use—
  - (a) the chief executive;
  - (b) if the information was acquired under chapter 5A, part 3, from a member of the SCAN system—the member;
  - (c) if the information was acquired from a prescribed entity under chapter 5A, part 4—the prescribed entity.
- (4) The purpose of a consultation under subsection (3) is to consider whether the proposed use of the information for the investigation or proceeding would be in the best interests of any child.
- (5) Subsection (3) does not apply—
  - (a) if the information concerns an offence committed against a child; or
  - (b) to the extent that the police officer needs to use the information immediately to perform the officer's functions as a police officer.
- (6) This section applies subject to section 186.
- (7) In this section—

**information** includes a document.

**use—**

- (a) in relation to information, includes disclose; and
- (b) in relation to a document, includes give access to.

*Note—*

Section 248B also requires a police officer to consult with the chief executive about particular investigations and proceedings.



## Section 189

### Prohibition of publication of information leading to identity of children

- (1) A person must not, without the chief executive's written approval, publish information that identifies, or is likely to lead to the identification of, a child as—
- (a) a child who is or has been the subject of an investigation under this Act of an allegation of harm or risk of harm; or
  - (b) a child in the chief executive's custody or guardianship under this Act; or
  - (c) a child for whom an order is in force.

#### Maximum penalty—

- (a) for an individual—100 penalty units or 2 years imprisonment; or
  - (b) for a corporation—1000 penalty units.
- (2) A person must not, without the chief executive's written approval, publish information that identifies, or is likely to lead to the identification of, a child living in Queensland as a child who—
- (a) has been harmed or allegedly harmed by a parent or step-parent of the child or another member of the child's family; or
  - (b) is, or allegedly is, at risk of harm being caused by a parent or step-parent of the child or another member of the child's family.

#### Maximum penalty for subsection (2)—

- (a) for an individual—100 penalty units or 2 years imprisonment; or
- (b) for a corporation—1000 penalty units.

## QUEENSLAND BILLS EXPLANATORY NOTES

### *Child Protection Bill 1998*

#### Part 5 – Confidentiality

Explanatory notes for the above section formerly known as clause 183 of the *Child Protection Bill 1998*

*Clause 183 makes it an offence to publish information which would identify a child living in Queensland as being a child who has been harmed by someone within their own family. This provision recognises the emotional trauma to a child (even many years later) of seeing or hearing themselves publicly identified as a child whose family mistreated them. The repercussions extend to the attitudes of others with whom the child has contact, e.g. a child being embarrassed or bullied because other children at school, for example, have had access via the media to very personal information about what happened within the child's home.*

*For the same reasons, clause 183 also makes it an offence to identify a child as the subject of investigation of a child protection allegation under this Bill or the subject of an application or order under this Bill, unless approved by the chief executive for publication.*

*Child Protection Bill 1999, Explanatory notes, [http://www.austlii.edu.au/au/legis/qld/bill\\_en/cpb1998187/cpb1998187.html](http://www.austlii.edu.au/au/legis/qld/bill_en/cpb1998187/cpb1998187.html), (page 50-51), accessed 18/12/2015.*

**Section  
194**

**Publication of information identifying child victim**

(1) A person must not publish identifying information about a relevant person.

Maximum penalty —

- (a) for an individual—100 penalty units or 2 years imprisonment; or
- (b) for a corporation—1000 penalty units.

(2) Subsection (1) does not apply to a publication if—

- (a) the publication is made by the relevant person; or
- (b) the relevant person is an adult and he or she gives consent to the publication after being told—
  - (i) the information to be published; and
  - (ii) to whom it is to be published; and
  - (iii) the reason for the publication; or
- (c) the publication is—
  - (i) a record of evidence of the proceeding made under the Recording of Evidence Act 1962; or
  - (ii) a report made for the department or Queensland Police Service; or
  - (iii) a report mentioned in the Criminal Law (Sexual Offences) Act 1978, section 8(1); or
- (d) the publication is—
  - (i) for the purpose of an investigation into a complaint made by or on behalf of the relevant person about a relevant offence; and
  - (ii) made by—
    - (A) the police commissioner or, if the investigation is carried out by a public sector unit other than the police service, the chief executive of the public sector unit; or
    - (B) a person authorised to make the publication by a person mentioned in sub-subparagraph (A); or
- (e) the publication is made for the purpose of preparing for or conducting any of the following in relation to a relevant offence—
  - (i) an examination of witnesses;
  - (ii) a trial;
  - (iii) a proceeding on appeal arising from a trial; or

Example for paragraph (e) — publication for the purpose of issuing a summons or subpoena in the preparation of a defence for a relevant offence

(f) the publication is permitted by a direction under section 194A or 194B.

(3) A purpose mentioned in subsection (2)(e) does not include a purpose for which publication may be permitted by a direction under section 194A or 194B.

- (4) In this section—  
**identifying information**, about a relevant person—  
(a) means information that identifies, or is likely to lead to the identification of, him or her as a relevant person; and  
(b) includes—  
(i) the person’s name, address, school or place of employment; and  
(ii) a photograph or film of the person or of someone else that is likely to lead to the relevant person’s identification.

**relevant offence**, in relation to a relevant person, means an offence committed or alleged to have been committed in relation to the relevant person.

**relevant person** means a person who is or was a child in relation to whom an offence was committed or is alleged to have been committed.

**Section 197**      **Protection from liability for officials**

- (1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.  
(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.  
(3) In this section—  
**official** means—  
(a) the chief executive; or  
(b) an authorised officer or police officer; or  
(c) a person acting under the direction of a person mentioned in paragraph (a) or (b); or  
(d) a member of the SCAN system or a representative of a member; or  
(e) a member of a review panel.

Section 11 of the *Child Protection Regulation 2011* is documented in the table below. This section outlines considerations for the Chief Executive of Child Safety Services in deciding whether to give approval to publish information under section 189 of the *Child Protection Act 1999*.

**Child Protection Regulation 2011**

**Part 4 – Confidentiality in relation to administration of Act**

<b>Section 11</b>	<b>Approval to publish particular information</b>
In deciding whether to give an approval to publish information under section 189 of the Act, the chief executive may have regard to the following in relation to a child mentioned in the section—	
(a) if the child is able to form and express views about the publication, the views of the child, taking into account the child’s age or ability to understand;	

- (b) the emotional support available to the child;
- (c) the likely effect of the publication on the child, at present or in the future;
- (d) whether the publication would adversely affect the child's relationship with members of the child's family;
- (e) the way it is proposed to publish the information;
- (f) the estimated number of persons who will hear or see the information, as a result of its publication;
- (g) the views of the child's parents;
- (h) the identity of the person asking for the approval;
- (i) the reason for the proposed publication;
- (j) the views of the person seeking the approval as to why the publication is in the best interests of the child.

The following table outlines guidance provided in the *Foster and kinship carer handbook* around privacy and confidentiality and the publication of information relevant to this review.

### ***Foster and kinship carer handbook (revised edition 2016)***

#### **Foster and kinship carer handbook (revised edition 2016)**

This handbook has a section on 'Legal Matters'. This section informs carers that children living in out-of-home care have a right to privacy and carers have specific obligations under the *Child Protection Act 1999*. Carers are informed that '*a breach of confidentiality is an offence under the Child Protection Act 1999 with penalties including a fine or imprisonment up to two years*'<sup>319</sup>. The information that is provided to carers and that is of particular relevance to this review includes:

*The confidentiality provisions in the Child Protection Act 1999 state that you must not use or disclose any information about a person (including a child or young person in your care, or their family) that you acquire in your capacity as a carer, or give access to a document containing that information, except:*

- *to the extent necessary to perform your role as a carer*
- *for purposes related to the child's protection or wellbeing.*

*There are some other situations where it is permissible to use or disclose information (for example, if it is required or permitted by law, or to the extent that the information is about the person you are disclosing it to). If you think one of these exceptions apply, always talk to your Child Safety Officer or foster and kinship care service first*<sup>320</sup>.

*Foster and kinship carers are advised in the handbook, 'the confidentiality provisions in the Child Protection Act 1999 are not intended to isolate carers. You can talk generally to others about a child or young person in your care'*<sup>321</sup>.

<sup>319</sup> Department of Communities, Child Safety and Disability Services, *Foster and kinship carer handbook (revised edition 2016)*, page 89.

<sup>320</sup> Department of Communities, Child Safety and Disability Services, *Foster and kinship carer handbook (revised edition 2016)*, page 89.

<sup>321</sup> Department of Communities, Child Safety and Disability Services, *Foster and kinship carer handbook (revised edition 2016)*, page 90.

### **Privacy and confidentiality**

*Children have a right to privacy. This right to privacy is recognised in the United Nations Convention on the Rights of the Child. Privacy has many aspects, including physical privacy, communications privacy and information privacy.*

*The Charter of rights for a child in care establishes a ‘right to privacy, including, for example, information privacy’. Information privacy includes limiting the information that is known about a child, how it is disseminated and how it is used.*

*As a carer, you have an obligation to respect the privacy of children in your care. Respecting a child’s personal information and treating that information confidentially is also an important way to show respect and build trust.*

*By contrast, failure to respect a child’s privacy and confidentiality may have significant consequences for them. Frequently the family circumstances that result in a child being placed in care will have particular sensitivity and disclosing that information may have significant ramifications, including damage to reputation now and in the future. Negative consequences may be exacerbated if information is published (on social media such as Facebook) and widely disseminated.*

*Carers also have specific confidentiality obligations under the Child Protection Act 1999. The following information outlines these obligations.*

### **What are my confidentiality obligations?**

*The confidentiality provisions in the Child Protection Act 1999 state that you must not use or disclose any information about a person (including a child or young person in your care, or their family) that you acquire in your capacity as a carer, or give access to a document containing that information, except:*

- *to the extent necessary to perform your role as a carer*
- *for purposes related to the child’s protection or wellbeing.*

*There are some other situations where it is permissible to use or disclose information (for example, if it is required or permitted by law, or to the extent that the information is about the person you are disclosing it to). If you think one of these exceptions apply, always talk to your Child Safety Officer or foster and kinship care service first. You must not publish information without the chief executive’s written approval that could identify a child as:*

- *a child who has been the subject of an investigation under the Child Protection Act 1999*
- *a child who is in the custody or guardianship of the chief executive*
- *a child for whom an order is in force*
- *a child who is living in Queensland and who has been (or is alleged to have been) harmed (or at risk of harm) by a parent, step-parent or another member of their family.*

*This includes publishing information on social media (Facebook, Twitter, Instagram, Myspace, discussion forums), or by way of television, newspaper, radio or other form of communication.*



*Similar obligations apply to people to whom you disclose information about a child in care.*

***A breach of confidentiality is an offence under the Child Protection Act 1999 with penalties including a fine or imprisonment up to two years<sup>322</sup>.***

### **How do I advocate for the child?**

*An important component of your role as a carer is to advocate for the child. However, it is important that you disclose the least amount of information necessary.*

*For example, if you wrote on Facebook that you have a seven-year-old child in your care who was physically abused by his parents and you disagree with the case plan about the child's contact with their parents, this would identify the child as a child in care and breach the Child Protection Act 1999. However, if you spoke to Foster Care Queensland about your concerns and what action you could take to contest the case plan, that would not breach the Act.*

*If you feel you need support when advocating for a child in your care (for example, a support person or professional counsellor), you still need to be careful how much information you disclose to them. Importantly, you need to consider whether disclosing the information is necessary to perform your functions as a carer, or for the child's protection and wellbeing.*

*Remember that the person you disclose the information to will also be subject to confidentiality provisions in the Child Protection Act 1999 and they may breach the Act if they then pass the information on.*

*If you are in any doubt please contact your Child Safety Officer or foster and kinship care service to discuss how you can best advocate for the child.*

### **Media and social media**

*You must not publish information (including photographs and videos) that identifies the child as a child in care in social media (Facebook, Twitter, Instagram, Myspace, discussion forums), newspapers, television or radio programs without the written approval of the Director-General of the Department of Communities, Child Safety and Disability Services.*

*For example, the child in your care has won a maths competition and the local paper wants to do a story.*

*In most cases this is an important way of recognising and celebrating the child's achievements. However, it is important that you check with the Child Safety Officer that there are no risks with publishing the story and no information is disclosed that suggests the child is in care.*

### **Photography**

*You can include a child in your care in family photographs and in photos for personal use.*

*For example, it is ok for the child to participate in school class photos and sports team photos<sup>323</sup>.*

<sup>322</sup> Department of Communities, Child Safety and Disability Services, Foster and kinship carer handbook (revised edition 2016), page 89.

<sup>323</sup> Department of Communities, Child Safety and Disability Services, Foster and kinship carer handbook (revised edition 2016), page 91.

## At4.1.2 Education

*Education (General Provisions) Act 2006*

The following table is a summary of the sections of *Education (General Provisions) Act 2006* relating to DET disclosing a student's personal information to law enforcement agencies. The Director-General, the DET may delegate powers under these sections of this Act to appropriate officers.

**Chapter 19 – Miscellaneous****Part 3 – General****Section****426****Confidentiality**

- (1) This section applies to a person—
  - (a) who is or has been—
    - (i) the chief executive or a public service employee in the department; or
    - (ii) an employee of a State school; or
    - (iii) a minister, or an accredited representative, of a religious denomination or society mentioned in section 76(1); or
    - (iv) a member of an association; and
  - (b) who, in that capacity, has gained or has access to personal information about—
    - (i) a student, prospective student or former student of a State school; or
    - (ii) a pre-preparatory age child—
      - (A) who is or has been registered in a pre-preparatory learning program at a State school; or
      - (B) for whom an application for registration has been made under section 419B; or
      - (C) who is or has been registered in a distance education pre-preparatory learning program; or
      - (D) for whom an application for registration has been made under section 419F; or
    - (iii) a person with a disability who—
      - (A) under section 420(2), is being provided with special education at a State school; and
      - (B) is not enrolled in the preparatory year at the school; or
    - (iv) a child—
      - (A) who is or has been provisionally registered, or registered, for home education under chapter 9, part 5; or
      - (B) for whom an application for provisional registration, or registration, has been made under chapter 9, part 5.
- (2) This section also applies to a person—
  - (a) who is or has been an employee of a relevant non-State school; and
  - (b) who, in that capacity, has gained or has access to personal information, contained in a transfer note, about—
    - (i) a former student or continuing student of the school; or
    - (ii) a pre-preparatory age child—

- (A) who is or has been registered in a pre-preparatory learning program at the school; or
- (B) for whom an application for registration has been made under section 419B; or
- (iii) a person with a disability who—
  - (A) under section 420(2), is being provided with special education at the school; and
  - (B) is not enrolled in the preparatory year at the school.

- (3) This section also applies to a person—
  - (a) who is or has been the chief executive or a public service employee in the department; and
  - (b) who, in that capacity, has gained or has access to personal information about a student, prospective student or former student of a recognised school.
- (4) The person must not make a record of the information, use the information or disclose the information to anyone else, other than—
  - (a) for a purpose of this Act; or
  - (b) with the consent of the person to whom the information relates, or if the person is a child unable to consent, with the consent of a parent of the child; or
  - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
  - (d) as permitted or required under subsection (4A) or another Act; or
  - (e) with the written consent of the chief executive, who may give the consent if he or she is reasonably satisfied the recording, use or disclosure is—
    - (i) necessary to assist in averting a serious risk to the life, health or safety of a person, including the person to whom the information relates; or
    - (ii) in the public interest; or
    - (iii) necessary for research, or the compilation or analysis of statistics, if—
      - (A) the research, compilation or analysis is in the public interest; and
      - (B) the recording, use or disclosure does not involve the publication of all or any of the information in a form that identifies a person to whom the information relates; and
      - (C) it is not practicable to obtain the express or implied agreement of each person to whom the information relates before the information is recorded, used or disclosed; and
  - (D) for a disclosure—the chief executive is reasonably satisfied the person to whom the information is disclosed will not disclose the information to anyone else.

Maximum penalty—50 penalty units.

- (4A) The chief executive may disclose the information to a law enforcement agency if the chief executive is reasonably satisfied the disclosure is necessary for the prevention, detection, investigation, prosecution or punishment of a criminal offence or a breach of a law imposing a penalty or sanction.
- (5) In this section—
  - disclose**, information, includes give access to the information.
  - employee**, of a State school or relevant non-State school, includes—
    - (a) a person appointed to a position with the school; and
    - (b) a person engaged by the chief executive, the State school's principal, or the relevant non-State school's governing body, under a contract for services; and
    - (c) a volunteer who performs a task for the school at any place.

**law enforcement agency** see the *Information Privacy Act 2009*, schedule 5, definition law enforcement agency, paragraph (a).

**personal information** means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**recognised school** see the E(QCAA) Act, schedule 1.

**relevant non-State school** means a non-State school, the governing body of which is not an organisation within the meaning of the *Privacy Act 1988* (Cwlth), section 6C.

**Education (General Provisions) Regulation 2006**

The following table is a summary of sections of the *Education (General Provisions) Regulation 2006* relevant to this review.

<b>Section 18</b>	<b>Recording absences</b>
	If a student of a State school is absent from school, the school’s principal must record the absence in a way decided by the chief executive.
<b>Section 19</b>	<b>Meaning of unexplained absence</b>
	(1) If a student of a State school is absent from school, the absence is an unexplained absence if the principal, or a staff member, of the school has not been informed that the student will be absent and the reason for the absence, or the reason the student is or was absent, by— (a) if the student is a child—a parent of the student; or (b) if the student is an adult—the student.
	(2) Despite subsection (1)(a), if the student is a child, the student may inform the principal or a staff member about the absence if the principal is satisfied it would be inappropriate in the circumstances for a parent of the student to inform the principal or staff member about the absence.
	<i>Example—</i> It may be inappropriate for a parent of the student to inform the principal or a staff member about the absence if the student is living independently of his or her parents.

## Section 20 Reporting unexplained absences

- (1) This section applies if—
  - (a) a student of a State school is absent from school; and
  - (b) the absence is an unexplained absence.
- (2) If the student is a child, the principal must inform a parent of the student about the absence and ask the parent the reason for the absence.
- (3) Subsection (2) does not apply if the principal is satisfied it would be inappropriate in the circumstances to inform a parent of the student about the absence.

### *Example—*

It may be inappropriate to inform a parent of the student about the absence if the student is living independently of his or her parents.

- (4) The principal must ask the student the reason for an unexplained absence if—
  - (a) the student is a child and subsection (2) does not apply; or
  - (b) the student is an adult.
- (5) The principal may report an absence to a relevant authority if—
  - (a) either—
    - (i) the absence is an unexplained absence; or
    - (ii) the absence was an unexplained absence and the principal asked the reason for the absence under subsection (2) or (4); and
  - (b) the principal considers it is appropriate to do so.
- (6) In this section—

**relevant authority** means an entity of the State to whom it is appropriate to report an unexplained absence, including a police officer and the department in which the *Child Protection Act 1999* is administered.



## Section 21 Other absences—principal may seek clarification of reasons

- (1) This section applies if—
  - (a) a student of a State school is absent from school; and
  - (b) the absence is not an unexplained absence; and
  - (c) the principal of the school is not reasonably satisfied about the reason for the absence.
- (2) If the student is a child, the principal may ask a parent of the student the reason for the absence.
- (3) Subsection (2) does not apply if the principal is satisfied it would be inappropriate in the circumstances to ask a parent of the student the reason for the absence.

### *Example—*

It may be inappropriate to ask a parent of the student the reason for the student's absence if the student is living independently of his or her parents.

- (4) The principal may ask the student the reason for the absence if—
  - (a) the student is a child and subsection (2) does not apply; or
  - (b) the student is an adult.

## Section 22 Good behaviour of students

- (1) A State school's principal must take reasonable steps to ensure the standard of behaviour of students of the school is clearly defined and monitored while the students are under the principal's care and control.
- (2) Without limiting subsection (1), the principal must ensure students of the school are effectively supervised.

## At4.1.3 QHealth

### ***The Hospital and Health Boards Act 2011***

The following table is a summary of relevant sections of *The Hospital and Health Boards Act 2011* relevant to this review.

## **Part 7 – Confidentiality**

### **Division 1 – Interpretation and application**

## **Section 139 Definitions for Part 7**

139 In this part—

**confidential information** means information, acquired by a person in the person's capacity as a designated person, from which a person who is receiving or has received a public sector health service could be identified.

**designated person** means a person who is or was—

- (a) a public service employee employed in the department; or
- (b) a health service employee; or
- (c) the chief health officer; or
- (d) the director of mental health; or
- (e) a health professional (other than a person mentioned in paragraphs (a) to (d)) engaged in delivering a public sector health service, whether at a public sector health service facility or another place; or
- (f) a member of a board of a Service; or
- (g) a person (other than a person mentioned in paragraph (a) or (b)) engaged temporarily to provide administrative support services for a Service or the department; or
- (h) a person being educated or trained at a public sector health service facility as part of the requirements for—
  - (i) registration, enrolment or other authorisation (however described) to practise as a health professional; or
  - (ii) completion of a course of study qualifying a person for registration, enrolment or authorisation mentioned in subparagraph (i); or
- (i) a person providing education or training at a public sector health service facility to a person mentioned in paragraph (h); or
- (j) a contractor who accesses confidential information under a contract to provide information and communication technology or information management services to a Service or the department; or
- (k) a volunteer carrying out duties at a public sector health service facility on behalf of a Service or the department; or
- (l) an inspector; or
- (m) another person prescribed under a regulation for this paragraph to be a designated person.

**external service provider** means an entity providing a health service under an agreement between the chief executive or a Service and the entity.

**guardian**, of a child, means a person who is recognised in law as having the duties, powers, responsibilities and authority that, by law, parents have in relation to their children.

**information system** means a system for making, keeping and preserving records, whether paper-based, electronic or both, including records that contain confidential information.

**parent** see section 140.

### Section 143 Disclosure required or permitted by law

- (1) A designated person may disclose confidential information if the disclosure is required or permitted by an Act or law.
- (2) Without limiting subsection (1), the disclosure of the following confidential information is a disclosure permitted by an Act—

- (a) information provided to the chief executive by a Service under a service agreement;
- (b) information provided to the chief executive and other entities by a Service in compliance with a health service directive;
- (c) information provided under this Act by the chief executive to the Commonwealth or an entity established under an Act of the Commonwealth;
- (d) information provided to the administrator under part 3A, division 4.

#### **Section 144 Disclosure with consent**

A designated person may disclose confidential information if—

- (a) the person to whom the confidential information relates is an adult and consents to the disclosure; or
- (b) the person to whom the confidential information relates is a child and—
  - (i) the disclosure of the confidential information is by a health professional who reasonably believes the child is of sufficient age and mental and emotional maturity to understand the nature of consenting to the disclosure; and
  - (ii) the child consents to the disclosure; or
- (c) the person to whom the confidential information relates is a child and—
  - (i) the disclosure of the confidential information is by a health professional who reasonably believes the child is of insufficient age or mental or emotional maturity to understand the nature of consenting to the disclosure; and
  - (ii) the child's parent or guardian consents to the disclosure; or
- (d) the person to whom the confidential information relates is a child and the disclosure of the confidential information is by a health professional who reasonably believes the disclosure of the information is in the child's best interests.

#### **Section 147 Disclosure to lessen or prevent serious risk to life, health or safety**

A designated person may disclose confidential information if—

- (a) the relevant chief executive believes, on reasonable grounds, the disclosure is necessary to assist in lessening or preventing a serious risk to—
  - (i) the life, health or safety of a person, including the person to whom the confidential information relates; or
  - (ii) public safety; and
- (b) the relevant chief executive has, in writing, authorised the disclosure.

#### **Section 148 Disclosure for the protection, safety or wellbeing of a child**

A designated person may disclose confidential information if—

- (a) the disclosure is to a person for the protection, safety or wellbeing of a child; and
- (b) the confidential information relates to someone other than the child mentioned in paragraph (a).

#### At4.1.4 Privacy Laws

##### *Privacy Act 1988* – Commonwealth legislation

Agencies and individuals with responsibilities under the *Privacy Act 1988*:

- Australian Government agencies (and the Norfolk Island administration) and all businesses and not-for-profit organisations with an annual turnover more than \$3 million, subject to some exceptions
- Some small business operators (organisations with a turnover of \$3 million or less) are covered by the *Privacy Act 1988*
- Some specified persons who handle another person's information.

The *Privacy Act 1988* does not cover:

- State or territory government agencies, including state and territory public hospitals and health care facilities (which are covered under state and territory legislation) except:
  - certain acts and practices related to Personally Controlled Electronic Health Records and Individual Healthcare Identifiers
  - entities prescribed by the *Privacy Regulation 2013*
- individuals acting in their own capacity, including your neighbours
- *universities, other than private universities and the Australian National University*
- *public schools*
- *in some circumstances, the handling of employee records by an organisation in relation to current and former employment relationships*
- *small business operators, unless an exception applies (see above)*
- *media organisations acting in the course of journalism if the organisation is publicly committed to observing published privacy standards*
- *registered political parties and political representatives*<sup>324</sup>.

<sup>324</sup> Office of the Australian Information Commissioner, Privacy Laws, 'Rights and Responsibilities', <https://www.oaic.gov.au/privacy-law/rights-and-responsibilities>, accessed 29/01/2016.

## Part I – Preliminary

### Section 2A Objects of this Act

The objects of this Act are:

- (a) to promote the protection of the privacy of individuals; and
- (b) to recognise that the protection of the privacy of individuals is balanced with the interests of entities in carrying out their functions or activities; and
- (c) to provide the basis for nationally consistent regulation of privacy and the handling of personal information; and
- (d) to promote responsible and transparent handling of personal information by entities; and
- (e) to facilitate an efficient credit reporting system while ensuring that the privacy of individuals is respected; and
- (f) to facilitate the free flow of information across national borders while ensuring that the privacy of individuals is respected; and
- (g) to provide a means for individuals to complain about an alleged interference with their privacy; and
- (h) to implement Australia's international obligation in relation to privacy.

### Section 3 Saving of certain State and Territory laws

It is the intention of the Parliament that this Act is not to affect the operation of a law of a State or of a Territory that makes provision with respect to the collection, holding, use, correction or disclosure of personal information (including such a law relating to credit reporting or the use of information held in connection with credit reporting) and is capable of operating concurrently with this Act.

Note: Such a law can have effect for the purposes of the provisions of the Australian Privacy Principles that regulate the handling of personal information by organisations by reference to the effect of other laws.

## Part II – Interpretation

### Division 1 – General Definitions

#### Section 6 Interpretation

**personal information** means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.



## Section 16A

### Permitted general situations in relation to the collection, use or disclosure of personal information

- (1) A **permitted general situation** exists in relation to the collection, use or disclosure by an APP entity of personal information about an individual, or of a government related identifier of an individual, if:
- (a) the entity is an entity of a kind specified in an item in column 1 of the table; and
  - (b) the item in column 2 of the table applies to the information or identifier; and
  - (c) such conditions as are specified in the item in column 3 of the table are satisfied.

#### Permitted general situations

Item	Column 1 Kind of entity	Column 2 Item applies to	Column 3 Condition(s)
1	APP entity	(a) personal information; or (b) a government related identifier.	(a) it is unreasonable or impracticable to obtain the individual's consent to the collection, use or disclosure; and (b) the entity reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
2	APP entity	(a) personal information; or (b) a government related identifier.	(a) the entity has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in; and (b) the entity reasonably believes that the collection, use or disclosure is necessary in order for the entity to take appropriate action in relation to the matter.
3	APP entity	Personal information	(a) the entity reasonably believes that the collection, use or disclosure is reasonably necessary to assist any APP entity, body or person to locate a person who has been reported as missing; and (b) the collection, use or disclosure complies with the rules made under subsection (2).

Permitted general situations			
Item	Column 1 Kind of entity	Column 2 Item applies to	Column 3 Condition(s)
4	APP entity	Personal information	The collection, use or disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim.
5	APP entity	Personal information	The collection, use or disclosure is reasonably necessary for the purposes of a confidential alternative dispute resolution process.
6	Agency	Personal information	The entity reasonably believes that the collection, use or disclosure is necessary for the entity's diplomatic or consular functions or activities.
7	Defence Force	Personal information	<p>The entity reasonably believes that the collection, use or disclosure is necessary for any of the following occurring outside Australia and the external Territories:</p> <ul style="list-style-type: none"> <li>(a) war or warlike operations;</li> <li>(b) peacekeeping or peace enforcement;</li> <li>(c) civil aid, humanitarian assistance, medical or civil emergency or disaster relief.</li> </ul>

(2) The Commissioner may, by legislative instrument, make rules relating to the collection, use or disclosure of personal information that apply for the purposes of item 3 of the table in subsection (1).

## Schedule 1 – Australian Privacy Principles

### Section 6 Australian Privacy Principle 6 – use or disclosure of personal information

#### *Use or disclosure*

6.1 If an APP entity holds personal information about an individual that was collected for a particular purpose (the **primary purpose**), the entity must not use or disclose the information for another purpose (the **secondary purpose**) unless:

- (a) the individual has consented to the use or disclosure of the information; or
- (b) subclause 6.2 or 6.3 applies in relation to the use or disclosure of the information.

Note: Australian Privacy Principle 8 sets out requirements for the disclosure of personal information to a person who is not in Australia or an external Territory.

6.2 This subclause applies in relation to the use or disclosure of personal information about an individual if:

- (a) the individual would reasonably expect the APP entity to use or disclose the information for the secondary purpose and the secondary purpose is:
  - (i) if the information is sensitive information--directly related to the primary purpose; or
  - (ii) if the information is not sensitive information--related to the primary purpose; or
- (b) the use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- (c) a permitted general situation exists in relation to the use or disclosure of the information by the APP entity; or
- (d) the APP entity is an organisation and a permitted health situation exists in relation to the use or disclosure of the information by the entity; or
- (e) the APP entity reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

Note: For **permitted general situation**, see section 16A. For **permitted health situation**, see section 16B.

6.3 This subclause applies in relation to the disclosure of personal information about an individual by an APP entity that is an agency if:

- (a) the agency is not an enforcement body; and
- (b) the information is biometric information or biometric templates; and
- (c) the recipient of the information is an enforcement body; and
- (d) the disclosure is conducted in accordance with the guidelines made by the Commissioner for the purposes of this paragraph.

6.4 If:

- (a) the APP entity is an organisation; and
- (b) subsection 16B(2) applied in relation to the collection of the personal information by the entity;

the entity must take such steps as are reasonable in the circumstances to ensure that the information is de-identified before the entity discloses it in accordance with subclause 6.1 or 6.2.

*Written note of use or disclosure*

6.5 If an APP entity uses or discloses personal information in accordance with paragraph 6.2(e), the entity must make a written note of the use or disclosure.

*Related bodies corporate*

6.6 If:

- (a) an APP entity is a body corporate; and
- (b) the entity collects personal information from a related body corporate;

this principle applies as if the entity's primary purpose for the collection of the information were the primary purpose for which the related body corporate collected the information.

*Exceptions*

6.7 This principle does not apply to the use or disclosure by an organisation of:

- (a) personal information for the purpose of direct marketing; or
- (b) government related identifiers.

**In this Act health agencies must comply with the National Privacy Principles (NPP). These outline additional rules that must be followed to protect personal health and medical details. On 12 March 2014, the Australian Privacy Principles (APP) replaced the National Privacy Principles<sup>325</sup>.**

**The APPs are found in the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* – Commonwealth legislation.**

**Further explanations can be found at <https://www.oaic.gov.au/agencies-and-organisations/app-guidelines/chapter-c-permitted-general-situations>, accessed 11/12/2015.**

**APP 3** *'An APP entity solicits personal information if it explicitly requests another entity to provide personal information, or it takes active steps to collect personal information'.*

For personal information this may only be collected when it is reasonable necessary for the agency or organisation's functions or activities or additionally, for agencies if it relates to their functions or activities. An example of solicited personal information may include CCTV footage that identifies individuals. Although sensitive information, such as an individual's health information is dealt with separately, exceptions to its collection apply, such as those outlined for APP 6.

<sup>325</sup> Office of the Australian Information Commissioner, 'Privacy fact sheet 17', Australian Privacy Principles (January 2014).

**APP 6** Permits the use or disclosure of personal information if, *‘the secondary use or disclosure is required or authorised by or under an Australian law or a court/tribunal order’*.

Permits the use or disclosure of personal information if a ‘permitted general situation’ exists. The permitted general situations that relate to this review include, *‘locating a person reported as missing; lessening or preventing a serious threat to the life, health or safety of any individual, or to public health or safety; and taking appropriate action in relation to suspected unlawful activity or serious misconduct’*.

### **Information Privacy Act 2009 – Queensland legislation**

#### **Section 29 Special provision for law enforcement agencies**

- (1) A law enforcement agency is not subject to IPP 2, 3, 9, 10 or 11, but only if the law enforcement agency is satisfied on reasonable grounds that noncompliance with the IPP is necessary for—
  - (a) if the enforcement agency is the Queensland Police Service—the performance of its activities related to the enforcement of laws; or
  - (b) if the enforcement agency is the Crime and Corruption Commission—the performance of its activities related to the enforcement of laws and its intelligence functions; or
  - (c) if the enforcement agency is the community safety department—the containment, supervision and rehabilitation of offenders under the *Corrective Services Act 2006* and the supervision of prisoners subject to supervision orders or interim supervision orders under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; or
  - (d) if the enforcement agency is any other law enforcement agency—the performance of its responsibility mentioned in schedule 5, definition law enforcement agency, paragraph (b)(iv), including the conduct of proceedings started or about to be started in a court or tribunal in relation to the responsibility.

- (2) In this section—

**intelligence functions** means the functions mentioned in the *Crime and Corruption Act 2001*, section 53.

### **Schedule 3 – Information Privacy Principles (IPP)**

#### **IPP 10 Limits on use of personal information**

- (1) An agency having control of a document containing personal information that was obtained for a particular purpose must not use the information for another purpose unless—
  - (a) the individual the subject of the personal information has expressly or impliedly agreed to the use of the information for the other purpose; or



- (b) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
- (c) use of the information for the other purpose is authorised or required under a law; or
- (d) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary for 1 or more of the following by or for a law enforcement agency—
  - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
  - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
  - (iii) the protection of the public revenue;
  - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
  - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
- (e) the other purpose is directly related to the purpose for which the information was obtained; or

*Examples for paragraph (e)—*

1 An agency collects personal information for staff administration purposes. A new system of staff administration is introduced into the agency, with much greater functionality. Under this paragraph, it would be appropriate to transfer the personal information into the new system.

2 An agency uses personal information, obtained for the purposes of operating core services, for the purposes of planning and delivering improvements to the core services.

- (f) all of the following apply—
  - (i) the use is necessary for research, or the compilation or analysis of statistics, in the public interest;
  - (ii) the use does not involve the publication of all or any of the personal information in a form that identifies any particular individual the subject of the personal information;
  - (iii) it is not practicable to obtain the express or implied agreement of each individual the subject of the personal information before the use.
- (2) If the agency uses the personal information under subsection (1)(d), the agency must include with the document a note of the use.

## IPP 11

### Limits on disclosure

- (1) An agency having control of a document containing an individual's personal information must not disclose the personal information to an entity (the relevant entity), other than the individual the subject of the personal information, unless—
  - (a) the individual is reasonably likely to have been aware, or to have been made aware, under IPP 2 or under a policy or other arrangement in operation before the commencement of this schedule, that it is the agency's usual practice to disclose that type of personal information to the relevant entity; or
  - (b) the individual has expressly or impliedly agreed to the disclosure; or

- (i) the agency is satisfied on reasonable grounds that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
  - (c) the disclosure is authorised or required under a law; or
  - (d) the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for 1 or more of the following by or for a law enforcement agency—
    - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
    - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
    - (iii) the protection of the public revenue;
    - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
    - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
  - (e) all of the following apply—
    - (i) the disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;
    - (ii) the disclosure does not involve the publication of all or any of the personal information in a form that identifies the individual;
    - (iii) it is not practicable to obtain the express or implied agreement of the individual before the disclosure;
    - (iv) the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.
- (2) If the agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure.
- (3) If the agency discloses personal information under subsection (1), it must take all reasonable steps to ensure that the relevant entity will not use or disclose the information for a purpose other than the purpose for which the information was disclosed to the agency.
- (4) The agency may disclose the personal information under subsection (1) if the information may be used for a commercial purpose involving the relevant entity's marketing of anything to the individual only if, without limiting subsection (3), the agency is satisfied on reasonable grounds that—
- (a) it is impracticable for the relevant entity to seek the consent of the individual before the personal information is used for the purposes of the marketing; and
  - (b) the relevant entity will not charge the individual for giving effect to a request from the individual to the entity that the individual not receive any marketing communications; and
  - (c) the individual has not made a request mentioned in paragraph (b); and
  - (d) in each marketing communication with the individual, the relevant entity will draw to the individual's attention, or prominently display a notice, that the individual may ask not to receive any further marketing communications; and
  - (e) each written marketing communication from the relevant entity to the individual, up to and including the communication that involves the use, will state the relevant entity's business address and telephone number and, if the communication with the individual is made by fax, or other electronic means, a number or address at which the relevant entity can be directly contacted electronically.

**Right to Information Act 2009 – Queensland legislation****Section 3 Object of Act**

- (1) The primary object of this Act is to give a right of access to information in the government's possession or under the government's control unless, on balance, it is contrary to the public interest to give the access.
- (2) The Act must be applied and interpreted to further the primary object.

**Section 4 Act not intended to prevent other publication or access**

- (1) This Act is not intended to prevent or discourage the publication of information or the giving of access to documents otherwise than under this Act if the publication or giving of access can properly be done or is permitted or required to be done by law.
- (2) To remove any doubt, it is declared that subsection (1) applies to—
  - (a) the giving of access to documents to which this Act does not apply, exempt documents and contrary to public interest documents; and
  - (b) the publication of information and the giving of access to documents by an entity to which this Act does not apply or to which this Act does not apply in relation to a particular function.

**At4.1.5 Rights of the child****Convention on the Rights of the Child****Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

- Article 16**
1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
  2. The child has the right to the protection of the law against such interference or attacks.

**Article 35** States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36** States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

### ***National Framework for Protecting Australia's Children 2009 – 2020***

In April 2009, the Council of Australian Governments endorsed the *National Framework for Protecting Australia's Children 2009 – 2020*. This framework supports the principles around children's rights and guides how the Commonwealth, State and Territory governments and non-government agencies will work collaboratively to ensure the safety and wellbeing of Australian children<sup>326</sup>.

### ***Charter of rights for a child in care***

In Queensland, section 74 and Schedule 1, *Child Protection Act 1999* outlines the rights for every child subject to a custody or guardianship order or agreement. This Act establishes 11 central rights for the child. The following table outlines the rights relevant to this review.

### ***Child Protection Act 1999***

- |                   |  |
|-------------------|--|
| <b>Section 74</b> | <p><b>Charter of rights for a child in care</b></p> <ol style="list-style-type: none"> <li>(1) This section applies if the chief executive—             <ol style="list-style-type: none"> <li>(a) has custody or guardianship of a child under a child protection order; or</li> <li>(b) has custody of a child under a care agreement.</li> </ol> </li> <li>(2) As far as reasonably practicable, the chief executive must ensure the charter of rights for a child in care in schedule 1 is complied with in relation to the child.</li> <li>(3) Subsection (2) does not limit another provision of this Act.</li> <li>(4) The chief executive must ensure the child—             <ol style="list-style-type: none"> <li>(a) is told about the charter of rights and its effect; and</li> </ol> </li> </ol> |
|-------------------|--|

<sup>326</sup> Department of Social Services, National Framework for Protecting Australian's Children 2009-2020, [www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business](http://www.dss.gov.au/our-responsibilities/families-and-children/publications-articles/protecting-children-is-everyones-business), accessed 14/12/2015.

- (b) is given written information about the charter of rights unless, having regard to the child's age or ability to understand, the chief executive reasonably believes the child would not be able to understand the information; and
- (c) is told about the public guardian and other entities known to the chief executive that can help the child if the child considers that the charter of rights is not being complied with in relation to the child.

### Schedule 1 – Charter of rights for a child in care

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#### Schedule 1      Because—

The Parliament recognises the State has responsibilities for a child in need of protection who is in the custody or under the guardianship of the chief executive under this Act,

this Act establishes the following rights for the child—

- (a) to be provided with a safe and stable living environment;
  - (b) to be placed in care that best meets the child's needs and is most culturally appropriate;
  - (c) to maintain relationships with the child's family and community;
  - (d) to be consulted about and to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about where the child is living, contact with the child's family and the child's health and schooling;
  - (e) to be given information about decisions and plans concerning the child's future and personal history, having regard to the child's age or ability to understand;
  - (f) to privacy, including, for example, in relation to the child's personal information;
  - (g) if the child is under the long-term guardianship of the chief executive, to regular review of the child's care arrangements;
  - (h) to have access to dental, medical and therapeutic services, necessary to meet the child's needs;
  - (i) to have access to education appropriate to the child's age and development;
  - (j) to have access to job training opportunities and help in finding appropriate employment;
  - (k) to receive appropriate help with the transition from being a child in care to independence, including, for example, help about housing, access to income support and training and education.
-

## At4.2 Cross-jurisdictional comparison

### At4.2.1 Child protection legislative frameworks

The following legislative frameworks reflect the responsibility of the states or territories in Australia in providing for the overall safety, welfare and wellbeing of a child.

State/Territory	Act	Wording
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i>	<p><b>Section 8c:</b> ‘That appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment’.</p> <p><b>Section 9(1):</b> In ‘any action or decision concerning a particular child [person under the age of 16 years] or young person [person aged 16 years or above but is under 18 years of age], the safety, welfare and well-being of the child and young person are paramount’.</p>
Australian Capital Territory	<i>Children and Young People Act 2008</i>	<p><b>Section 9(1)(d):</b> In making a decision in relation to a child or young person, a ‘delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child’s or young person’s wellbeing’.</p>
Victoria	<i>Children, Youth and Families Act 2005</i>	<p><b>Section 10(2):</b> ‘When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered’.</p>
Tasmania	<i>Children, Young Persons and Their Families Act 1997</i>	<p><b>Section 8(2)(a):</b> ‘In any exercise of powers under this Act in relation to a child – the best interests of the child must be the paramount considerations’.</p>
South Australia	<i>Children’s Protection Act 1993</i>	<p><b>4 – Fundamental principles</b> (3) ‘In the exercise of powers under this Act, the above principles and the child’s wellbeing and best interests are to be the paramount considerations’.</p>



State/Territory	Act	Wording
Western Australia	<i>Children and Community Services Act 2004</i>	<p><b>Section 8(1)(a):</b> The need to protect the child from harm is one of the considerations in determining what is in a child's best interests.</p> <p><b>Section 9(h):</b> In administration of the Act '<i>decisions about a child should be made promptly having regard to the age, characteristics, circumstances and needs of the child</i>'.</p>
Northern Territory	<i>Care and Protection of Children Act</i>	<p><b>Section 10(1):</b> 'When a decision involving a child is made, the best interests of the child are the paramount concern'.</p>

Examples of current decision-making authority specified in cross-jurisdictional legislation are outlined in the following table.

State/Territory	Act	Wording
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i>	<p><b>Section 146:</b> 'An authorised carer is entitled to participate in the making of decisions, going beyond those relating to daily care and control, concerning the safety, welfare and well-being of a child or young person in the care of the authorised carer'.</p>
Australian Capital Territory	<i>Children and Young People Act 2008</i>	<p><b>Sections 518, 519 and 520:</b> Either daily care responsibility or long-term care responsibility for a child may be given to a person or residential care service if the director-general has that corresponding care responsibility.</p>
Victoria	<i>Children, Youth and Families Act 2005</i>	<p><b>Section 11(b):</b> The care giver of a child living in out-of-home care '<i>should be consulted as part of the decision-making process and given an opportunity to contribute to the process</i>'.</p>

State/Territory	Act	Wording
Northern Territory	Care and Protection of Children Act	<p><b>Section 21:</b>  <i>‘A person has daily care and control of a child if the person is entitled to exercise all the powers and rights and has all the responsibilities, for the day-to-day care and control of the child’.</i></p> <p><b>Sections 22(1), 22(2)(a)(b), 22(3):</b>  <i>‘A person has parental responsibility for a child if the person is entitled to exercise all the powers and rights and has all the responsibilities, for the child that would ordinarily be vested in the parents of the child’.</i></p> <p><i>‘Without limiting the above, a person who has parental responsibility for a child: (a) has daily care and control of the child; and (b) is entitled to exercise all the powers and rights and has all the responsibilities, in relation to the long-term care and development of the child’.</i></p> <p><i>‘To avoid doubt, a reference in this Act to a person who has parental responsibility for a child includes a person who has been given parental responsibility for the child under a law of another jurisdiction’.</i></p>

The following table outlines the legislative frameworks describing the leading role of the state or territory to promote a shared partnership approach between government departments, agencies and individuals.

State/Territory	Act	Wording
New South Wales	Children and Young Persons (Care and Protection) Act 1998	<p><b>Section 15:</b>  Identifies that the Minister is to promote a partnership approach between all agencies, individuals and the community in taking responsibility for and dealing with children and young people who are in need of care and protection under the Act.</p> <p><b>Section 245E:</b>  <i>‘Prescribed bodies are, in order to effectively meet their responsibilities in relation to the safety, welfare or well-being of children and young persons, required to take reasonable steps to co-ordinate decision-making and the delivery of services regarding children and young persons’.</i></p>
Australian Capital Territory	Children and Young People Act 2008	<p><b>Section 7(c):</b>  <i>‘Preventing abuse and neglect of children and young people by providing whole-of-Government assistance to children and young people, their parents and families, the community and others who have responsibility for them’.</i></p>

State/Territory	Act	Wording
Victoria	<i>Children, Youth and Families Act 2005</i>	<p><b>Chapter 2:</b> Outlines responsibilities of working with other government and community services to support children and their families.</p>
Tasmania	<i>Children, Young Persons and Their Families Act 1997,</i>	<p><b>Sections 7(1) and 7(2)(a)(b):</b> The Minister should endeavour to promote a partnership approach and <i>‘provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children’.</i></p>
South Australia	<i>Children’s Protection Act 1993</i>	<p><b>Section 3(c):</b> The object of the Act is <i>‘to promote caring attitudes and responses towards children among all sections of the community so that the need for appropriate nurture, care and protection (including protection of the child’s cultural identity) is understood, risks to a child’s wellbeing are quickly identified and any necessary support, protection or care is promptly provided’.</i></p> <p><b>Section 8(1)(a)(b):</b> In a broad sense the Minister endeavours to develop a partnership approach and coordinated strategies with other departments and families for dealing with child abuse and neglect.</p>
Western Australia	<i>Children and Community Services Act 2004</i>	<p><b>Section 22:</b> The CEO in performing their functions must establish, implement and review procedures that facilitate cooperation with public authorities, non-government agencies and service providers, or requests their assistance, particularly in relation to the protection and care of children.</p>
Northern Territory	<i>Care and Protection of Children Act</i>	<p><b>Section 25(1)(a)(b)(c):</b> <i>‘The Minister may do anything for the adoption of a cooperative approach between the following in relation to the care and protection of children’</i> – families, agencies, public authorities any other individual or organisations.</p>

The following table outlines two examples of the broader directions given around information sharing and confidentiality.

State/Territory	Act	Wording
New South Wales	Children and Young Persons (Care and Protection) Act 1998	<b>Section 245A(2)(d):</b> <i>‘Because the safety, welfare and well-being of children and young persons are paramount (i) the need to provide services relating to the care and protection of children and young persons and (ii) the needs and interests of children and young persons and of their families, in receiving those services, take precedence over the protection of confidentiality or of an individual’s privacy’.</i>
Australian Capital Territory	Children and Young People Act 2008	<b>Section 854:</b> A carer or foster care agency ‘may give someone protected information, that is not sensitive information, about a child or young person if— (a) the carer considers that giving the information is necessary for the proper exercise of the carer’s responsibilities for the child or young person; and (b) the giving of the information is in accordance with any directions given by the director-general’.

The following table outlines some of the relevant cross-jurisdictional legislative frameworks addressing the publication of information.

State/Territory	Act	Wording
New South Wales	Children and Young Persons (Care and Protection) Act 1998	<p><b>Section 105 - Publication of names and identifying information</b></p> <p>(1) <i>The name of a child or young person:</i></p> <ul style="list-style-type: none"> <li>(a) <i>who appears, or is reasonably likely to appear, as a witness before the Children’s Court in any proceedings, or</i></li> <li>(a) <i>who is involved, or is reasonably likely to be involved, in any capacity in any non-court proceedings, or</i></li> <li>(b) <i>with respect to whom proceedings before the Children’s Court are brought or who is reasonably likely to be the subject of proceedings before the Children’s Court, or</i></li> <li>(c) <i>who is, or is reasonably likely to be, mentioned or otherwise involved in any proceedings before the Children’s Court or in any non-court proceedings, or</i></li> <li>(d) <i>who is the subject of a report under section 24, 25, 27, 120, 121 or 122,</i></li> </ul> <p><i>must not be published or broadcast in any form that may be accessible by a person in New South Wales whether the publication or broadcast occurs before any proceedings have commenced, during the proceedings or after they are disposed of.</i></p>

State/Territory	Act	Wording
		<p>(1A) <i>The prohibition in subsection (1) applies to the publication or broadcast of the name of the child or young person concerned until:</i></p> <p>(a) <i>the child or young person attains the age of 25 years, or</i></p> <p>(b) <i>the child or young person dies,</i></p> <p><i>whichever occurs first.</i></p> <p>(1B) <i>This section applies to the publication or broadcast of a child or young person's name to the public, or a section of the public, by publication in a newspaper or periodical publication, by radio or television broadcast or other electronic broadcast, by the internet, or by any other means of dissemination.</i></p> <p>(1C) <i>The publication of information to a website that provides the opportunity for, or facilitates or enables, dissemination of information to the public or a section of the public (whether or not the particular publication results in the dissemination of information to the public or a section of the public) constitutes the publication of information to the public or a section of the public for the purposes of this section.</i></p> <p>(2) <i>A person who publishes or broadcasts the name of a child or young person in contravention of subsection (1) is guilty of an offence.</i></p> <p><i>Maximum penalty: 200 penalty units or imprisonment for a period not exceeding 2 years, or both, in the case of an individual or 2,000 penalty units in the case of a corporation.</i></p> <p><b>Note.</b> <i>An offence against subsection (2) committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation-see section 258.</i></p> <p>(3) <i>Subsection (1) does not prohibit:</i></p> <p>(a) <i>the publication or broadcasting of an official report of the proceedings of the Children's Court that includes the name of a child or young person the publication or broadcasting of which would otherwise be prohibited by subsection (1), or</i></p> <p>(b) <i>the publication or broadcasting of the name of a child or young person:</i></p> <p>(i) <i>in the case of a child-with the consent of the Children's Court, or</i></p> <p>(ii) <i>in the case of a young person-with the consent of the young person, or</i></p>

State/Territory	Act	Wording
		<p>(iii) <i>in the case of a child or young person who is under the parental responsibility of the Minister-with the consent of the Secretary if the Secretary is of the opinion that the publication or broadcasting may be seen to be to the benefit of the child or young person, or</i></p> <p>(iv) <i>in any case-if the child or young person has died.</i></p> <p>(4) <i>For the purposes of this section, a reference to the name of a child or young person includes a reference to any information, picture or other material:</i></p> <p>(a) <i>that identifies the child or young person, or</i></p> <p>(b) <i>that is likely to lead to the identification of the child or young person.</i></p> <p>(5) <i>The offence created by this section is an offence of strict liability.</i></p> <p>(6) <i>This section does not apply in relation to criminal proceedings.</i></p> <p><i>Note. See section 15A of the Children (Criminal Proceedings) Act 1987.</i></p>

## Victoria

*Children, Youth  
and Families Act  
2005*

**Section 534 – Restriction on publication of proceedings**

- (1) *A person must not publish or cause to be published—*
- (a) *except with the permission of the President, a report of a proceeding in the Court or of a proceeding in any other court arising out of a proceeding in the Court that contains any particulars likely to lead to the identification of—*

**Section 534(1)(a)(i) amended by No. 51/2006 Section 14.**

- (i) *the particular venue of the Children’s Court, other than the Koori Court (Criminal Division) or the Neighbourhood Justice Division, in which the proceeding was heard; or*
- (ii) *a child or other party to the proceeding; or*
- (iii) *a witness in the proceeding; or*
- (b) *except with the permission of the President, a picture as being or including a picture of a child or other party to, or a witness in, a proceeding referred to in paragraph (a); or*
- (c) *except with the permission of the President, or of the Secretary under subsection (3), any matter that contains any particulars likely to lead to the identification of a child as being the subject of an order made by the Court.*

**Penalty:**

- (a) *In the case of a body corporate—500 penalty units;*
- (b) *In any other case—100 penalty units or imprisonment for 2 years.*



State/Territory	Act	Wording
		<p>(2) <i>The Court in making an order may direct the Secretary not to grant permission under subsection (3) with respect to the order.</i></p> <p>(3) <i>The Secretary may, in special circumstances, grant permission for the publication in relation to a child who is the subject of a custody to Secretary order, a guardianship to Secretary order or a long-term guardianship order of any matter that contains any particulars likely to lead to the identification of a child as being the subject of an order made by the Court.</i></p> <p>(4) <i>Without limiting the generality of subsections (1) and (3), the following particulars are deemed to be particulars likely to lead to the identification of a person—</i></p> <ul style="list-style-type: none"> <li><i>(a) the name, title, pseudonym or alias of the person;</i></li> <li><i>(b) the address of any premises at which the person resides or works, or the locality in which those premises are situated;</i></li> <li><i>(c) the address of a school attended by the person or the locality in which the school is situated;</i></li> <li><i>(d) the physical description or the style of dress of the person; (e) any employment or occupation engaged in, profession practised or calling pursued, by the person or any official or honorary position held by the person;</i></li> <li><i>(f) the relationship of the person to identified relatives of the person or the association of the person with identified friends or identified business, official or professional acquaintances of the person;</i></li> <li><i>(g) the recreational interests or the political, philosophical or religious beliefs or interests of the person;</i></li> <li><i>(h) any real or personal property in which the person has an interest or with which the person is otherwise associated.</i></li> </ul> <p><b>Section 534(5) amended by No. 48/2006 Section 26.</b></p> <p>(5) <i>Subsection (1) does not apply to the publication of accounts of proceedings of the Court, where those accounts have been approved by the President.</i></p> <p><b>Section 534(6) inserted by No. 42/2014 Section 111.</b></p> <p>(6) <i>Subsection (1) does not apply to the publication under section 85 of the Vexatious Proceedings Act 2014 by the Attorney-General of a copy of an order that relates to intervention order legislation within the meaning of that Act.</i></p>

State/Territory	Act	Wording
South Australia	<i>Children's Protection Act 1993</i>	<p><b>Section 59A – Restrictions on reports of proceedings</b></p> <p>(1) A person must not publish by radio, television, newspaper or in any other way, a report of proceedings in which a child is alleged to be at risk or in need of care or protection, if—</p> <p>(a) the court before which the proceedings are heard prohibits publication of any report of the proceedings; or</p> <p>(b) the report—</p> <p>(i) identifies the child or contains information tending to identify the child; or</p> <p>(ii) reveals the name, address or school, or includes any particulars, picture or film that may lead to the identification, of any child who is concerned in the proceedings, either as a party or a witness.</p>
Western Australia	<i>Children and Community Services Act 2004 – Sect 237</i>	<p><b>Section 237(1) &amp; (2) – Restriction on publication of certain information or material</b></p> <p>(1) <i>In this section —</i></p> <p><b>old order</b> means an order under the repealed Child Welfare Act 1947 committing a child to the care of the Department or placing a child under the control of the Department;</p> <p><b>publish</b> means to bring to the notice of the public or a section of the public by means of newspaper, television, radio, the Internet or any other form of communication.</p> <p>(2) <i>A person must not, except in accordance with a written authorisation given under this section, publish information or material that identifies, or is likely to lead to the identification of, another person (the identified person ) as —</i></p> <p>(a) <i>a person who is or was a child the subject of an investigation referred to in section 32(1)(d); or</i></p> <p>(b) <i>a person who is or was a child the subject of a protection application or an application for an old order; or</i></p> <p>(c) <i>a person who is or was a child the subject of a protection order or an old order; or</i></p> <p>(d) <i>a person who is or was a responsible person under a responsible parenting agreement; or</i></p> <p>(e) <i>a person who is or was a child the subject of a responsible parenting agreement</i></p> <p>Penalty: a fine of \$12 000 and imprisonment for one year.</p>

State/Territory	Act	Wording
Northern Territory	Care and Protection of Children Act 2007 (No 37 of 2007)	<p><b>Section 301 (1)(a)(b) – Disclosure of child’s identity</b></p> <p>(1) A person must not publish any material that may identify someone who is a child:</p> <p>(a) in the CEO’s care; or</p> <p>(b) for whom:</p> <p>(i) an application for a temporary protection order, assessment order or protection order has been made; or</p> <p>(ii) such an order is in force; or</p> <p>(c) involved (whether as a victim or not) in a sexual offence or alleged to have been so involved in a sexual offence.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2 years.</p> <p>(2) Subsection (1) does not apply if the publication is permitted or authorised under this Act or any other law in force in the Territory.</p>

#### At4.2.2 Educational services legislative frameworks

The following table outlines the legislative frameworks reflecting the Principal or authorised officer/delegate is responsible for monitoring a child’s school attendance.

State/Territory	Act	Wording
New South Wales	Education Act (1990)	<p><b>Section 24(1):</b></p> <p>Principal is to keep a register of the ‘daily attendances of all children at the school’.</p>
Australian Capital Territory	Education Act 2004	<p><b>Section 33(1(b)):</b></p> <p>Principal or other person giving an approved educational course (government) must keep ‘a record of the attendance or nonattendance of the student at the school or course on every day when the school or course is open for attendance’.</p> <p>Section 100 reflects the same requirement for the principal of a non-government school or the person giving an approved educational course (non-government)</p>
Victoria	Education and Training Reform Act 2006	<p><b>Section 4.3.7</b></p> <p>The principal or person in charge of a registered school ‘must ensure that the attendance of those children is recorded in an attendance register in accordance with the regulations’.</p>

State/Territory	Act	Wording
Tasmania	<i>Education Act 1994</i>	<b>Section 6(3):</b> <i>'A principal, a College principal and TasTAFE must ensure that a register is kept recording the daily attendance or absence of each school-aged child'.</i>
South Australia	<i>Education Act 1972</i>	<b>Section 79:</b> <i>'Authorised officers must take all practicable action to ensure attendance at school by children of compulsory school age and participation in an approved learning program by children of compulsory education age'.</i>
Western Australia	<i>School Education Act 1999</i>	<b>Section 28(1)(a)(i)(ii):</b> Principal must ensure <i>'that records are kept showing for each day whether a student attended, or participated in an educational programme of, the school; or failed to so attend or participate'.</i>
Northern Territory	<i>Education Act</i>	<b>Section 67A(1) and 67A(2)(a)(i):</b> The governing body must ensure records containing information about a student's enrolment and attendance during the semester is kept.

# Attachment 5

## The Queensland Police Service: Missing persons template

The following table outlines some of the information the QPS enters into QPRIME when recording a missing person occurrence. This information assists the QPS in assigning a risk assessment outcome for the missing person and determining local strategies and inquiries to be made to locate the missing person.

The questions in the following table highlight the importance of the person making a missing person report to the QPS having the most up-to-date and factual information regarding a missing person to assist the QPS in their risk assessment and investigation.

### Overview

- Describe the **circumstances** of the disappearance, including the time, date and place where the missing person was last seen
- Were there any **notes/letters** left by the missing person?  
If yes, describe the content and location found
- Describe the **reason** for the disappearance, if known (for example, recent event/ family situation)
- Recent **photo of the missing person** obtained and attached?
- Describe **clothing/personal** items - **worn** or **items missing**

### Cash or bank account(s)

- Does the missing person have cash?  
If yes, how much?
- Does the missing person have access to funds?  
If yes, describe
- List the **bank name(s)** where the missing person has account(s).  
Also provide branch and account numbers if available

### Mobile phone

- Does the missing person have a **mobile phone**?  
If yes, list the mobile number and the provider

### People

- Are there **people** (relatives, friends or associates) likely to assist in locating the missing person?  
If yes, record their name and describe how/ why they may assist  
  
Ensure their person record with address and phone number is linked to the missing person occurrence
- Does the missing person have access to **social networking sites** (e.g. Facebook, MSN, Twitter)?  
If yes, provide details such as user name

### Transport

- Does the missing person have **transport**?  
If yes, list type and if applicable the registration number



## Medical

- Does the missing person have a **medical/mental condition**?

If Yes, describe

- Is the missing person in possession of **medication**?

If yes, describe

- Are there **consequences** if medication is not taken?

If yes, describe

## Occupation / Centrelink

- Describe and provide employer, address and telephone number

- If the missing person is a **student** - provide institution and year

## Orders

- Is the missing person subject of an order
  - Mental health?
  - Family Law Court?
  - Bail/curfew?
  - Department of Child Safety Services?
  - Other?
  - If yes to any of the above, describe conditions of the order

- If applicable, include the relevant Department of Child Safety office, the Department of Child Safety case officer and telephone contact details for the officer and case officer

- If applicable, include inquiries the Department of Child Safety case officer has conducted to locate the missing person

- If the missing person is a patient of an authorised mental health service
  - where is the warrant to retake the missing person held?

- Record the location where the missing person is to be returned

## Informant

- Is there a person record linked to the missing person occurrence?
- Is there a current address and phone number linked to the missing person record?

## Child

- If the missing person is a **child**, has CPIU been notified?

## Media release

- Is a **media release** required? (see OPM 12.4.2).
- Has family/informant given **signed** consent?
- Has the supervisor/DDO notified?

## Risk Assessment Guide

Age	<ul style="list-style-type: none"> <li>• Under 13 years (auto high risk)?</li> <li>• Over 70 years?</li> </ul>
Medical Condition	<ul style="list-style-type: none"> <li>• Life threatening illness or requires significant medication (access)?</li> <li>• Dementia/ Alzheimer's/ Parkinson?</li> <li>• Mental capacity of 10 years old or less?</li> <li>• Diagnosed with mental illness, depression/ anxiety/ vulnerable?</li> <li>• Illicit drug user/ criminal involvement?</li> </ul>
Personal	<ul style="list-style-type: none"> <li>• Relationship issues/ breakdown?</li> <li>• Financial pressures?</li> <li>• Significant life event (suicide/ death in family/ job loss/ bullying)?</li> <li>• Previous suicide attempt?</li> <li>• Domestic violence related?</li> </ul>

## Other

- Event (natural disaster/ at sea/ plane crash etc.)?
- Out of character?
- Break of pattern (banking/ family visits etc.)?
- Informant – not the logical reporting person?
- Access to firearms/ weapons?
- Environmental factors (hot, cold, wet, terrain etc.)?
- Other influencing factors – (please indicate any other risk factors)?
- If answering 'Yes' to any of the above:
  - consider 'High Risk' otherwise
  - consider 'Medium Risk' based on assessment of information gathered

**HIGH** – Immediate deployment of police resources – brief Supervisor immediately

**MEDIUM** – Active and measured response

**LOW** – Initiate inquiries to locate the missing person and keep under review

A risk assessment outcome of either 'low', 'medium' or 'high' risk is assigned by the reporting officer, the supervisor and the Missing Persons Unit.

Outline the intended **local strategies / inquiries** to locate the missing person

# Attachment 6

## Education services: Cross-jurisdictional comparison

The following table outlines examples of cross-jurisdictional policies relating to educational services.

State	Policy	Wording
New South Wales	'School Attendance Policy' (2015)	<p><b>Section 4.2.3:</b> <i>'Principals or their delegate will undertake all reasonable measures to contact parents promptly and within two school days of an absence being unexplained, if contact has not already been made. An absence is unexplained if parents have failed to provide an explanation to the school within 7 days'.</i></p> <p><b>Section 4.2.8:</b> <i>Principals 'must ensure that any matter relating to school attendance where safety, welfare or wellbeing concerns arise for a student consideration is given to the requirements of the Protecting and Supporting Children and Young People Policy and all required reports are made to the Community Services Child Protection Helpline or contact made with the Child Wellbeing Unit (as required by the Mandatory Reporter Guide)'.</i></p>
	Student Attendance in Government Schools Procedures, School Attendance Policy PD 2005 0259, Learning and Engagement Directorate 2015 (3/2/2015)	<p><b>Section 1.3.D:</b> <i>'School attendance must be recorded on the attendance register (roll) at the commencement of the school day'.</i></p> <p><b>Section 1.3.E:</b> <i>In addition, 'in secondary schools, attendance is also recorded each period or lesson. In primary schools attendance is recorded in classes regularly conducted in locations other than the home classroom'.</i></p> <p><b>Section 4.4:</b> <i>'Alert the principal, or staff member responsible for monitoring attendance, when a student's pattern of attendance is of concern, or if no explanation is received from the parent or carer within required timeframes'.</i></p>

State	Policy	Wording
		<p><b>Section 5.2:</b>  <i>‘Contact with parents on the same day or following day of an absence where parents have not contacted the school is an effective strategy for supporting regular attendance of students and ensuring absences are explained within the required 7 day period. Contact can be made by means such as providing the parents with an Absentee Notice-Compulsory School Attendance, by telephone, email or SMS text message’.</i></p>
Australian Capital Territory	‘Attendance at public schools procedure’ (November 2011)	<p><b>Section 4.1.1:</b>  <i>Principals ‘required to ensure that schools are organised in a way that properly provides a duty of care and to account for student absence from the classroom, school grounds and buildings’.</i></p> <p><b>Section 4.2.4:</b>  <i>The ‘individual school procedures should clearly outline the procedure for principals to follow in notifying the non-attendance of a child. The unexplained non-attendance of a child should be reported by the school to the parent as soon as reasonably possible to ensure the safety of the child’.</i></p> <p><b>Section 4.3.3:</b>  <i>‘Principals are required to follow-up unexplained absences. When unexplained absences reach a maximum of seven days in a school year, principals will commence official procedures to ensure that students meet the school attendance requirement, in consultation with their School Network Leader. Partial day unexplained absences will be counted as one day’.</i></p> <p><b>Section 4.6.3:</b>  <i>‘A record of the attendance or non-attendance of the child at the school or course on every day when the school or course is open for attendance’.</i></p> <p><b>Section 4.7.3:</b>  <i>In addition, ‘attendance rolls provided to a class teacher must be marked each scheduled session as per: preschools, each preschool session, regardless of the length of time of the session; primary schools, the morning session and the afternoon session and; high schools and colleges, each timetabled class or activity’.</i></p>

State	Policy	Wording
Victoria	<p>School Attendance Guidelines 2014,</p> <p>‘Legal Requirements’, <a href="http://www.education.vic.gov.au/school/principals/participation/Pages/attendance.aspx">www.education.vic.gov.au/school/principals/participation/Pages/attendance.aspx</a>, accessed 3/12/2015.</p>	<p>Schools must record attendance to meet legislative and governing body responsibilities and requirements and a school’s duty-of-care responsibilities for all students.</p> <p><i>‘The school must record student attendance twice per day in primary schools and in every class in secondary schools and record, in writing, the reason given for each absence’.</i></p> <p>The principal or their nominee is responsible for ensuring school attendance data is regularly checked to ensure the school meets their duty of care responsibilities.</p> <p><i>‘If a parent does not contact the school to provide an explanation on the day of the student absence, the school must attempt to contact the parent (for example by telephone) of the student within three days of the absence’.</i></p>
Tasmania	<p>‘School Attendance Procedures’, TASED-4-1212</p>	<p><b>Section 4.2:</b></p> <p>The ‘<i>principal must ensure that a complete record of attendance is maintained in EduPoint throughout the school day for each enrolled student</i>’.</p> <p><i>‘A principal has duty of care for all students while they are attending at the required times’.</i></p> <p><i>‘The principal is responsible for following up unexplained absences for students enrolled at their school’.</i></p> <p>No specific timeframes for following up absences is outlined in this procedure.</p>
South Australia	<p>‘Policy Attendance requirements for schools’, 1/04/2009 – this document was under review at the time of reviewing</p>	<p><b>Page 3:</b></p> <p>Data collection around school participation and attendance is undertaken not only for legal and schools’ resourcing purposes but also for student welfare and achievement purposes.</p>



State	Policy	Wording
		<p><b>Page 4:</b></p> <p><i>‘Schools are required, in the first instance, to use their own resources to monitor any failure by a student to participate as required. The school must ensure that any unsatisfactory participation or unexplained absence is investigated. Where a written explanation is not received [from a parent/caregiver] within a reasonable time, the principal should contact the parent/caregiver. If contact cannot be made by telephone or in person, a letter requesting information should be sent to the parent/caregiver’.</i></p> <p><i>‘Parent/caregiver is required to present a written explanation for that absence within a reasonable time. Ideally, for safety reasons, this explanation should be received on the day of the absence or within three days of the commencement of the absence at the latest’.</i></p> <p><b>Page 11:</b></p> <p>Daily recording of a student absence by an agreed time each morning with any unexplained absences followed up directly with the parent/carer.</p>
Western Australia	‘Student Attendance Policy’, Version 3.1 Final, (16/07/2015)	<p><b>Section1:</b></p> <p><i>‘The Department of Education monitors and manages student attendance in order to maximise the opportunities of all students to learn’.</i></p>
	‘Student Attendance Procedure’, Version 3.1 Final, (16/07/2015)	<p><b>Section 3.1:</b></p> <p><i>The principal will keep records of ‘attendance at both morning and afternoon sessions for Kindergarten, Pre-primary and Primary students and every lesson/period for Secondary students’.</i></p> <p><b>Section 3.3:</b></p> <p><i>‘The School Education Act 1999 requires that an explanation of a student’s absence is provided within three school days from the start of the absence’.</i></p>
Northern Territory		The scan of educational policies did not identify relevant policies for the Northern Territory.

# Attachment 7

## Risk factors for missing children

As some missing persons may find themselves in situations where they have no control or choice over the behaviour leading them to be reported as missing, Biehal, Mitchell & Wade (2003), cited in James (2008), *Missing person Australia* report suggests a continuum of ‘missingness’, common to young people and adults, is used<sup>329</sup>. This ranges from:

- **‘decided’** (*relationship breakdown, escaping personal problems, escaping violence and mental health problems*)
- **‘drifted’** (*losing contact and a transient lifestyle, which means that people simply lose touch with their families and friends*)
- **‘unintentional absence’** (*Alzheimer’s disease, other mental health problems, accident or misadventure and miscommunication*)
- **‘forced’** (*being a victim of crime such as homicide*).

According to James (2008), the following tables provide information on risk factors for young people who go missing repeatedly, young people in care and young people in care who go missing repeatedly relevant to this review.

### Risk factors for young missing persons

Decided	Drifted	Unintentional	Forced
Behaviour/situation	Behaviour/situation	Behaviour/situation	Behaviour/situation
<ul style="list-style-type: none"> <li>• Running away</li> </ul>	<ul style="list-style-type: none"> <li>• Running away</li> </ul>	<ul style="list-style-type: none"> <li>• Miscommunication</li> <li>• Accident/misadventure/accidental death</li> <li>• Mental health problems</li> </ul>	<ul style="list-style-type: none"> <li>• Forced to leave home (parental rejection)</li> <li>• Homicide/foul play</li> <li>• Abduction (parent/stranger)</li> </ul>

<sup>329</sup> James, M., & Anderson, J. & Putt, J. 2008, ‘Missing persons in Australia’, *Research and Public Policy Series*, no. 86, Institute of Criminology, Canberra Australia.

Decided	Drifted	Unintentional	Forced
Age (at highest risk)	Age (at highest risk)	Age	Age
<ul style="list-style-type: none"> <li>• &lt;10 years (males and females)</li> <li>• 13–17 years (females particularly)</li> </ul>	<ul style="list-style-type: none"> <li>• &lt;10 years (males and females)</li> <li>• 13–17 years (females particularly)</li> </ul>	<ul style="list-style-type: none"> <li>• &lt;17 years</li> </ul>	<ul style="list-style-type: none"> <li>• 13–17 years</li> <li>• &lt;17 years</li> </ul>
Social indicators	Social indicators	Social indicators	Social indicators
<ul style="list-style-type: none"> <li>• Domestic violence</li> <li>• Parent–child conflict</li> <li>• Divorce/separation</li> <li>• Child abuse (physical, sexual, emotional, neglect)</li> <li>• Racism</li> <li>• School problems (bullying/poor performance)</li> <li>• Peer pressure/difficulties with peers</li> <li>• Alcohol and illicit drug use</li> <li>• Lower-income families</li> <li>• Blended families</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic violence</li> <li>• Parent–child conflict</li> <li>• Divorce/separation</li> <li>• Child abuse (physical, sexual, emotional, neglect)</li> <li>• Racism</li> <li>• School problems (bullying/poor performance)</li> <li>• Peer pressure/difficulties with peers</li> <li>• Alcohol and illicit drug use</li> <li>• Lower-income families</li> <li>• Blended families</li> </ul>	<ul style="list-style-type: none"> <li>• Alcohol and illicit drug use</li> <li>• Child sexual abuse</li> </ul>	<ul style="list-style-type: none"> <li>• Perceived antisocial behaviour</li> <li>• Gay/lesbian/bisexual/ transgender</li> <li>• CALD background</li> <li>• Parental divorce/separation</li> <li>• Child custody issues</li> </ul>
Other factors	Other factors		
<ul style="list-style-type: none"> <li>• Mental health</li> <li>• Anxiety/depression</li> <li>• ADHD</li> <li>• Poor coping skills</li> <li>• Detached from families for six months or more</li> </ul>	<ul style="list-style-type: none"> <li>• Mental health</li> <li>• Anxiety/depression</li> <li>• ADHD</li> <li>• Poor coping skills</li> </ul>		

Decided	Drifted	Unintentional	Forced
Outcomes	Outcomes	Outcomes	Outcomes
<ul style="list-style-type: none"> <li>• Prostitution</li> <li>• Alcohol and illicit drug use</li> <li>• Criminal offending</li> <li>• Mental health problems</li> <li>• Possible suicide</li> <li>• (Absent one week or more, 50% chance of experiencing some type of harm)</li> <li>• Family reconciliation</li> <li>• Victim of crime</li> </ul>	<ul style="list-style-type: none"> <li>• Prostitution</li> <li>• Alcohol and illicit drug use</li> <li>• Criminal offending</li> <li>• Mental health problems</li> <li>• Possible suicide</li> <li>• (Absent one week or more, 50% chance of experiencing some type of harm)</li> <li>• Family reconciliation</li> <li>• Victim of crime</li> </ul>	<ul style="list-style-type: none"> <li>• Possible suicide</li> <li>• Victim of crime</li> </ul>	<ul style="list-style-type: none"> <li>• Long-term homelessness</li> <li>• Prostitution</li> <li>• Alcohol and illicit drug use</li> <li>• Criminal offending</li> <li>• Mental health problems</li> <li>• Suicide</li> <li>• (Absent one week or more, 50% chance of experiencing some type of harm)</li> <li>• Victim of crime</li> </ul>

**Risk factors for young people who go missing repeatedly, young people in care and young people in care who go missing repeatedly.**

Decided Young recidivists	Decided Young people in care	Decided Young people in care and recidivism
Behaviour /situation	Behaviour /situation	Behaviour /situation
Run away repeatedly from home	<ul style="list-style-type: none"> <li>• Run away from care (first few months after placement, perceived inadequate attention from caregivers/social workers, crowded facilities)</li> <li>• Return home (most had previously run away from home)</li> <li>• Return to friends/boyfriend</li> <li>• Miscommunication</li> <li>• Adjustment/attachment difficulties</li> <li>• Caregivers know whereabouts but are obligated to inform police</li> </ul>	<ul style="list-style-type: none"> <li>• Run away from care (perceived inadequate attention from caregivers/social workers, crowded facilities)</li> <li>• Return home</li> <li>• Return to friends/partner</li> <li>• Miscommunication</li> <li>• Caregivers know whereabouts but are obligated to inform police</li> <li>• Adjustment/attachment difficulties</li> </ul>

Decided Young recidivists	Decided Young people in care	Decided Young people in care and recidivism
Age	Age	Age
<ul style="list-style-type: none"> <li>13–17 years of age</li> </ul>	<ul style="list-style-type: none"> <li>13–17 years of age (more likely to be female)</li> </ul>	<ul style="list-style-type: none"> <li>13–17 years of age (more likely to be female)</li> </ul>
Social indicators	Social indicators	Social indicators
<ul style="list-style-type: none"> <li>Severe family problems</li> <li>Severe family disruption</li> <li>Severe child abuse</li> <li>Severe school problems</li> </ul>	<ul style="list-style-type: none"> <li>Family</li> <li>Severe family problems</li> <li>Severe family disruption</li> <li>Severe child abuse</li> <li>Severe school problems</li> <li>Emotional/behavioural difficulties</li> <li>Changes in family dynamics</li> <li>Care</li> <li>Bullying/sexual harassment</li> <li>Abusive staff</li> <li>Protest against imposed limits</li> <li>Cry for help</li> </ul>	<ul style="list-style-type: none"> <li>Family</li> <li>Severe family problems</li> <li>Severe family disruption</li> <li>Severe child abuse</li> <li>Higher levels of parental strictness</li> <li>Severe school problems</li> <li>Emotional/behavioural difficulties</li> <li>Changes in family dynamics</li> <li>Care</li> <li>Bullying/sexual harassment</li> <li>Abusive staff</li> <li>Protest against imposed limits</li> <li>Cry for help</li> </ul>
Outcomes	Outcomes	Outcomes
<ul style="list-style-type: none"> <li>Increased risk of mental health problems/depression</li> <li>Increased risk of leaving school</li> <li>Increased risk of offending</li> <li>Increased risk of illicit drug and alcohol use</li> <li>More likely to experience adult homelessness</li> <li>More likely to subsume police resources</li> <li>Victim of crime</li> </ul>	<ul style="list-style-type: none"> <li>Increased risk of mental health problems/depression</li> <li>Increased risk of leaving school</li> <li>Increased risk of offending</li> <li>Increased risk of illicit drug and alcohol use</li> <li>Could be living on the streets</li> <li>More likely to experience adult homelessness</li> <li>More likely to subsume police resources</li> <li>Victim of crime</li> </ul>	<ul style="list-style-type: none"> <li>Increased risk of mental health problems/depression</li> <li>Increased risk of leaving school</li> <li>Increased risk of offending</li> <li>Increased risk of illicit drug and alcohol use</li> <li>More likely to experience adult homelessness</li> <li>More likely to subsume police resources</li> <li>Could be living on the streets</li> <li>Victim of crime</li> </ul>

# Attachment 8

## Media article summary on missing person cases

The following table outlines media articles referenced in this review under the heading *The effect of social media and public comments when children are missing*.

David Jeans' article, 'Social media a useful tool to help missing people: police'.	<p>In this article Detective Senior Sergeant Hermit stated social media is becoming a useful tool for police in locating missing persons. However, the biggest assistance to locating a missing person is family and friends.</p> <p>David Jeans (January 4 2015), 'Social media's role in finding the missing', The Courier, <a href="http://www.thecourier.com.au/story/2797170/social-media-a-useful-tool-to-help-find-missing-people-police/">http://www.thecourier.com.au/story/2797170/social-media-a-useful-tool-to-help-find-missing-people-police/</a>.</p>
Channel4 news ran an article, 'Can social media help find missing people?'.	<p>This article documented a family's social media campaign to locate their missing 13-year-old child who ran away from home in the United States of America. The social media campaign assisted to bring broader media coverage of the missing child's story.</p> <p>The father's appearance on a morning news bulletin led to a tip-off which helped police recover the child. The father acknowledged using social media meant his child's name is forever in the public domain however believes it was worth it to have his child back.</p> <p>This article highlights the importance of quickly sharing information through the right channels. Publishing information in the appropriate channels also assists to inform the community of who they should tell their information to and how to provide their information so it can be used effectively during a missing person investigation.</p> <p>Channel4 (2 October 2012), 'Can social media help find missing people?' <a href="http://www.channel4.com/news/can-social-media-help-find-missing-people">http://www.channel4.com/news/can-social-media-help-find-missing-people</a>.</p>



Jonathan Owen's article, 'Missing people: The media looks for the development of a story'.

This article explored the different ways individuals are portrayed in the media. Mr Owen considers the notion of an 'ideal victim' – one that is both vulnerable and presentable in the media.

This article stated missing children have made up the vast majority of high-profile cases between 2012 and 2013, with over half involving white girls whose disappearance resulted from criminal activity. Mr Owens believes, as a result of the media not providing coverage on a variety of missing person cases, this creates bias and misunderstandings around missing person issues in the community.

Jonathan Owen, (Sunday 16 June 2013), 'Missing people: The media looks for the development of a story', Independent, <http://www.independent.co.uk/news/uk/home-news/missing-people-the-media-looks-for-the-development-of-a-story-8660581.html>.

Danni Santana's article, 'Social media's role in finding the missing'.

This article discussed how local police and specialised units, such as the Missing Persons Squad, in the United States of America are increasingly using Twitter to raise public interaction with police.

In missing person cases the initial notification is made on social media, then posters are prepared. Information about the missing person is able to spread quickly through the retweeting of information by police and the public. This enables police to more quickly and directly share information.

Amber Alerts which were previously used were mainly broadcast on television, radio and on highways. Missing person posters were mainly displayed in communities where the individual was last seen or lived. These avenues had a limited reach to the community.

The National Center for Missing and Exploited Children found social media sites allowed the Center to target their missing person posters to people in locations who may be more directly able to assist. Millions of users access the Center's accounts – Facebook, 1.2 billion monthly users; Twitter, 288 million monthly users; and Instagram, 300 million monthly users. The Center found video posts featuring family members of lost children to be more effective than photos and written descriptions of a missing child.

Timothy Griffin, a Criminal Justice Professor at the University of Nevada, Reno, believes social media has a role to play in finding a missing child who is not in any real danger. His research on Amber Alerts concluded they have no real effect on whether a child's life is saved, as often the immediate reporting of an abduction and an immediate alert, which are necessary for the system to be effective, do not occur.

Danni Santana, 'Social media's role in finding the missing', <http://themissingnyny.nycitynewsservice.com/part-two/social-media-used-to-find-the-missing/>, accessed 14/01/2016.

Levi Sharpe's article, 'Amber Alert: Cure or thin Band-aid?'.

This article quotes Timothy Griffin, a Criminal Justice Professor at the University of Nevada, Reno.

Professor Griffin comments on the Amber Alert system stating, 'we hastily pass these laws and legislations and these programs and we evaluate them based on their intentions rather than demonstrated benefits'. He further states, *'The AMBER Alert system does not seem to protect against abductors who are actually out to harm the child'*.

Additionally, Professor Griffin states a 2010 study of the Amber Alert found *'although in over 25 percent of cases studied the AMBER Alert aided in the recovery of an the abducted child, there was little evidence that AMBER Alerts 'save lives' as the National Center for Missing and Exploited Children says it does'*.

In 2013, the National Center for Missing and Exploited Children stated 7 per cent of Amber Alerts were reported to be a 'hoax' or false report. The article raised questions about the effectiveness and success rate of Amber Alerts in comparison to similar cases where no alert is issued and concerns if this system is used too frequently its effectiveness and impact on the public can be lost.

Levi Sharpe, 'Amber Alert: Cure or thin Band-aid?', <http://themissingny.nycitynewsservice.com/part-two/amber-alert/>.

Mary Quinn O'Connor's article, 'Social-networking tools help find missing children'.

This article discussed how social networking sites have proven successful for missing person cases. According to the National Center for Missing and Exploited Children, *'social media has helped to resolve and recover 98.5 percent of Amber alerts since 2005. Of 1,451 Amber notifications from 2005 to 2009, 1,430 children have been found'*.

The Center believes social networking sites assist with locating children faster and increasing the recovery rate of missing children from 60 percent in the 1980s, to 96.5 per cent in 2011.

This article confirms individuals should check with police and their internet sources to avoid false missing person reports. The success of this approach is still being monitored however the advantages of using social media outweigh the potential for false reports.

Mary Quinn O'Connor (30 March 2011), 'Social-networking tools help find missing children', Fox News, <http://www.foxnews.com/tech/2011/03/30/social-networking-tools-help-missing-children.html>.

Petra Starke's article, 'Police see mixed blessings in social media missing persons campaigns'.

This article discussed the value of social media campaigns. It also discussed whether social media campaigns could hinder police investigations as crucial leads and tip-offs are not reaching officers responsible for missing person cases.

*In this article Senior Constable Melissa Seach of Victoria Police states, 'we understand setting up a page or site may help families and friends of missing people feel like they are actively doing something to help find the missing person, however where sites aren't actively monitored it may encourage speculation and false information to be posted, which can have a harmful impact on police investigations'.*

This article referenced the misinformation present on social media for high-profile cases such as Daniel Morcombe and Jill Meagher. Recently in the case of missing 20-year-old Rachael Moritz, her Facebook page was temporarily shut down. Numerous critical comments, taunts and misleading information were posted on the site after police revealed a bikie link in the case. The account later reopened advising people to report information directly to the police and not post it on social media sites hoping police would read it.

Petra Starke (5 January 2013), 'Police see mixed blessings in social media missing persons campaigns', Herald Sun, <http://www.heraldsun.com.au/news/law-order/police-see-mixed-blessings-in-social-media-missing-persons-campaigns/story-fnat7jnn-1226547804937>.

Sarah Collerton's article, 'Social media aids search for missing person'.

In this article Ms Morris, founder of Australian Missing Persons Register, commented on the impact of social media on missing person's cases. Ms Morris stated she regularly monitors her website and on occasions has removed defamatory or rude comments people have posted. Despite this Ms Morris believes the advantages of social media outweigh the concerns and encourages people to use social media to search for missing persons.

Sarah Collerton, (23 September 2010), 'Social media aids search for missing person', <http://www.abc.net.au/news/2010-09-23/social-media-aids-search-for-missing-persons/2271880>.

