1 **Purpose**

The purpose of this document is to provide instruction on the actions required under Queensland legislation to report concerns of child abuse and neglect to either Child Safety or the Queensland Police Service (QPS) under both the *Queensland Child Protection Act 1999* (CP Act) and the *Queensland Criminal Code Act 1899* (Criminal Code) respectively.

2 **Scope**

All employees, contractors, consultants, students and volunteers providing a service within Queensland Health (QLD Health) and Hospital and Health Services (HHS) fall within the scope of this guideline.

3 **Related documents**

**Guidelines and resources:**

- Queensland Health Child Protection Capability Framework
- Information Sharing in Child Protection: Clinical Practice Guide (guideline currently under review)
- Responding to an Unborn Child High Risk Alert (guideline currently under review)
- Conducting Child Sexual Assault Examinations (guideline currently under review)
- Care and Treatment Order for a Child (guideline currently under review)
- Consent in Child Protection and Management of Complex Care Cases and End of Life Decision Making (guideline currently under review)
- Factsheet – Child Sexual Abuse: Amendments to QLD Criminal Code
- Factsheet – Failure to Report sexual offending against a child to police
- Factsheet – Failure to Protect a child form a sexual offence
- Factsheet – Child Sexual Abuse: summary of offences in QLD Criminal Code
- Memorandum of Understanding between the Chief Executive of Queensland Health and the Queensland Police Service (MOU currently under review)
- Documentation and Storage of Child Protection Information (guideline in draft, coming soon)
4  Reporting concerns to Child Safety under the CP Act

4.1  Mandatory reporting

Who is a mandated reporter under the CP Act?

4.1.1  Section 13E(1) of the CP Act defines persons engaged in particular work who are mandated reporters. The act states that a person who is a doctor or a registered nurse (relevant person) is a mandated reporter.

A reportable suspicion

4.1.2  A ‘reportable suspicion’ is defined in s13E(2) of the CP Act as a reasonable suspicion that a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and may not have a parent able and willing to protect them from harm.

4.1.3  Sections 13E(1) and 13E(3) of the CP Act provides that a doctor or a registered nurse (relevant persons) must give a written report under s13G to the Department of Children, Youth Justice and Multicultural Affairs (Child Safety) if that person forms a ‘reportable suspicion’ about a child in the course of their employment in their respective professional roles.

4.1.4  Under s13G(2) of the CP Act, this written report must contain the following details:

   a) state the basis on which the person has formed the reportable suspicion; and

   b) include the information prescribed by regulation, to the extent of the person's knowledge.

4.1.5  Mandatory reporters should still report to Child Safety a reasonable suspicion that a child or unborn child may be in need of protection where the harm or risk of harm relates to any other type of abuse, such as emotional abuse and/or neglect under s13A of the CP Act.

4.2  Non mandatory reporting - Action by persons generally

When a person is not a mandated reporter

4.2.1  Any person, including persons engaged to provide a service or employed by Queensland Health, may inform Child Safety in accordance with s13A(1) of the CP Act where the person reasonably suspects:

   a) a child may be in need of protection; or

   b) an unborn child may be in need of protection after he or she is born.

4.2.2  The information given under s13A(2) of the CP Act may include anything the person considers relevant to the person's suspicion.
4.3 Considerations when forming a reasonable suspicion

Considerations when identifying significant harm

4.3.1 A child under the CP Act (s8) is an individual under 18 years.

4.3.2 **Section 13C(1) and 13C(2)** of the CP Act provides matters which the person may consider in forming a ‘reasonable suspicion’ about significant harm to a child:

- whether there are detrimental effects on the child’s body or the child’s psychological or emotional state that are evident to the person or that the person considers likely to become evident in the future; and
- the nature and severity of the detrimental effects; and
- the likelihood that the detrimental effects will continue; and
- the child’s age

4.3.3 **Section 13C(3)** states that a person may use relevant knowledge, training or experience that the person may have, or be informed by an observation or other knowledge about the child, to form a reasonable suspicion regarding harm to the child.

Under **section 13H** of the CP Act, a relevant person (a doctor or registered nurse in the context of QLD Health) may consult with a colleague and vice versa to:

- assist the relevant person in the forming of a reasonable suspicion of harm to a child; and
- assist the relevant person in forming a suspicion about whether a child has a parent able and willing to protect the child from harm.

A colleague may include a senior staff member, Child Protection Liaison Officer (CPLO) or Child Protection Advisor (CPA), or a person working in or for the same entity as the relevant person.

Determining parent able and willing

4.3.4 In determining whether a child may not have a parent able and willing to protect them from harm (**s11 CP Act**), a person should consider that:

- a parent may be willing to protect a child from harm, but does not have the capacity to do so - that is, they are **unable** to protect the child from harm.
- a parent may have the capacity to protect a child from harm, but may choose not to do so – that is, they are **unwilling** to protect the child from harm.
4.4 Unborn child

Reporting an unborn child

4.4.1 Although it is not mandatory to report child protection concerns relating to an unborn child, Section 13A of the CP Act states that any person may inform Child Safety if they reasonably suspect that an unborn child may be in need of protection after they are born. This includes persons engaged to provide a service or employed by Queensland Health. This means a person does not have to wait until a baby is born to report concerns to Child Safety.

4.4.2 If a person reports concerns, then the person is protected from civil, criminal and administrative liability under s197A of the CP Act, provided the person acts honestly and reasonably in making the report.

4.5 The Child Protection Guide

4.5.1 In addition to the provisions set out in section 4.3 of this Guideline ‘Considerations when forming a reasonable suspicion’, The Child Protection Guide (CPG) is a tool that may also be utilised to support decision making if concerns arise about a child or young person.

4.5.2 The CPG is intended to complement rather than replace an individual professional’s critical thinking and does not prohibit them from any course of action they believe is appropriate.

4.6 The Process of Reporting concerns about a child or young person to Child Safety

Submitting a report to Child Safety

4.6.1 When a reasonable/reportable suspicion is formed, you should:

- Immediately report your concerns in writing to an authorised officer of Child Safety Regional Intake Service (CS-RIS) or Child Safety After Hours Service (CSAHS) via a ‘Report of suspected child in need of protection’ E-Report (Mozilla Firefox recommended)
- Telephone CS-RIS or CSAHS and document the date, time and name of the person you spoke to in the client’s health record.

4.6.2 You should:

- print and then file the report in the client’s health record
- forward a copy of the report to your local HHS CPLO.

4.6.3 If an E-Report is not available you should follow the same processes noted above, however submit a paper copy of the ‘Report of suspected
child in need of protection’ Form (Mozilla Firefox recommended) and email the form to CS-RIS or CSAHS.

4.6.4 If you are unable to access either of the above electronic forms on QHEPS, an alternative written or ‘Word’ version should be completed and submitted to CS-RIS or CSAHS including, at the very least, the following details about the child/young person:

- Name, DOB, address, parent/caregiver and other relevant persons
- Type of harm or risk of harm, including urgency of response required, and
- Your name and contact details.

The communication, documentation and filing processes stated in 4.6.1 – 4.6.3 should be followed.

4.6.5 Child Safety may contact you if they require further information in relation to the report. It is important you provide all information which you consider relevant to your suspicion. If uncertain, you should discuss with your local HHS CPLO.

4.6.6 When submitting a report, you are protected from liability under s13D (s197A) of the CP Act.

5 Reporting sexual offences against children to police under the Criminal Code

5.1 Mandatory Reporting

Who is a mandated reporter under s.229BC of the Criminal Code?

5.1.1 As of [5 July 2021], a new section, 229BC has been inserted into the Criminal Code making it a criminal offence, punishable by up to 3 years imprisonment, for all adults (18 years and over) who form a belief on reasonable grounds and, without a reasonable excuse, fail to report child sexual abuse committed by another adult (18 years and over) to police. For further information: QH s.229BC Factsheet.

5.1.2 Under the Criminal Code, a child means a person under 16 years or a person under 18 years with an impairment of the mind.

If you make a voluntary or mandatory report to an appropriate government authority, such as Child Safety, you are not required to report the same offence to police under s229BC of the Criminal code as you have demonstrated a ‘reasonable excuse’ for not reporting to a police officer.
5.2 Considerations when forming a ‘belief on reasonable grounds’

What is a ‘Belief on reasonable grounds’?

5.2.1 A belief on reasonable grounds is **not exclusively defined in the Criminal Code (s229BC)**. A **reasonable belief** is a belief that is held on reasonable grounds based on the information available. Whether a reasonable belief would be formed will always depend on the circumstances. **For example, a reasonable belief could be formed if:**

- A child or young person discloses sexual abuse or demonstrates other behavioural signs of abuse, e.g. age-inappropriate sexual behaviour
- There are physical signs of abuse, e.g. injuries to the genitals and/or sexually transmitted diseases
- An adult is observed to demonstrate behaviours that may indicate abuse of a child or young person, e.g. grooming behaviours, possession of child exploitation material. **For further information:** possible signs of child sexual abuse

5.2.2 If a person has a reasonable belief that a child has experienced sexual abuse or is at risk of sexual abuse, the person **must report it to police** — unless there is a reasonable excuse for not doing so.

5.2.3 The information **needs to be reported as soon as reasonably practicable** (s229BC ss2)

5.2.4 If a person reports concerns to police in ‘good faith’ then the person is not **civilly or criminally liable** under the Criminal Code (s229BC ss5).

5.3 Types of offences that must be reported

**Child Sexual Offences under Chapters 22 and 32 of the Criminal Code**

5.3.1 A child sexual offence committed against a child or young person by an adult that must be reported under s229BC includes (but is not limited to):

- Indecent treatment of a child under 16 years (or person under 18 years with an impairment of the mind)
- Having sexual intercourse
- Rape
- Carnal Knowledge
- Incest
- Grooming a child (or parent/caregiver)
- Making child exploitation material
• Maintaining a sexual relationship with a child under 16. **Note:** a person under 16 cannot legally give consent for sexual activities (ss 210, 215 and 229B of CC)

• Any purported ‘consent’ by the child under 16 years to the sexual contact is immaterial as it will still constitute an offence and must be reported.

*(For further information: QH 'Summary of Offences' Factsheet)*

**Historical Offences**

5.3.2 If a person obtains information that leads them to believe on reasonable grounds that a sexual offence has been committed against a child, the person must report it, **even if the offence happened a long time ago**, unless the person have a reasonable excuse not to.

**5.4 ‘A Reasonable Excuse’**

5.4.1 A reasonable excuse is **not exhaustively defined in the legislation** however it is considered to be when:

• The information has already been or will be reported by a person, or the person believes on reasonable grounds that another person has or will report it to an appropriate authority e.g. Child Safety

• Information was gained after the child becomes an adult and a person reasonably believes they do not want to reveal it to police

• A person believes reporting the offence would endanger their or another person’s safety (other than the alleged offenders’), and the failure to disclose is a reasonable response in the circumstances.

**5.5 The process of reporting concerns to police**

5.5.1 Your **Team Leader/Manager**, local Queensland Health **Child Protection Unit (CPU)**, and **Legal Service** are all options to consider when you need advice. You must remember to consider each case individually as many of these circumstances will present complex conditions that need to be thoroughly assessed. **It is important that such decisions are not made in isolation** and that due process is followed by consulting with relevant multi-disciplinary team professionals before making a decision.

5.5.2 Unlike when a report is submitted to Child Safety, there is **no state-wide electronic form or written report required:**

• To report an offence contact ‘**Police Link**’ on 131 444.

• In emergencies, phone Triple Zero (000).

• However, you should check with your local HHS Child Protection Unit (CPU) to determine if there are any other reporting pathways that have been established with the local police service.
Queensland Health and Queensland Police Memorandum of Understanding (MOU)

5.5.3 Under the Queensland Health (the Department of Health and Hospital Health Services) and Queensland Police Memorandum of Understanding (MOU), criminal matters that do not fall under s229BC of the Criminal Code may also be reported to police.

5.5.4 The intent of the MOU is to support Queensland Health staff by providing them with discretion to report criminal conduct that they have witnessed, become aware of, or have been a victim of, in the course of their duties. This may include confidential patient information that is relevant to progress a criminal investigation. For further information: ESU: Criminal Matters.

6 Sexual activity in young people

6.1 Considerations when determining if sexual activity in young people meets a threshold to report

Reporting sexual activity in young people to Child Safety

6.1.1 If a person engaged to provide a service, or employed by Queensland Health, becomes aware of a particular situation where sexual activity in a young person (or persons) is of concern, they may report this to Child Safety under s13A of the CP Act on the basis that this activity is considered to have reached the legislated threshold to report (a child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and may not have a parent able and willing to protect them from harm). Examples may include, but are not limited to:

If the sexual activity:

- is unwanted or unwelcome and/or
- suggests an inappropriate power differential and/or
- involves coercion to engage in any unlawful sexual activity
- exposes the young person to pornographic materials, or exposes them to, or uses them in, child sexual exploitation related acts or materials and/or
- is not fully comprehended by the young person and/or
- occurs between family members including non-biological caregivers and/or
- constitutes an age gap between the young person and sexual partner which, in the circumstances, gives rise to a reasonable concern.

6.1.2 Grooming: A person, while engaged to provide a service, or employed by Queensland Health, may identify behaviours in an adult that constitute grooming. This refers to the way some offenders form relationships and
build trust with children/young people, parents, carers and others in order to get close to the child or young person and create the opportunity for sexual abuse (s218B of Criminal Code). In such instances, it is important to consider if there is a parent/caregiver who is able and willing to protect a child or young person from harm. It can be difficult to recognise grooming behaviours.

6.1.3 If a person is a mandated reporter under s.13E of the CP Act and the person forms a reasonable suspicion of child sexual abuse, the person must report their concerns to Child Safety.

6.1.4 There will be circumstances when the criteria listed above (6.1.1) may not be met, but there are concerns the young person may still be at risk of significant harm. The absence of specific indicators is not intended to restrict reporting concerns to Child Safety.

6.1.5 Specific consideration must be given to the age of the child/young person as well as the presence of developmental and/or intellectual delays and/or disability which may reduce the young person’s ability to identify, consent to, and seek help and support.

6.1.6 Appropriate consultation with other colleagues (s13H of the CP Act) and an assessment of the child/young person’s individual situation should be undertaken.

**Reporting sexual activity in young people to police**

6.1.7 A person engaged to provide a service, or employed by Queensland Health, on becoming aware of certain sexual activity in a young person/s will be required to report such activity (unless there is a reasonable excuse) to police in the following circumstances:

- **Sexual activity between a child under 16 years and an adult 18 years or over.** This includes sexual activity that may be considered to have been agreed upon by a young person. **For example:**
  - a child (under 16 years old) and an adult (18 years or over) who are both school students;
  - a child (under 16 years old) and an adult (18 years or over) who are in a relationship or engaging in casual sexual activity;
  - a child (under 16 years old) who is pregnant to an adult (18 years or over)

- **Sexual activity between a person with an impairment of the mind (16 - 17 years old) and an adult (18 years or over).**

*If you make a voluntary or mandatory report to an appropriate government authority, such as Child Safety, you are not required to report the same offence to police under s229BC of the Criminal code as you have demonstrated a ‘reasonable excuse’ for not reporting to a police officer.*
7 When concerns do not reach the threshold to report to Child Safety or police

7.1 Family and Child Connect

7.1.1 As part of the child protection reform program, community-based intake and referral services known as Family and Child Connect (FaCC) provide an additional pathway for referring concerns about children and their families before the concerns reach the threshold to report to Child Safety.

7.1.2 Family and Child Connect is a local, community-based service that helps families to care for and protect their children at home, by connecting them to the right services at the right time. It is a free service provided by trusted, local organisations who are experienced in working with families.

7.1.3 Anyone can contact FaCC for advice and information, including parents, grandparents, other family members and young people. Health Professionals can also refer a child and/or family to FaCC Referral Form

7.1.4 It is always best practice to obtain consent prior to referring a child/family to a support service, however if this is not practicable you may still refer to FaCC without consent.

8 Documentation

8.1 Documenting your actions and conversations

8.1.1 You should accurately and objectively record all actions and conversations in the individual’s clinical record and recognise that the information may be used as evidence in court proceedings. Information should include a summary of all relevant conversations with clients, other health professionals and agencies such as Child Safety and/or police, e.g. names, information provided and advice given, decisions made and rationale. This includes a rationale for not submitting a report to Child Safety or police.

8.1.2 You should also document any disclosures made, by whom and what actions were taken to support the child/young person, caregivers and other family members.

8.1.3 Important note: when speaking directly with a child/young person about alleged child abuse perpetrated against them, you should be mindful not to ask any leading questions which may negatively impact subsequent police investigations and court processes. For further information: Documentation and Storage of Child Protection Information (guideline in draft, coming soon).
9 Review

This guideline is due for review: 19 October 2023

Date of last review: 19 October 2021

Supersedes: Reporting a Reasonable/Reportable Suspicion of Child Abuse and Neglect

10 Business Area Contact


11 Definitions of terms use in the guideline and supporting documents

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition / Explanation / Details</th>
<th>Source</th>
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<tbody>
<tr>
<td>Child</td>
<td>Under the CP Act, a child is ‘an individual under 18 years of age’.</td>
<td>Ch. 1, p.3, s.8 Child Protection Act 1999</td>
</tr>
<tr>
<td></td>
<td>Under the Criminal Code, in the context of an adult's obligation to report belief of child sexual offences committed in relation to a child, a ‘child’ is either a person under 16 years of age or a person under 18 years of age with an impairment of the mind.</td>
<td>S 229BC Queensland Criminal Code 1899</td>
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<tr>
<td>Child in need of protection</td>
<td>A child in need of protection is a child who: a. has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm; AND b. does not have a parent able and willing to protect the child from the harm.</td>
<td>s.10 Child Protection Act 1999</td>
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<td>Child Protection Advisor</td>
<td>The Child Protection Advisor (CPA) is a nominated HHS position. The CPA plays a key role in providing advice and the provision of child protection services both at a health service and an interagency level. A list of all CPAs is available from the Child Safety QHEPS site: <a href="http://qheps.health.qld.gov.au/cs">http://qheps.health.qld.gov.au/cs</a></td>
<td>Department of Health – ‘Key Child Protection Roles’</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
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<td><strong>Child Protection Liaison Officer</strong></td>
<td>The role of the Child Protection Liaison Officer (CPLO) is to provide a single point of contact for child protection issues. CPLOs are able to provide consultation on child protection concerns and child protection support and advice to health staff. A list of all CPLOs is available on the Child Safety QHEPS site: <a href="http://qheps.health.qld.gov.au/csul">http://qheps.health.qld.gov.au/csul</a> Persons occupying these positions can be from a variety of disciplines (e.g. nursing, social work, psychology, medicine).</td>
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<td><strong>Child Safety</strong></td>
<td>Child Safety is the dedicated lead government agency and statutory body for all child protection and adoption services. The department's role in protecting children and young people is to:</td>
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<td>- investigate concerns that a child or young person has been harmed or is at risk of significant harm</td>
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<td></td>
<td>- provide ongoing services to children and young people who are experiencing, or are at risk of, experiencing significant harm.</td>
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<td>Emotional abuse</td>
<td>Emotional abuse refers to a parent or caregiver's inappropriate verbal or symbolic acts towards a child and/or a pattern of failure over time to provide a child with adequate non-physical nurturing and emotional availability. Such acts of commission or omission are likely to damage a child's self-esteem or social competence. Emotional abuse can include constant criticism, restriction of movement, patterns of belittling, denigrating, scapegoating, threatening, scaring, discriminating, exposure to domestic violence, ridiculing or other non-physical forms of hostile or rejecting treatment.</td>
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<td>Harm</td>
<td>Harm, to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing. 1. It is immaterial how the harm is caused 2. Harm can be caused by - • physical, psychological or emotional abuse or neglect; or • sexual abuse or exploitation. • A single act, omission or circumstance; or a series or combination of acts, omissions or circumstances. <a href="https://aifs.gov.au/cfca/publications/child-protection-act-1999">s.9 Child Protection Act 1999</a></td>
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<td>Neglect</td>
<td>Neglect includes both isolated incidents, as well as a pattern of failure over time on the part of a parent, caregiver or other family member to provide for the development and wellbeing of the child – where the parent is in a position to do so – in one or more of the following areas: health, education, emotional development, nutrition, shelter and safe living conditions. <a href="https://aifs.gov.au/cfca/publications/child-neglect">https://aifs.gov.au/cfca/publications/what-child-neglect</a></td>
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A parent of a child is—

(1) The child's mother, father or someone else having or exercising parental responsibility for the child; or

(2) The Chief Executive for a child who is in the custody or guardianship of the Chief Executive of Child Safety under the Child Protection Act 1999

(3) a person in whose favour a residence order or contact order for the child is in operation under the Family Law Act 1975 (Cwlth);

(4) a person, other than the Chief Executive, having custody or guardianship of the child under—
   (i) a law of the State, other than this Act; or
   (ii) a law of another State;

(5) a long-term guardian of the child.

The following also applies:

(1) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.

(2) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.

(3) A reference in this part to the parents of a child or to one of the parents of a child is, if the child has only one parent a reference to the parent.
### Physical Abuse

The World Health Organisation - WHO (2006, p. 10) defines child physical abuse as:

The intentional use of physical force against a child that results in – or has a high likelihood of resulting in – harm for the child’s health, survival, development or dignity. This includes hitting, beating, kicking, shaking, biting, strangling, scalding, burning, poisoning and suffocating. Much physical violence against children in the home is inflicted with the object of punishing.


### Registered Nurse

A **registered nurse** means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the nursing profession, other than as a student; and

(b) in the registered nurse’s division of that profession.


### Sexual Abuse

The World Health Organisation - WHO (2006, p. 10) defines child sexual abuse as:

The involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared, or else that violates the laws or social taboos of society. Children can be sexually abused by both adults and other children who are – by virtue of their age or stage of development – in a position of responsibility, trust or power over the victim.

It can be physical, verbal or emotional and includes any form of sexual touching, penetration, sexual suggestion, sexual exposure, exhibitionism and child prostitution.


12 Approval and implementation

12.1 Guideline Custodian:
Stephen Stewart, Director, Strategy, Children and Families Unit, Social Policy and Legislation Branch

12.2 Responsible Executive Team Member:
Dawn Schofield, Executive Director, Office of the Director-General and System Strategy Division.

12.3 Approving Officer:
David Harmer, Senior Director, Social Policy and Legislation Branch.

Approval date: 19 October 2021
Effective from: 19 October 2021

Version control

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<th>Comments</th>
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<td>V1.0</td>
<td>01/03/2014</td>
<td>Kyle Fogarty</td>
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<td>V1.0</td>
<td>07/04/2014</td>
<td>Joanna Gurd</td>
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<td>V2.0</td>
<td>14/11/2014</td>
<td>Sharon McDonald</td>
<td>Queensland Child Protection Reform</td>
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<td>V3.0</td>
<td>11/12/2014</td>
<td>Sharon McDonald</td>
<td>Consultation feedback incorporated</td>
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<td>29/04/2016</td>
<td>Sharon McDonald</td>
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<td>1 May 2016</td>
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<td>Joanna Gurd</td>
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<td>V5.0</td>
<td>19 October 2021</td>
<td>Kaylene Muller</td>
<td>Final – periodic review/changes to QLD Criminal Code – sexual offences perpetrated against children</td>
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