



Guidelines for service providers

Commission for Children and Young People and Child Guardian

in a report is given an opportunity to respond.

The Child Guardian then considers all responses to the provisional report, and finalises the report, taking the responses into account.

Step 6: Final report

The final report on each monitoring activity, review or investigation is sent to the relevant service provider. Any final recommendations become official and *must* be implemented. Generally, the Child Guardian asks the service provider to provide an implementation plan for the recommendations, including timeframes.

Most reports are confidential and are only given to the relevant service provider's CEO. However, some final reports and recommendations are also given to the Minister responsible for the service provider. In certain cases, reports may also be released publicly by asking the Premier to table them in Parliament. To protect

the privacy of individual children, young people and others named in the report, names and identifying factors are removed from the publicly released version.

Step 7: Implementation of recommendations

The last stage in responding to a Child Guardian activity is implementing the final recommendations. These may relate to specific children or broader systemic concerns which affect children and young people more generally.

The implementation of recommendations is monitored by the Child Guardian to ensure the service provider has remedied the issues identified by the report.

If a service provider fails to appropriately respond to recommendations, the Child Guardian may prepare a report and give it to the responsible Minister.

How you can assist the Child Guardian

Service providers can help by:

- having clear procedures in place to deal with and respond to Child Guardian inquiries, monitoring activities, reviews and investigations
- nominating a qualified contact person with expertise in the subject at issue to manage contact with the Child Guardian's contact officer
- responding to Child Guardian inquiries and requests for information in a thorough, timely and consistent way
- providing answers to all issues or questions
- contacting the Child Guardian's nominated contact officer as soon as possible if you cannot comply with the timeframes in a notice or do not understand what information is required, and
- developing procedures for informing staff about any changes arising out of the Child Guardian recommendations.

contact us

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Responding to Child Guardian monitoring activities, reviews or investigations

Introduction

The Commission for Children and Young People and Child Guardian promotes and protects the rights, interests and wellbeing of children and young people in Queensland, particularly those most vulnerable.

The Commission oversees the child safety and juvenile justice systems in Queensland through its Child Guardian role.

The Child Guardian strives for the best possible outcomes from the perspective of children and young people.

Reviews or investigations into workplace decisions may be stressful and disruptive if people don't know what to expect or are anxious about their decisions being questioned.

However, external review is an important part of the accountability framework for protecting children in Queensland.

These guidelines aim to help service providers such as government and non-government organisations better respond to the Child Guardian's monitoring, review and investigative activities.

Your assistance and cooperation can help achieve better outcomes for children and young people.

Overview of the Child Guardian's role and powers

The Child Guardian:

- monitors and reviews the systems, policies and practices of service providers¹, as well as the Department of Child Safety's (DChS's) handling of individual cases of children in the child safety system
- resolves and/or investigates complaints about services to children and young people
- monitors DChS's compliance with the Indigenous Child Placement Principle
- administers a statewide Community Visitor Program for children and young people in out-of-home care, and
- maintains a child death register, conducts research into child deaths and chairs and provides

¹ Service providers are defined in the *Commission for Children and Young People and Child Guardian Act 2000* and include the Departments of Child Safety, Communities, Corrections, Justice and Attorney-General, Education, Training and the Arts, Housing, Disability Services Queensland, Queensland Health and the Queensland Police Service. Certain non-government organisations are also included as service providers.

secretariat support for the Child Death Case Review Committee.

The Child Guardian has the power to:

- require information or documents from service providers
- access a child
- obtain information under oath or affirmation
- require periodic reporting by service providers
- require service providers to review their systems, policies or practices
- require DChS to review and report on its handling of individual cases of children in the child safety system
- make recommendations to service providers
- monitor the implementation of these recommendations
- report to the relevant Minister in cases where recommendations are not implemented, and
- help build the capacity of service providers to meet the needs of children in the child safety system.

Overview of the monitoring, review and investigation process

Step 1: Consultation

At the beginning of a monitoring, review or investigative activity, the Child Guardian generally consults with the relevant service provider to:

- advise the activity is underway, and discuss its purpose, scope or the issues to be investigated
- seek the service provider's views on issue/s
- try to resolve the issue/s informally, where appropriate
- discuss the best way for the service provider to provide the information or documents required, and
- seek advice on the service provider's capacity to provide the information and/or documents requested in appropriate timeframes.

Consultation is usually arranged through service providers' Chief Executive Officers (CEOs), although staff may sometimes be contacted directly for information.

Following consultation, the Child Guardian usually issues one or more statutory notices to the CEO.

Step 2: Statutory notices

There are several types of statutory notices which may be issued to service providers subject to monitoring, review or investigative activities:

- *Notice of investigation* – advises an investigation is being started and the issues which will be investigated
- *Notice for access to a child* – requires the service provider or another person to provide access to a child or children in relation to an investigation
- *Notice for information or documents* – requires the service provider to provide certain documents or information (in some cases by statutory declaration) either personally or by other means stated in the notice
- *Notice for review of service* – requires the service provider to review its systems, policies or practices if the Child Guardian has a particular concern, and provide a report. DChS or a licensee (under the *Child Protection Act 1999*) may also be required to review their handling of individual cases and provide a report.

Step 3: Compliance with a statutory notice

Statutory notices require service providers to take certain actions within set timeframes, such as providing original or copied documents, attending an interview, conducting a review and/or providing a report.

Service providers and others who receive notices *must* comply unless a relevant exemption², defence³ or excuse applies. Penalties may apply for non-compliance with a notice.

Step 4: Analysis of information provided

Once the service provider has complied with a statutory notice, the Child Guardian analyses all available information and forms provisional opinions about the subject of the monitoring activity, review or investigation. In some

² Exemptions under Part 2A of the *Commission for Children and Young People and Child Guardian Act 2000* include information that might prejudice a coronial or police investigation or that might endanger a person's life or physical safety.

³ Defences include witness privilege.

cases, the Child Guardian may ask the service provider or another service provider for additional information or explanations about the information given.

Analysis of the information is carried out objectively and fairly. The Child Guardian does not form an opinion until all relevant information has been considered. The subject of the activity will have an opportunity to respond to any concerns about their conduct or decision making before a final finding is made.

Step 5: Provisional report

Following each monitoring activity, review or investigation, the Child Guardian drafts a report which may include provisional findings or opinions about the issues reviewed, along with proposed recommendations to improve services to children and young people.

In the interests of procedural fairness, a copy of the provisional report is sent to the service provider so they can consider any findings, opinions and proposed recommendations, and respond to them. Anyone who is the subject of adverse comment