

# Child Guardian Complaints

RIGHTS

## Key responsibilities

The Complaints team deals with complaints of harm, or suspected harm to children. They can also take complaints about services to children and young people in Queensland by government and non-government agencies.

As a result of recommendations by the Crime and Misconduct Commission following its *Inquiry into Abuse of Children in Foster Care in Queensland*, the Commission now has an expanded legislative responsibility to receive, seek to resolve and monitor complaints about services to any child in the child safety or juvenile justice systems. The team also advocates for children and young people and is taking on the role of representing issues to the Children Services Tribunal.

The key responsibilities of the Complaints team include:

- Assisting children at risk (*under section 20 of the Act*) - The Commission may receive information that children may need protection under the *Child Protection Act 1999* as a result of harm or the risk of harm. Information may also be received indicating that a child is (or may be) the victim of a criminal offence.

An initial assessment is carried out, and this may be followed by:

- verbally reporting the matter to the relevant Child Safety Service Centre to ensure prompt awareness of the issue
- formal referral in writing to the relevant department or agency for investigation
- assessment of outcomes, and
- advice of outcomes to the notifier/s.

Most section 20 matters are referred to the Department of Child Safety, Queensland Police Service and Crime and Misconduct Commission.

- Responding to complaints (*under Part 3 of the Act*) - The Commission may receive information indicating that a required service has not been provided to a child, or a service has been, or is being, provided in a way contrary to the rights, interests or wellbeing of a child or children.

The Commissioner may also make a complaint where she believes the rights, interests or wellbeing of a child or children may be seriously affected if a complaint is not made.

- Advocating for children (*under section 15 of the Act*) - The Commission may receive complaints about issues which fall outside the scope of section 20 or Part 3 of the Act, but which affect the rights, interests or wellbeing of a child or children. These issues may include accommodation, disabilities, financial matters and education.

Apart from advocating for individuals, the Complaints team also advocates on issues which have a broader, systemic focus. This enables the Commission to engage with the community on social reform issues, highlight the needs of children and young people and promote their rights and interests.

Other responsibilities include:

- Making applications for review of reviewable decisions in the Children Services Tribunal (*under Part 7A of the Act*) - the Commission may apply to the Children Services Tribunal for a review of a child safety decision if the Commissioner is not satisfied with a particular decision or the matter has not been resolved with the chief executive of the Department of Child Safety to the Commissioner's satisfaction.

Broadly, a reviewable decision is a decision by the chief executive of Child Safety to take action (or a failure to take action by not making a decision) on any action under the *Child Protection Act 1999*. Reviewable decisions include decisions about under whose care a child under a child protection order should be placed, granting the chief executive officer custody or guardianship, or removing a child from a carer's care.

- Developing productive partnerships - another key function of the Complaints team is to develop community and government partnerships, and ensure the community is aware of the Commission's complaints mechanism. The team helps achieve this by participating in and attending various workshops, forums and conferences.

The Complaints team maintains strong links with peak agencies, foster care services, other interest groups and youth forums. Links have also been established with leading government agencies in the child safety system.

The Commission's Communications team worked with other key statutory authorities in Queensland to create a joint strategy

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targeting multicultural communities to raise awareness of the various complaints bodies in Queensland. More information on this can be found in the Communications section on page 50.

- Staffing - complaints staff deal with matters that are diverse, highly complex and emotionally challenging. They rely on a well-developed child safety practice framework, which includes clear child protection principles, and require superior conflict resolution and assessment skills.

In 2004-05, the Complaints team continued to review staff levels and improve work practices to achieve timely responses and resolutions. Important outcomes included:

- increased staff levels and restructuring of the team to better respond to anticipated increases in issues referred by the Commission's Community Visitor Program
- the development and implementation of complaint resolution procedures designed to achieve more timely and professional outcomes, and
- the development and implementation of procedures designed to reduce the resources required by the Department to formally respond to issues, leaving DChS more time to attend to direct service delivery to children.

## Highlights

The Complaints team experienced a significant increase in workload in 2004-05. This included the anticipated rise in issues referred to the Commission through the expanded Community Visitor Program. The Commission responded by reviewing staff levels and the structure of the team and making changes to ensure an effective, best practice complaints resolution service.

The Complaints team maintained its strong record in meeting performance targets in responding to complaints in the 2004-05 financial year, i.e.:

- ninety-seven per cent of all cases were followed up within 28 days
- ninety-one per cent of complaints cases were assessed within 28 days of the complaint being received.

In addition, the team's new Resolve database went online in 2004-05 to streamline client contacts, case management and reporting.



## Outcomes and achievements

The Complaints team received 2,632 complaint enquiries in 2004-05. Of these, 1,576 client contact or operational files were opened. This represented an increase of 41% over the previous 12 months, when 1,116 operational and contact files were opened.

A contact file is opened for each significant complaint received. These complaints are assessed and necessary action taken through local resolution, liaison and negotiation by the Commission with the relevant agency. The majority of complaints are resolved through informal negotiation and liaison at local level.

If the matter is serious and needs to be formally progressed through a referral to the relevant agency, the file is classified as an operational file. In 2004-05, 555 operational files were opened representing a 50% increase in operational files opened over 2003-04, when 370 files were opened.

The table on page 40 shows all files opened by the Complaints team in 2004-05, and their classification under the three key responsibilities (or jurisdictions) described on page 38.



File type	Complaints (part 3)	Advocacy (s15)	Children at risk (s20)	General/Other	Total
Contact complaints files opened	453 (44.4%)	200 (19.6%)	115 (11.3%)	253 (24.7%)	1021
Operational complaints files opened	141 (25.4%)	36 (6.5%)	370 (66.7%)	8 (1.4%)	555
Contact and operational complaints files opened	594 (37.7%)	236 (15.0%)	485 (30.8%)	261 (16.5%)	1576

The Resolve database allows primary issues to be identified in all complaints received (contact and operational files). A breakdown of the major issues by jurisdiction is shown below.

### Primary issues by jurisdiction

	%	Issue
<b>Section 20</b>	27.0%	Child in general need of protection
	20.7%	Sexual harm
	19.0%	Physical harm
	7.2%	Neglect
	5.5%	Emotional harm
<b>Part 3</b>	17.7%	Quality of service
	12.7%	Family contact decisions
	9.5%	Inappropriate level of intervention
	4.9%	Communication issues
	4.7%	Placement decisions
<b>Advocacy</b>	25.1%	Family Court issues
	22.5%	Educational issues
	13.8%	Non-government organisation issues
	12.1%	Health issues

NB: percentages do not add to 100% as only major issue categories are included

### Referrals to agencies

As noted previously, strategies to resolve issues early at a local level make use of the Complaints team's complaints and grievance procedures. If the matter remains unresolved at local level and meets legislative requirements, it is formally progressed by Complaints staff until there is a satisfactory outcome.

A high proportion (78%) of formally progressed complaints related to matters outside Brisbane.

The following table indicates formal correspondence progressed by the Complaints team in the 2004-05 year. A complaint may be progressed under more than one jurisdictional power.

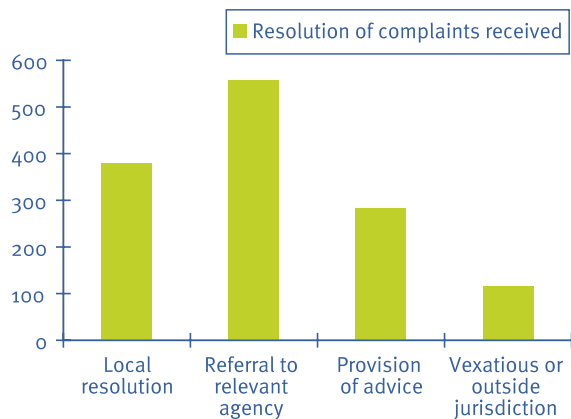


QPS	CMC	DChS	Other entity	Total
<b>Section 20</b>				
301	92	287	170	850
<b>Part 3</b>				
		153	55	208

In addition, 34 letters were written to a range of parties in relation to advocacy issues and 368 reminder letters were forwarded to addressees seeking responses to previously forwarded correspondence.

A total of 1,338 contact and files were closed at the end of the 2004-05 financial year. The remaining 238 files required further work and will be carried over into next financial year. Matters were resolved in the following way:

- 558 (42%) matters were resolved through referrals from the Complaints team to other agencies
- 380 (28%) matters were resolved at a local level
- 284 (21%) matters were resolved by other means (including providing advice only)
- 116 (9%) matters were declined by the Complaints team due to the complaint being considered vexatious, frivolous, or outside the jurisdiction of the Commission



## Outlook

From 1 August 2004, the Commission's scope to deal with complaints was expanded to include all children within the jurisdiction of the Department of Child Safety. This includes all children who have had contact with the Department. Previously, the Complaints team's jurisdiction was limited to children under child protection or juvenile justice orders and other limited cases.

The Complaints team will continue to work to resolve complaints about services provided to children and young people by government and non-government agencies. The staff will seek to resolve these complaints in a timely manner, in accordance with best practice and in a way that protects the rights, interests and wellbeing of children and young people.

In 2005-06 the team will finalise the development of its policies and procedures for seeking review of reviewable decisions by the Children Services Tribunal. This will be supported by the training of staff to act as advocates to the Tribunal.

Complaints staff will continue to work with Community Visitors to improve the effectiveness and responsiveness of the issues resolution system for Community Visitors in the field. The team will also monitor staff levels so the Commission can continue to provide a best-practice complaints resolution service.

The new Resolve complaints data management system introduced in 2004-05 will be reviewed and upgraded in 2005-06 to enhance its operation and effectiveness as a major data source on the performance of the state's child safety system.

## Case study

In April 2005, the Commission was contacted by a complainant about her grandson (aged 28 months) who was removed from his mother and placed with three different foster carers in just four months. The woman said she had legal residency of the child's two siblings through the Family Law Court. She had asked the Department of Child Safety to place her grandson with her and his siblings, and said she had made the request numerous times, including before the child was removed from his mother.

However, she said the Department decided not to place her grandson with her, as the child's father was opposed to the placement.

Section 5(1) of the *Child Protection Act 1999* (principles for administration under that Act) states that the welfare and best interests of the child are paramount. So where there is conflict between a child's welfare and best interests and the interests of a parent, the conflict must be resolved in the best interests of the child. Further, the *Charter of Rights for a Child in Care* says a child has a right to enjoy a stable living environment and to maintain family relationships.

A Complaints Officer contacted the Department of Child Safety and advocated for the child's right to a stable placement with his grandmother, to allow family relationships to be maintained.

As a result, the Department advised the Commission that it had reviewed its decision and the child would be placed with his siblings and grandmother once verbal clearance was received from the Juvenile Aid Bureau.

In June 2005, the Commission was contacted by the boy's grandmother, who said that her grandson was well and settled in her care. She thanked the staff for their assistance.

# Child Guardian Community Visitor Program

RIGHTS

## Key responsibilities

In the 2004-05 financial year, the Community Visitor Program continued to promote and protect the rights and wellbeing of children and young people in Queensland. This was achieved through regular visits to children and young people in out-of-home care, including residential facilities, foster care, disability respite centres, mental health facilities and youth detention centres.

Under the *Commission for Children and Young People and Child Guardian Act 2000*, Community Visitors can enter certain facilities and homes, talk to children and young people who wish to speak with them, assess documents relating to the children and young people living there and assess residential facilities' operations and policies.

The Act outlines the following role for Community Visitors:

- develop trusting and supportive relationships with children and young people
- advocate on behalf of children
- seek information about, and facilitate access by the children to, support services appropriate to their needs
- assess the adequacy of information given to the children about their rights
- assess the physical and emotional wellbeing of the children
- inspect the visitable sites and assess their appropriateness for the children's accommodation and the services they receive
- assess the appropriateness of the accommodation for the children as a visitable home and observe the treatment of the children
- assess the morale of staff at visitable sites
- assess whether detention centre programs prepare children and young people for release
- give advice and reporting to the Commissioner.

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## Highlights

### Expansion of Community Visitor Program

The Community Visitor Program was expanded following recommendations of the Crime and Misconduct Commission's *Inquiry into Abuse of Children in Foster Care in Queensland*. An additional 146 Community Visitors were appointed on a casual basis in September 2004 and June 2005 to protect the wellbeing of children in both visitable sites and visitable homes. This represented around a 400% increase in the number of Community Visitors, which stood at 35 at June 30 2004.

The following children are now being regularly visited by Community Visitors:

- children living at a residential facility or detention centre, or an authorised mental health service under the *Mental Health Act 2000*
- children in the custody or guardianship of the Chief Executive (child safety) under the *Child Protection Act 1999*, who have been placed in the care of an approved foster carer or someone else other than their parent
- children who, under an agreement entered into by the Chief Executive (child safety) and their parents, have been placed in the care of someone other than a parent of the child.

The continuing development of the Community Visitor Information System (CVIS) has enabled the Community Visitor (CV) Program to improve reporting. The system allows the Community Visitor Program to record children in various types of care throughout the state, and report on various aspects of that care to the children's benefit. The system also assists with resource allocation throughout the state.

The Community Visitor Program now visits over 200 visitable sites and around 1,800 visitable homes. These figures change regularly as a result of the fluctuations in child placements. Community Visitors have visited over 3,500 children in the custody or guardianship of the Chief Executive (Department of Child Safety).

## Outcomes and achievements

### Visitable homes

The implementation of the expanded Community Visitor Program to include visits to children in foster care involved a seven-fold increase staff numbers.

The expanded process was divided into three phases:

- phase one (themed Protecting Children) - April to November 2004, addressed practical completion of implementation of the CMC Inquiry recommendations
- phase two (themed Local Resolution) - December 2004 to February 2005, included:
  - a post-implementation review of phase one
  - significant attention to the CVIS database
  - revising the financial model for the CV Program
  - reviewing the program's structure, including the creation of a Director and nine Zonal Coordinators
  - establishing a Community Visitor Advisory Committee
  - completing planning for further state-wide training (22 March - 27 April 2005), and
  - documenting a Community Visitor framework, policies and procedures with an initial focus on the advocacy and local resolution models
- phase three (themed Consolidation of Sites and Homes) - from March 2005, focused on:
  - filling all vacancies in the revised structure
  - consolidating the existing "visitable sites" function with the expanded "visitable homes" function
  - the development of new policies and procedures, and
  - planning for further state-wide training.

Since the Commission's expanded Community Visitor Program began operating in October 2004, the Commission has received 18,259 reports on individual children from Community Visitors in relation to visitable homes. The Commission has also received 1,676 reports on children living at visitable sites.

If a Community Visitor identifies serious concerns about a child, immediate action is taken by contacting the relevant authorities, such as the Department of Child Safety and/or the Queensland Police Service to initiate immediate action. Matters are also progressed in the form of a Serious Issue Notification to the Commission.

Reports on children in care are designed around the standards of care outlined in the *Child Protection Act 1999*. Community Visitors assign a rating from one to four for each standard. The

system classifies services on a scale from best practice (rating four) through to those matters requiring urgent attention (rating one).

Of the 18,259 reports received to the end of the financial year, 302 highlighted a rating one issue. These reports related to 244 individual children.

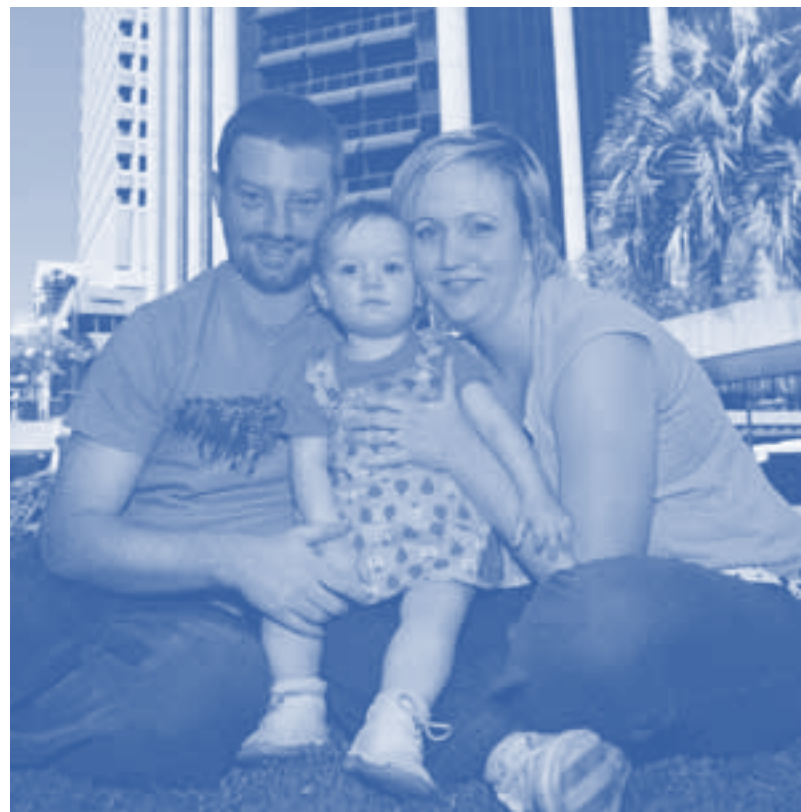
Four thousand two hundred and thirty-eight reports identified rating two issues requiring follow-up action at local level by a Community Visitor to resolve. The remainder of the reports identified no issues of concern at the time of the visit and found that acceptable care provisions were in place for these children.

Rating one issues can be of three types, reflecting the seriousness of the issue. Depending on the seriousness, action may be taken immediately, within 24 hours or within 48 hours.

All serious rating one matters Community Visitors identified as requiring action immediately or within 24 hours were also forwarded to the Commission's Complaints team. Those rating one matters resolved at a local level are not forwarded to Complaints staff. However, those that could not be dealt with or resolved locally were referred to the Complaints team for further assessment, action, referral and follow-up.

From October 2004, to 30 June 2005, 118 matters were assessed as serious and were forwarded to the Commission's Complaints team. These matters are ones where the child is (or may be in need of) protection under the *Child Protection Act 1999* or is (or may be) the victim of a criminal offence.

Of these matters, 97% involved a formal request to the Queensland Police Service and the Department of Child Safety for investigation. In the remaining 3%, the Commission dealt directly with the relevant agencies to resolve these matters.



The Commission was provided with formal written replies from the relevant agencies such as the Department of Child Safety or Queensland Police Service confirming that appropriate action was taken for the sake of the child.

### Visitable sites

In 2004-05 Community Visitors made 1,676 visits to visitable sites and made 130 recommendations about issues of concern. These were referred to the Directors-General of the appropriate departments (e.g. Housing, Child Safety, Communities, Health and Disability Services Queensland) by the Commission. Most issues were able to be addressed at the local level with relevant service providers or departmental officers.

The Commission received a positive response to 78% of recommendations made to the various Directors-General, with the remaining recommendations (22%) still under consideration.

Community Visitors reported they achieved incremental change in 2004-05, with service providers at visitable sites responding to recommendations highlighted in reports and discussed at visits.

Achievements included:

- increased support for at-risk children and young people
- improvements in the living environment of children and young people through increased recreation facilities, painting, replacing furniture, fire safety equipment and therapeutic resources
- accessing appropriate assessment of, and therapy for, children and young people
- securing appropriate education for marginalised children and young people
- assisting in the identification of more appropriate placement options
- ongoing help to resolve communication issues at sites between service providers and children and young people, and
- increased support by service providers to the sites.

### Areas of concern and general advocacy issues

In 2004-05, Community Visitors drew attention to and advocated in relation to the following issues:

- addressing the needs of children and their access to educational and health services
- lack of contact between children and service providers
- lack of sufficient support for young people
- the need for the children to have contact with parents and families
- unsafe premises due to inadequate Workplace Health and Safety measures, in particular, lack

of appropriate fire safety equipment and measures

- the overloading of carers with too many children
- requests for mental health units specifically dedicated to young people aged under 16 in areas of the state other than the south-eastern corner
- inconsistent case management and transition processes for young people in care
- inadequate or inappropriate behaviour management strategies in some facilities
- placement of young people on child protection or youth justice orders with SAAP services - inadequate safety and security measures in the services to meet the needs of the increasing number of homeless young people under 18 years
- inadequate facilities to house young people with volatile substance, alcohol or other drug addictions
- addressing the shortage of accommodation for young homeless mothers and young people in general
- communication issues with and between government departments, and
- the need for regular communication by Child Safety Officers with young people for whom they are case managers.

During the financial year, Community Visitors also made regular visits to the state's two youth detention centres at Brisbane and Townsville. All issues arising in these centres were resolved locally, although the matter of heat at the Brisbane Youth Detention Centre is still being considered by the Commission's Investigations team.

### Training

Training was held for Community Visitors in September 2004 and in March and April 2005. The September training involved the induction of around 150 new Community Visitors, and an introduction to the new legislation and operational expectations of the Program. This training emphasised the specific requirements of Community Visitors when visiting visitable homes.

Key stakeholders, including Foster Care Queensland, CREATE, PeakCare, Queensland Aboriginal and Islander Health Forum (QAIHF) and the Department of Child Safety, were actively involved in the four day training program. The training sessions held in March/April 2005 were conducted in regional Queensland in groups of 20 to 30 Community Visitors. Overall, six sessions were held, with 134 Community Visitors attending.

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## Outlook

In early 2005-06, the Community Visitor Program will appoint nine Zonal Coordinators. These officers will oversee zones aligned with the Department of Child Safety's zonal structure, and will be responsible for the Community Visitors working in these areas. The Zonal Coordinators will maintain positive communication channels with Department of Child Safety officers and other government and non-government agencies within their zones. They will also play a vital role in the recruitment, training, mentoring and performance of Community Visitors under their supervision.

The program will also review its central support and management structure in the coming financial year to ensure an efficient, effective structure is in place to support the work of the Community Visitors. This is expected to provide the information required by the Commission to fulfill its new Child Guardian functions.

The Community Visitor Information System (CVIS) will continue to be refined to ensure it can manage the increasing data being generated by Community Visitors through their reports. It will also enable better analysis of data to provide information for the Commissioner and other stakeholders so informed decisions can be made about improvements in the child protection system.

Work will continue to establish information protocols with government and non-government agencies affected by the work of Community Visitors so individual or systemic issues raised on behalf of the children and young people are addressed in a timely and appropriate manner.

## Case studies – examples of local resolution of issues

- A young boy in care was due to have surgery in June this year. However, there had been no consent granted by a parent, and there had been no contact by the Department of Child Safety with the carer about the process for consent.

The Community Visitor involved urgently sought departmental consent, and the child's surgery went ahead as planned.

- A Community Visitor was visiting an 11-year-old Indigenous boy living in a non-indigenous placement with no contact with his natural family. The CV negotiated with local elders and the Department for the boy to take part in culturally-appropriate activities to enable him to form links with his family's land. The child recently holidayed in north Queensland on tribal land. The Elders in the child's community now have ongoing contact with the child, and his non-Indigenous carer is able to provide culturally appropriate activities and education.

- A Community Visitor made regular visits to a carer who had seven children, but was living in a three bedroom Department of Housing home. The CV negotiated with the Child Safety Officer to advocate for a larger house. This resulted in the carer being offered a five bedroom home, providing better living conditions for the children concerned.

Other successes included:

- negotiating a private medical/ paediatrician appointment for a child who was on a public waiting list for immediate treatment of a chronic condition
- funding for a computer for a young woman in Year 12 who was also doing university studies in 'gifted student' classes
- negotiating transition plans for a number of young people about to leave care who had no plans for their future living arrangements in place
- supporting a youth shelter to develop up-to-date policies, strategic planning and risk assessments by negotiating with the Department of Communities for assistance in program development