

# Queensland Police Union of Employees

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Child Protection (Offender Prohibition Order) Act 2008 Review  
Crime and Misconduct Commission  
Applied Research and Evaluation unit  
GPO Box 3123  
Brisbane Qld 4001

Submitted online

Dear Colleagues

**Re: Review of the Child Protection (Offender Prohibition Order) Act**

Please find attached the QLD Police Union's submission in relation to the above review. I trust this will be of some assistance to you.

Should you wish to discuss any of the matters raised in the submission, I am available on [REDACTED].

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'Denis Sycz', is written over a circular stamp or seal.

**Denis Sycz**  
Assistant General Secretary

**Queensland Police Union Submission**  
**Child Protection (Offender Prohibition Order Act) 2008**

The Child Protection (Offender Prohibition Order) Act 2008 allows the Commissioner (and by delegation certain other police officers) to apply to the Magistrates Courts for orders against relevant sex offenders, to restrict their opportunity for re-offending against children.

The Queensland Police Union ("QPU") fully supports the objectives of the Act and the manner in which it operates.

The QPU believes the Act should be amended to allow the Court, in addition to imposing prohibitive conditions, to impose obligations on respondents. For example, the QPU believes the court should have the power to impose a requirement the respondent report for psychological examination, undergoing counselling or take stated medication (on the advice of medical professionals), if such conditions would further reduce the likelihood of the respondent re-offending.

The use of such conditions would also be beneficial to a respondent, who while subject to medical supervision and treatment, may be capable of conducting himself/herself appropriately and without need of certain prohibitive conditions.

At present the legislation limits the time period for an order against a child respondent to two years and an adult to five years. It is submitted that the Court should be empowered to make orders for longer periods if the court is satisfied a longer period is warranted in the interests of protecting children.

In relation to the specific questions posed by the Crime and Misconduct Commission Review Questionnaire, the QPU advises as follows:

**Questions: Identifying concerning conduct**

1. How effective is the current process for identifying relevant sexual offenders who engage in concerning conduct? If you think that the process could be improved, how could that be achieved?

2. If you are responding on behalf of an organisation, what policies or procedures do you have to assist in (a) identifying concerning conduct, and (b) notifying other people or agencies that concerning conduct has occurred?
3. In your view, how effective are (a) the Queensland Police Service and (b) Queensland Corrective Services in proactively identifying relevant sexual offenders who engage in concerning conduct?

The QPU believes the current provisions, which provide a broad scope for determining concerning conduct is sufficient and believes it should not be narrowed. Narrowing the conduct which can be considered may have the unintended consequence of preventing the making of an order and thus exposing a child to harm. The QPU believes the court hearing the application is best placed to determine the relevance of conduct alleged by the Commissioner to be concerning conduct.

The QPU notes there is no definition of “recent” in the Act and that the concerning conduct must be recent. The QPU believes a section should be inserted to prescribe what should be considered by the Court in determining whether concerning conduct is recent. One such factor should be reference to the proposed respondent’s previous modus operandi and the frequency with which that person committed offences.

The QPU believes the Queensland Police Service (“QPS”) appropriately enforces the Act. The QPU however believes there should be a legislative requirement on Queensland Corrective Services employee to report any conduct of persons subject to their control or supervision to the QPS, where such conduct may amount to concerning conduct.

**Questions: Responding to concerning conduct**

4. In your view, in what situations should an offender prohibition order be the preferred response?
5. Are there any barriers to the Queensland Police Service and Queensland Corrective Services selecting the most appropriate response? We are particularly interested to hear your views on the information sharing provision in the CPOPO Act (s. 42), which gives the Queensland Police Service the power to direct another government agency to provide information to help it decide whether to apply for an order.

6. Do you know of any incidents where the Queensland Police Service did not seek an offender prohibition order, but you believe that such an order was the most appropriate response? Please provide as much detail as possible.
7. Do you know of any incidents where the Queensland Police Service did seek an offender prohibition order, but you believe that another response was more appropriate? Please provide as much detail as possible.
8. From your perspective, what are the potential implications of (a) the Queensland Police Service and (b) Queensland Corrective Services electing to use responses other than an offender prohibition order to respond to concerning conduct?

The QPU believes the QPS is appropriately using the Act and makes no submission in relation to the above questions.

**Questions: Determining risk and “unacceptable risk”**

9. What factors should the Queensland Police Service consider in deciding whether to apply for an offender prohibition order?
10. In your experience, does the conduct prohibited by an offender prohibition order correspond to the risks posed by the relevant sexual offender? Please provide as much detail as possible.
11. Is it appropriate that the court must be satisfied that the relevant sexual offender poses an *unacceptable risk* to the lives or sexual safety of children in order to consider issuing an offender prohibition order? Should this threshold be lowered to “a risk” to align with legislation in other Australian states and territories? If so, why?

The QPU believes the current considerations required by the legislative scheme are sufficient and that the QPS appropriately uses the Act.

The QPU believes (as stated in the introduction) that the Court should be empowered to impose any condition on a respondent, not just conditions which are prohibitive in nature.

The QPU agrees the threshold should be lowered to one of “risk to children” as opposed to “unacceptable risk...”.

**Questions: Reporting obligations and monitoring**

12. Are the reporting obligations under the CPOR Act adequate for an offender subject to an offender prohibition order, or should they have additional or different reporting requirements? Why?

13. Is it appropriate that the CPOPO Act (a) does not require the Queensland Police Service to monitor compliance with an offender prohibition order and (b) does not give Queensland Police Service officers powers to monitor compliance with an offender prohibition order? Why?
14. Does the Queensland Police Service encounter any impediments in monitoring reporting obligations under the CPOR Act (and, as a consequence, the reporting obligations of offenders subject to an offender prohibition order)? If so, how could these impediments be addressed?
15. Is the Queensland Police Service the appropriate agency to monitor reporting obligations under the CPOR Act (and, as a consequence, the reporting obligations of offenders subject to an offender prohibition order)? If not, which agency is better placed to perform this role and why?

Any imposition of compliance monitoring on the QPS would need to include an increase in resources and budget. At present the respondents subject to orders made under the Act can be adequately monitored through their reporting obligations under the Child Protection (Offender Reporting) Act, as all respondents are deemed to be reportable offenders.

The listing of all respondents on QPRIME, so that they are instantly flagged if intercepted by police is appropriate and serves as a valid means of ensuring compliance with orders. Similarly the ability of the Commissioner to advise certain persons of the existence of the order, such as the parents of a named child, or teachers at a school, means the public also assist with monitoring compliance.

At present the orders are prohibitive in nature, and accordingly the same level of supervision required of a parolee for example is not necessary given the difference in the types of conditions such people are subject to. In the event the QPU proposal to allow orders to include obligations in addition to prohibitions is adopted, then Queensland Corrections, together with the QPS, would be appropriate bodies to monitor compliance.

**Questions: Information sharing**

16. Should the definition of *prescribed entities* be amended (Sch. CPOPO Act)? If so, why?
17. Do any factors impede the timely disclosure of information by the Queensland Police Service under the CPOPO Act? Please provide as much detail as possible.

18. Do you know of any incidents where information about an offender or an offender prohibition order was not provided to relevant agencies or people, but in your view, should have been? Please provide as much detail as possible.

The QPU believes the Commissioner should be given an unfettered right to disseminate information under the Act or any person or entity he suspects should be informed for the purposes of protecting children generally, or in a particular instance. Further the QPU recommends the Commissioner be required to advise the Principles of all schools in the area a respondent lives or works of the existence of an order and the identity of the respondent. This should extend to providing a photograph of the respondent and description of vehicles (including registration number) used by the respondent. The Principle in turn should then be authorised to advise his/her staff of the same information. Similar provisions should impose an obligation to disclose on the Commissioner to child care centres.

**Questions: Effectiveness**

19. How effective are the responses available to the Queensland Police Service and Queensland Corrective Services in protecting children? Do you believe that some responses are more effective than others? Please provide as much detail as possible.
20. How well does the CPOPO Act achieve its purpose of better protecting children from relevant sexual offenders who live in the community?
21. Do you have any other comments or suggestions about how the CPOPO Act (or if relevant, other Acts) could be amended to better protect children from relevant sexual offenders who live in the community?

The QPU believes the Act adequately addresses an area of concern and allows police to seek orders in appropriate cases. The QPU believes orders should be able to include an obligation on a respondent in addition to being prohibitive in nature.