

# Submission

## Queensland African Communities Council

Response to CMC Review of Police Move-On Powers

### **What has been your experience, or the experience of your clients, customers, staff or friends, of police move-on powers in Queensland?**

Queensland African Communities Council (QACC) is the peak body for the African communities in Queensland. As a peak body, we are often invited to patrol with the police in areas frequented by young Africans at night. This helps bridge the gap between police and young people, creates better communication and it helps us to see for ourselves what young Africans do in public places so that we can draw a community development strategy to address issues.

The general experience of young Africans, who normally socialise in a group in a positive manner, is that they are often asked to move-on even when they are not causing any anxiety, interfering with business or causing disruption. The young Africans complain that police usually single them out. They are usually asked to move-on from public places. Police would even ask them to change their direction of travel simply because the police suspect they are going to cause nuisance.

The experience is that the high numbers of public nuisance claims are based on extremely trivial scenarios. These claims are arising without complaint from other members of the public and are largely being applied because young people's conduct is being interpreted by police as 'likely to interfere' with other people's enjoyment of a public space. A public nuisance, in its most obvious form, is someone using offensive, obscene, indecent or abusive language or behaving in a threatening way. Young people tell us that if they are walking on the street and someone cross the road to avoid them, they will be considered a potential public nuisance and told to move-on. Secondly, young could be playing in a public place and if that causes anxiety to other people because they do not like the play, they will be told to move-on.

- General feeling from young people is that they do not like the powers being used against them.

Example - Seen it being used a few times while working with the African Elders and Police Patrol

- Moreover, many people especially, young Africans, do not understand the legal use of these powers, which compounds confusion and distress around their use and perceived abuse. It also limits their ability to safely report abuses of the powers. Reporting misuses of the powers is also complicated by that fact that the onus of proof lies with the individual to justify their right to remain in a public place, rather than the police justifying their use of the powers.

Example - In some cases, on-the-spot attempts to complain against the use of the powers have led to arrests.

## **Do you believe police move on powers are being used properly, fairly and effectively?**

QACC believes in the rule of law. We believe public places should be used with full respect and that public places should not be used for social misbehaviour. We also believe the police have the right to move-on people who are socially misbehaving or causing anxiety to others. We do agree that the police should have the power to ask drunken, violent etc people to move-on. The problem is that how does the police conclude that the situation is causing anxiety, interference and disruption and who is the dower of the action? The offence of public nuisance is incredibly broad. The range of things that can potentially be construed as an illegal interference of the enjoyment of other people in a public space is enormous. The situation is exacerbated by the fact that there is no defence of reasonableness or necessity to a charge of public nuisance so many young people choose to plead guilty even where their behaviour was reasonable or necessary in the circumstances. In addition, our people who are being affected by move-on laws are either too poor or too ill-informed to adequately defend themselves.

As stated above, our people have experienced police asking them to move-on and they have not seen other people being maltreated like them. Our elders were patrolling with police in Southbank last year. Their experience is that the police stopped every African young people. Some young people resisted. When we asked them why they resisted, they said that they are being targeted by the police. They saw it has being racially targeted. Such laws have to be uniformly implemented. Otherwise, the law enforcing personnel will be seen as taking sides. Secondly, young Africans were told to move-on at a public sitting place at a supermarket when a trader in South Brisbane called the police and told them that customers do not come to his shop because black people sit outside the shop.

- General view that people from disadvantaged backgrounds (e.g. refugee backgrounds) are unfairly targeted.

Example - Anecdotal evidence around people of certain ethnic backgrounds being specifically targeted over and above other Australians. Similar anecdotal evidence was outlined in the Victorian Equal Opportunity and Human Rights Commission report, *Rights of Passage: the experiences of Australian-Sudanese young people* (p. 30). This issue may be related to the fact that people from refugee backgrounds may be more likely to drop out of school, and congregate around places where move-on powers may be used.

## **Do you have any recommendations regarding the existence or use of police move-on powers in Queensland?**

- Equality of treatment and application of the move-on powers.
- There has to be evidence of people causing anxiety, interference and disruption. Asking people to move-on when they are in groups on suspicion that they are gangs is not enough.
- There is no space for young people to socialise, giving young Africans no choice but to congregate in public spaces. QACC has no centre.
- Police require education around the use of the powers. They also require education around the needs and experiences of different cultural groups, and how to respond to people from diverse backgrounds.

- Education is also needed for young people and community groups, with a focus on rights *and* responsibilities of both police and citizens.

Rights: Allow people to understand how these powers can be used against them, and what rights they have for reporting abuses of power.

Example - A young person from a refugee background was asked to move-on from outside a bar. The youth was involved in cross-cultural police training and therefore understood the legal use of these powers. He was able to assert his right to remain where he was, after which the police reconsidered their use of the powers. The encounter ended without violent or abusive confrontation.

Responsibilities: An understanding of what responsibilities young people have in relation to congregating in public areas, will help to reduce the possibility that move-on powers will legitimately need to be used against them.

- Monitoring System: A monitoring system collecting statistics (e.g. age, ethnicity) on the use of these powers will provide information on the type of people being targeted by the powers. This will provide beginning evidence around which groups are mainly being targeted, and whether the targeting of these groups may be unwarranted.

Individuals who are subject to the powers may also be issued with, for example, a written record. This will provide individuals with written evidence to make a complaint against the misuse of the powers.

Example - A monitoring system has been used successfully in the United Kingdom in relation to 'stop and search' powers. People who are searched are issued with a written record detailing why they were searched etc