SUPREME COURT OF QUEENSLAND

CITATION:	*Attorney-General for the State of Queensland v KAH* [2019] QSC 36
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **KAH** (respondent)
FILE NO/S:	No 10587 of 2018
DIVISION:	Trial Division
PROCEEDING:	Application
DELIVERED ON:	1 March 2019
DELIVERED AT:	Brisbane
HEARING DATE:	11 February 2019
JUDGE:	Davis J
ORDER:	**I order the respondent be released from custody subject to the requirements set out in the Schedule to these reasons until 3 March 2024.**
CATCHWORDS:	CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where the respondent was subject to examination by psychiatrists for the purposes of the application – where the applicant conceded that adequate protection of the community could be ensured by an order under Division 3 of Part 2 of the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) (the *DPSOA*) – where the respondent conceded the need for an order under Division 3 of Part 2 of the *DPSOA* – where the length of the order under Division 3 of Part 2 of the *DPSOA* was contested – whether the length of the order under Division 3 of Part 2 of the *DPSOA* should be more than five years – whether the court can take into account the provision under ss 19B and 22 of the *DPSOA* which authorises an extension of an order under Division 3 of Part 2 of the *DPSOA* when determining whether the length of the order provides adequate protection of the community *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld), s 3, s 5,

s 8, s 11, s 12, s 13, s 13A, s 15, s 19B, s 22
Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill 2009

Bickle v Attorney-General [2016] 2 Qd R 523, cited
Attorney-General for the State of Queensland v Armstrong [2011] QSC 40, cited
Attorney-General v Fardon [2019] QSC 2, cited
Attorney-General (Qld) v Fisher [2018] QSC 74, cited
Attorney-General (Qld) v Foy [2014] QSC 304, cited
Attorney-General for the State of Queensland v Kanaveilomani [2013] QCA 404, considered
Attorney-General v Van Dessel [2007] 2 Qd R 1, cited

COUNSEL: P M Clohessy for the applicant
D A Holliday for the respondent

SOLICITORS: Crown Solicitor for the applicant
Legal Aid Queensland for the respondent

[1] The respondent is presently serving a term of imprisonment for the offence of the rape of his six year old step-daughter. The Attorney-General applied for orders under the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) (the *DPSOA*). On 24 October 2018 Bowskill J, on the hearing pursuant to s 8 of the *DPSOA* held that there were reasonable grounds for believing the respondent is a serious danger to the community in the absence of an order under the *DPSOA* and:

(i) appointed Dr Robert Moyle and Dr Michael Beech to prepare risk assessment reports concerning the respondent; and

(ii) set the hearing date of the application for final orders as 11 February 2019 (the hearing before her Honour being "the s 8 hearing").

[2] The current application by the Attorney-General is then for orders under s 13 of the *DPSOA*.

Statutory scheme

[3] Section 3 of the *DPSOA* prescribes the objects of the legislation as follows:

"**3 Objects of this Act**

The objects of this Act are—

(a) to provide for the continued detention in custody or supervised release of a particular class of prisoner to ensure adequate protection of the community; and

(b) to provide continuing control, care or treatment of a particular class of prisoner to facilitate their rehabilitation."

[4] The objects of the *DPSOA* are fulfilled by a scheme providing for the detention of prisoners beyond the expiry of their sentences, or alternatively their release upon supervision.

[5] By s 5, the Attorney-General may apply for both an order under s 8 of the *DPSOA* and also an order under Division 3 of Part 2. Division 3 of Part 2 provides for the making of final orders. Applications can only be brought under s 5 against a "prisoner".

[6] Section 5, which authorises the application for orders and which contains the definition of "prisoner", is as follows:

> "**5 Attorney-General may apply for orders**
>
> (1) The Attorney-General may apply to the court for an order or orders under section 8 and a division 3 order in relation to a prisoner.
>
> (2) The application must—
>
> (a) state the orders sought; and
>
> (b) be accompanied by any affidavits to be relied on by the Attorney-General for the purpose of seeking an order or orders under section 8; and
>
> (c) be made during the last 6 months of the prisoner's period of imprisonment.
>
> (3) On the filing of the application, the registrar must record a return date for the matter to come before the court for a hearing (preliminary hearing) to decide whether the court is satisfied that there are reasonable grounds for believing the prisoner is a serious danger to the community in the absence of a division 3 order.
>
> (4) The return date for the preliminary hearing must be within 28 business days after the filing.
>
> (5) A copy of the application and any affidavit to be relied on by the Attorney-General must be given to the prisoner within 2 business days after the filing.
>
> (6) In this section—
>
> ***prisoner*** means a prisoner detained in custody who is serving a period of imprisonment for a serious sexual offence, or serving a period of imprisonment that includes a term of imprisonment for a serous sexual offence, whether the person was sentenced to the term or period of imprisonment before or after the commencement of this section."

[7] The definition of "prisoner" in s 5(6) introduces the concept of "a serious sexual offence". That term is defined as follows:

> "***serious sexual offence*** means an offence of a sexual nature, whether committed in Queensland or outside Queensland—

(a) involving violence; or

(b) against a child; or

(c) against a person, including a fictitious person represented to the prisoner as a real person, whom the prisoner believed to be a child under the age of 16 years."

[8] Section 8 provides for a preliminary hearing. It is in these terms:

"**8 Preliminary hearing**

(1) If the court is satisfied there are reasonable grounds for believing the prisoner is a serious danger to the community in the absence of a division 3 order, the court must set a date for the hearing of the application for a division 3 order.

(2) If the court is satisfied as required under subsection (1), it may make—

(a) an order that the prisoner undergo examinations by 2 psychiatrists named by the court who are to prepare independent reports; and

(b) if the court is satisfied the application may not be finally decided until after the prisoner's release day –

(i) an order that the prisoner's release from custody be supervised; or

(ii) an order that the prisoner be detained in custody for the period stated in the order."

[9] The term "prisoner", as used in s 8 is defined differently to the definition in s 5(6). In s 8, the term "prisoner" has the same meaning as that defined for the purposes of the *Corrective Services Act* 2006.[1] The distinction is, though, not relevant here.[2]

[10] Section 8 introduces the notion of "serious danger to the community". This term is defined in s 13 which is the pivotal section in Division 3 of Part 2. Section 13 is in these terms:

"**13 Division 3 orders**

(1) This section applies if, on the hearing of an application for a division 3 order, the court is satisfied the prisoner is a serious danger to the community in the absence of a division 3 order (a ***serious danger to the community***).

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[1] *Dangerous Prisoners (Sexual Offences) Act* 2003 (Qld) s 2 and the dictionary which is the Schedule to the Act.

[2] See *Attorney-General for the State of Queensland v Newman* [2018] QSC 156.

(2) A prisoner is a serious danger to the community as mentioned in subsection (1) if there is an unacceptable risk that the prisoner will commit a serious sexual offence—

(a) if the prisoner is released from custody; or

(b) if the prisoner is released from custody without a supervision order being made.

(3) On hearing the application, the court may decide that it is satisfied as required under subsection (1) only if it is satisfied—

(a) by acceptable, cogent evidence; and

(b) to a high degree of probability;

that the evidence is of sufficient weight to justify the decision.

(4) In deciding whether a prisoner is a serious danger to the community as mentioned in subsection (1), the court must have regard to the following—

(aa) any report produced under section 8A;

(a) the reports prepared by the psychiatrists under section 11 and the extent to which the prisoner cooperated in the examinations by the psychiatrists;

(b) any other medical, psychiatric, psychological or other assessment relating to the prisoner;

(c) information indicating whether or not there is a propensity on the part of the prisoner to commit serious sexual offence sin the future;

(d) whether or not there is any pattern of offending behaviour on the part of the prisoner;

(e) efforts by the prisoner to address the cause or causes of the prisoner's offending behaviour, including whether the prisoner participated in rehabilitation programs;

(f) whether or not the prisoner's participation in rehabilitation programs has had a positive effect on the prisoner;

(g) the prisoner's antecedents and criminal history;

(h) the risk that the prisoner will commit another serious sexual offence if released into the community;

(i) the need to protect members of the community from that risk;

(j) any other relevant matter.

(5) If the court is satisfied as required under subsection (1), the court may order—

(a) that the prisoner be detained in custody for an indefinite term for control, care or treatment (***continuing detention order***); or

(b) that the prisoner be released from custody subject to the requirements it considers appropriate that are stated in the order (***supervision order***).

(6) In deciding whether to make an order under subsection (5)(a) or (b)—

(a) the paramount consideration is to be the need to ensure adequate protection of the community; and

(b) the court must consider whether –

(i) adequate protection of the community can be reasonably and practicably managed by a supervision order; and

(ii) requirements under section 16 can be reasonably and practicably managed by corrective services officers.

(7) The Attorney-General has the onus of proving that a prisoner is a serious danger to the community as mentioned in subsection (1)."

[11] Orders which can be made under s 8 include orders that a prisoner undergo psychiatric examination. The evidence so obtained is then relied upon by the Attorney-General on the application brought under s 13. Relevant to examinations ordered under s 8, are ss 11 and 12 which are in these terms:

"**11 Preparation of psychiatric report**

(1) Each psychiatrist examining the prisoner must prepare a report under this section.

(2) The report must indicate—

(a) the psychiatrist's assessment of the level of risk that the prisoner will commit another serious sexual offence—

(i) if released from custody; or

(ii) if released from custody without a supervision order being made; and

(b) the reasons for the psychiatrist's assessment.

(3) For the purposes of preparing the report, the chief executive must give each psychiatrist any medical, psychiatric, prison or other relevant report or information in relation to the prisoner in the

chief executive's possession or to which the chief executive has, or may be given, access.

(4) A person in possession of a report or information mentioned in subsection (3) must give a copy of the report or the information to the chief executive if asked by the chief executive.

(5) Subsection (4) authorises and requires the person to give the report or information despite any other law to the contrary or any duty of confidentiality attaching to the report.

(6) If a person required to give a report or information under subsection (4) refuses to give the report or information, the chief executive may apply to the court for an order requiring the person to give the report or information to the chief executive.

(7) A person giving a report or information under subsection (4) or (6) is not liable, civilly, criminally or under an administrative process, for giving the report or information.

(8) Each psychiatrist must have regard to each report or the information given to the psychiatrists under subsection (3).

(9) Each psychiatrist must prepare a report even if the prisoner does not cooperate; or does not cooperate fully, in the examination.

12 Psychiatric reports to be given to the Attorney-General and the prisoner

(1) Each psychiatrist must give a copy of the psychiatrist's report to the Attorney-General within 7 days after finalising the report.

(2) The Attorney-General must give a copy of each report to the prisoner on the next business day after the Attorney-General receives the report."

[12] Section 16 deals with the contents of supervision orders. It is unnecessary to set that section out at this point but, for reasons which will become apparent, s 13A, which deals with fixing the period of the supervision order is of some importance. Section 13A provides:

"**13A Fixing of period of supervision order**

(1) If the court makes a supervision order, the order must state the period for which it is to have effect.

(2) In fixing the period, the court must not have regard to whether or not the prisoner may become the subject of—

(a) an application for a further supervision order; or

(b) a further supervision order.

(3) The period can not end before 5 years after the making of the order or the end of the prisoner's period of imprisonment, whichever is the later."

History

[13] The respondent was born on 24 March 1983 on Thursday Island. His father is from Papua New Guinea and his mother was a Torres Strait Islander. She died when the respondent was a child.

[14] The respondent had a difficult upbringing with alcoholic parents and exposure to extreme violence.

[15] The respondent's adolescence was marked by appearances in the Children's Court where he received various sentences including sentences of detention.

[16] The applicant's first adult criminal conviction was in the year 2000 when he was convicted in the Thursday Island Magistrates Court. From then on, there was fairly consistent offending including offences of violence and breaches of domestic violence orders. He was imprisoned on numerous occasions by sentences imposed in various Magistrates Courts and District Courts sitting in northern Queensland.

[17] The offence for which the respondent is presently in custody was committed in 2007 and is the only offence of a sexual nature in the respondent's criminal history. There is some doubt about the particulars of the offending and the procedural history of the prosecution is complicated.

[18] An indictment was presented to the District Court at Cairns charging the respondent with one count of maintaining an unlawful sexual relationship with a child[3] and one count of rape.[4]

[19] The respondent pleaded guilty to the count of rape and not guilty to the charge of maintaining an unlawful sexual relationship with the child. He was convicted though by a jury and he appealed. The appeal was successful.[5] The convictions for both counts were set aside although there were no reasons given by the Court of Appeal for setting aside the conviction on the guilty plea.

[20] The indictment came back before the District Court at Cairns on 13 May 2013. A nolle prosequi was entered on the maintaining count and the respondent pleaded guilty to the count of rape. The Crown prosecutor described the offence in the following terms:

> "Your Honour, subsequently the complainant child, over a period of something like five months, was interviewed on five separate occasions by both police and child safety officers. In early interviews, she maintained that she had injured herself in a bicycle accident. She subsequently told investigators, "Dad[6] said I'm not allowed to talk," and, "Only mum and dad know".

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3 *Criminal Code 1899* (Qld) s 229B.

4 *Criminal Code 1899* (Qld) s 349(1).

5 *R v KAH* [2012] QCA 154.

6 A reference to the respondent.

> In the fourth interview, she said that the accused had put a stick in her vagina after tying her legs apart using her shoelaces. Your Honour, in the fifth and final interview, which is relied upon, she said that he had taken her to a site in the bush where they went fishing. There he tied her legs, and they had penetrative – penile penetrative sex, injuring her. In her interview, she described it in this manner:
>
> > 'Like, he went in. Then he went out, then in, and it's like slowly but not – yeah, it was sore, yeah, and then I started crying, but I screamed loud, but he stopped my mouth – like, he put his hand over my mouth.'
>
> She told police on the fifth occasion that he stopped when he saw blood. She had to go into the muddy water to wash the blood away before going home, and she said that the accused told her not to tell their mother or anyone else. Your Honour, this accused was arrested and charged with these offences – with this offence on the 5th of June 2008."[7]

[21] The respondent was sentenced, on the basis of that description of the offending, to ten years' imprisonment which, by force of s 161A of the *Penalties and Sentences Act* 1992 (Qld) was a serious violent offence requiring him to serve eighty percent of the sentence before being eligible for parole. Taking account of time served, the respondent's full time release date is 3 March 2019.

[22] Despite the plea of guilty to the offence of rape, the respondent otherwise denied that he had committed any offence against the child.

[23] The child was the daughter of the respondent's defacto partner. Consultant psychiatrist Dr Evelyn Timmins conducted an interview with the respondent and prepared a risk assessment report for the purpose of the s 8 application. At the time of Dr Timmins' interview with the respondent on 13 April 2018, the respondent denied offending against the child. She recorded this account:

> "[The respondent] stated he was living with M[redacted] who would stay with him for a couple of days a week. She was renting with her sister. She had a seven year old son and a six year old girl (*the victim*) in addition to his three year old biological son. He was living with his sister and brother.
>
> He had been in the community for six months after being released from custody (*according to records he was released on 2 July 2007*). He had served a sentence for stealing and car theft. He was working casually for Ausco as a labourer.
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> [The respondent] stated on the Saturday morning the children were up and playing. M[redacted] found her daughter (*his victim*) "bleeding and stuff". She took her to hospital. That afternoon she was released and they returned home.

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[7] Transcript District Court Cairns page 1-5.

> On the Sunday the police visited "to take stuff for evidence". [The respondent] and M[redacted] were taken to the watch house for questioning. Both were released and returned home.
>
> He stated four months later he was charged. At that time he was in band practice and "they came and charged me".
>
> He stated for six years he fought the case. The jury found him guilty at trial and he was sentenced to 16 years initially.
>
> He stated "I never done it". He fought for a further two years. He appealed and was given a new trial.
>
> When asked why he pleaded guilty [the respondent] went on that the prosecution "asked me to take a plea bargain for a lesser sentence…they said I'd get 8 years…and in 2 years I'd get out so I pleaded guilty".
>
> He had a number of issues with the situation. He stated "they didn't check the bike for evidence". He was adamant he "didn't do it" (*the offences*). He was "disgusted" about the offences. He stated the story changed from a bike to a stick. He "had proof" of where he was at the time of the offence. He was at band practice and M[redacted] had left the child at her sister's house. He was at band practice for four hours."[8]

[24] During his time in custody, the respondent was offered the *Getting Started: Preparatory Program* (GS:PP) on various occasions. He had declined, apparently because he denied offending against the child. A further offer to participate was made to him on 5 April 2018 and he accepted. While there was still a denial of the offending at that stage, the respondent commenced the course. During the course, the respondent admitted to facilitators that he had sexually offended against the child. He then undertook and completed the *Sexual Offender Program for Indigenous Males* (SOPIM). This was completed in September 2018. During that course, facilitators accepted that he took responsibility for his offending.

[25] However, the respondent's account of the offending differs from that of the child. Dr Beech records the version given to him by the respondent as follows:

> "[The respondent] said at the time he was living in Cairns with M and her children, and their son.
>
> He said:
>
> > '*I'm going to give you my story – it's not going to be consistent with what they said in court.'*
>
> He said on the morning his phone rang and he got up. M answered the phone. It was a message from his friend André but M misread it as Andrea and demanded an explanation from him. She accused him of being unfaithful. They started arguing and this continued on and off through the day.

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[8] Affidavit of Evelyn Timmins filed 2 October 2018 exhibit page 11-12.

At the time, he was involved with a band. He decided to call the boys and go to band practice. He said that he was just getting experience with the band at the time as a musician. He was employed with the building supply company and as a casual labourer with a commercial laundry. He called the band and they started a session. M attended the practice but continued to interrupt the session with her arguments and demands for explanations from him. He became angry with her and told her that if she did not stop, he would slap her hard.

After the session ended, they went to pick the children up. They returned home. M started up again. He kept telling her to stop but she became angry. M took off to the shops, leaving [the respondent] at home with the children. The children started crying and they complained that one of them, the 6-year-old girl E, was making them cry. He called out to E and told her to stop. E complained about this. [The respondent] called E into his room. He slapped her hard on the bum as punishment '*but it quickly lead to something else*'.

He said that E tried to run off but he grabbed her by the hand. He pulled her pants down and forced his finger into her vagina and raked it out. He said he did this deliberately to hurt the girl.

[The respondent] explained that at the time he was frustrated:

> *'and this was driven by M … she led me to this. I was angry and fuelled by rage. [I thought] this is getting back at you [M]. This is how you are going to be punished*.'

[The respondent] said that his assault on the child was the combination of M's jealousy and his own suspicions of M. He said it was a build-up of emotions that he could not deal with.

He specifically denied that he tied the girl up or used a stick. Indeed, he said that he had learned to speak English at Herberton College, in youth detention, and in adult prison. E had learned to speak English but she spoke the Torres Strait Island Kriol. In Kriol, to insert something is '*to stick*'. Thus, he said that the matter was misconstrued: he had stuck his fingers into the girl's vagina but it was misinterpreted as using a stick.

After he assaulted her, E cried. He apologised to her and tried to comfort her. She was bleeding. She ran off to the toilet. He asked how she was, and she said she was alright. M returned to the house. Everything settled down. About one or two days later, M found out that E had been injured when she saw something bleeding. M took E to the hospital.

[The respondent] said that he quickly constructed a story that E had hurt herself on a bike. He told M. E overheard this. He said that he continued to use this falsehood until two or three years ago.

To specific questioning, [the respondent] said he had never done anything like that before. He said he had never sexually assaulted the girl before. He denied any sexual attraction to children and he said he had no sexual fantasies that involved children. [The respondent] denied that he had thought of hurting E

> before that incident. He said it was a sudden and impulsive action. He had started smacking the girl to discipline her '*and it quickly turned into the other thing*'.
>
> He believed that '*I ruined her life*'. He said he acted out of frustration '*but to take it out on someone else – is wrong*'. He said back then he could not understand his emotions. The matter went to trial but '*I maintained the lie right through*' because he was scared of the consequences: a long prison term, the shame and the stigma."[9]

[26] The child was very young at the time of the offending. It was generally accepted by the psychiatrists in evidence before me that the respondent's version of events could not be discounted.

[27] While in custody, the respondent's behaviour was initially not good. However, he has not been the subject of an action for breach of discipline since 6 September 2014.

The Psychiatrists' reports

[28] Dr Timmins diagnosed the respondent with an **Antisocial Personality Disorder** and a **Substance Use Disorder** (alcohol and cannabis) in remission in a controlled environment. She opined that the risk of sexual reoffending without a supervision order is moderate to high. Dr Timmins expressed in her report that before the respondent is released into the community he ought to complete a recommended sex offender program in custody. Of course, Dr Timmins' report was written at a time before the respondent had completed the GS:PP and SOPIM programs. Dr Timmins opined that once the respondent had completed an appropriate sex offender course a supervision order would reduce his risk of reoffending to between moderate and low.

[29] As to the duration of the supervision order, Dr Timmins said "The duration of a community order would need to be 8 to 10 years for the adequate protection of the community. [The respondent] is a relatively young man and has a long history of general criminality, violence and has poor insight into his sexual offending and he's likely to take a considerable period of time to learn how to manage himself more appropriately such that his risk towards the community is lowered further."[10]

[30] Dr Beech diagnosed the respondent with an **Antisocial Personality Disorder** but thought that was settling. Dr Beech thought that the respondent also probably had a **Substance Abuse Disorder** which was in enforced remission. Dr Beech's view was "In my opinion the risk of further offending is in the moderate or below range. He was convicted on a single offence, and that was 10 years ago. Admittedly, he spent his succeeding years in custody and there is

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[9] Dr Michael Beech report dated 17 December 2018 pages 7-8.

[10] Dr Timmins' report dated 21 May 2018 page 29.

also evidence that [the respondent] has matured and his earlier aggression and volatility has waned."[11]

[31] Later, Dr Beech said "I believe that a supervision order would reduce the risk of his reoffending significantly, into the low range." He thought that any supervision order should be for a period of 5 years.[12]

[32] Dr Moyle in his report said "I conclude diagnostically, that his major problem is an **Antisocial Personality Disorder** with violence being a dominant means of both excitement and coping with stressors, fear of abandonment, rejection or simply people not paying him sufficient respect or his wishes sufficient respect over a lifetime. He has had little regard for the rights of others and he reports callously brutalising a child sexually so that the mother with whom he was angry would feel the pain he feels when she walks out on him during an angry discussion."[13]

[33] Dr Moyle thought that the respondent posed "a moderately high risk of sexual reoffending." However, he accepted that the risk would be significantly lowered by a supervision order and recommended the respondent's release.[14]

[34] As to the duration of the supervision order Dr Moyle in his report said:

> "I think progress in this case is going to be slow and I would suspect a 10 year order would be suitable, although I am aware that, recently, the tendency has been to give 5 year orders that can be renewed. If he did not reoffend sexually or violently in 5 years, then the risk would be considerably lower. The risk is moderately high of reoffending but the likely re-offence is serious genital physical harm to a child based on the offence for which he has been convicted."[15]

The position of the respective parties

[35] The respondent, through his counsel, Ms Holliday, conceded that the respondent is a serious danger to the community namely, that he is an unacceptable risk of committing a serious sexual offence if released from custody without a supervision order being made.[16] The evidence before me, and in particular the evidence of the psychiatrists on the question of risk

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[11] Dr Beech's report dated 17 December 2018 page 15.

[12] Dr Beech's report dated 17 December 2018 page 15.

[13] Dr Moyle's report 25 January 2019 page 30.

[14] Dr Moyle's report dated 25 January 2019 page 30.

[15] Dr Moyle's report dated 25 January 2019 page 31.

[16] *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) s 13(1)-(2).

is acceptable and cogent and I am satisfied to a high degree probability[17] that Ms Holliday's concession is properly made.

[36] Ms Clohessy, counsel for the Attorney-General, accepts that adequate protection of the community can reasonably and practicably be managed by a supervision order.[18] The evidence of the psychiatrists support Ms Clohessy's concession and it is properly made.

[37] The real issue before me was as to the length of the supervision order. As already observed, Dr Beech thought five years, Dr Timmins thought between five and eight years and Dr Moyle thought ten years.

The Psychiatrists' oral evidence on the issue of the length of the period of supervision

[38] In examination-in-chief Dr Timmins explained why she considered a supervision order between 8 to 10 years in duration to be appropriate:

> "And, Dr Timmins, could I ask you to explain your reasoning for saying why you think an order of eight to ten years duration is appropriate, with regard to adequately containing the risk posed by [the respondent]?---So, I think that you – this is a fellow who has a number of strengths and potential. However, there's some concerns that I have. He is a reasonably young man still being only 37 years old. He's spent ten years – the previous ten years, in prison. He's going to take some time to adjust to coming out into the community. He has a long history of serious offences, including breaches of community orders, including for when he was on – he was on a community order when he did these – this offence."[19]

[39] A little later, this time under cross-examination, Dr Timmins said:

> "And, indeed, if there was no contravention within that five year period, doesn't it suggest the fact that he's reduced – risk has reduced to an acceptable level?---Yes, that he's managing his behaviour in a better way, to reduce his own risk towards the community, yes.[20]

[40] Dr Timmins accepted under cross-examination by Ms Holliday that since she examined the respondent, there had been positive developments namely, the respondent's admission of the offending behaviour and his completion of a sexual offender's treatment program. She expressed concerns however that it would be difficult for the respondent to trust and rely upon those supporting him. On that basis, she opined that notwithstanding the positive developments that had occurred, her opinion has not changed that a supervision order ought to be for a period of between 8 to 10 years in duration.

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[17] *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) s 13(3).

[18] *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) s 13(6).

[19] Transcript 1-6.

[20] Transcript 1-9.

[41] Dr Moyle in his report said "I suspect a 10 year order would be suitable. When asked by Ms Clohessy as to the reasons for his opinion he said this:

> "MS CLOHESSY: Can you explain what you mean by "you suspect a 10 year order would be suitable"?---Certainly. [The respondent] presents as a man who failed to socialise and has resisted authority and used violence both for excitement and for power – gives him over other people. Throughout a large part of that old life and had a sad has been his childhood with not attaching well to people, losing a mother, having absent father and things like that. It's going to be very hard for [the respondent] to face having to form attachments to therapist, to supervisor and to go along with what they say. [The respondent] developed a personality that is antisocial, and that personality has attributes of resisting authority but also, he is very sensitive, and he announces this himself, to feeling emasculated, to feeling other people are telling him what to do. Very sensitive to rejection and especially the threat of somebody leaving him. In jail he has taken nine of the 10 years to agree to look at his offending behaviours with any therapists and only under the information that Dr Timmins was going to see him, under this act, and people telling him that he's at risk of spending a long in jail if he doesn't change his attitudes. He did do well in the sexual offender's program, I acknowledge that, and I acknowledge that he did well with the many strict enforcement of the rules of the prison system in the first five years of his imprisonment. Such that at the end of that five years most of his rebellion amounts to verbal and resistance type behaviours, right up to this last 12 months. But less aggressive, more rebellion and I acknowledge that within the last 12 months he's threatened once to jump over a counter and assault somebody and he's had a bit of difficulty with the trade instructor but nothing more than that. Nothing more worrying than that. So direct analysis being mellow to some degree in the context of the, a strictly enforced and a structure around him where he knows the consequences and he knows what's going to happen. He's facing now leaving that environment where all the rules are known. Everything's carefully controlled. And going into the community where he can go where – he can live where he wants. He has to form new relationships with correctional officers and supervising officers. He has to do what he's told and therefore faces the risk of being – feeling emasculated and vulnerable. It's going to take [the respondent] a long time to even learn to trust the supervisors and the health professionals

that he sees are working on his behalf to form relationships. He's going to be sensitive to new relationships forming and threats of risk to that, and so I just know from both my own experience and the literature that people who commit rapes, the risk unmoderated of reoffending between 35 and 45 years of age doesn't change that much normally. We're hoping that by interviewing, the risk will go down and that explains why I said that if we hadn't done anything – if he was totally compliant and freely committed to give years, the risk would be lower. I rated his risk at moderately high on the basis of a four and I understand [indistinct] Static[21] and I under there are a question. My questioning of [the respondent] did not allow me to be confident that he had been out of jail long enough to have a sustained period of a relationship with something continuously for the required period to score that – to not score that point, and so I rated him at a four compared to others rating him at a three. There's a point of difference because – and he himself says I couldn't – when he initially was arrested for these crimes, 'I couldn't possibly have done these crimes, cause I was in and out of jail the whole time'.

Now admittedly he's now acknowledging that he did these crimes but he – one of the criteria for the Static is the duration of a relationship and I couldn't convince myself his duration met the criteria for that score, so I gave him a one score for that which accounts for the difference. So having said that, he – even a moderately high risk, if it's lowered from that would become a moderately low risk. So if – if five years later he lowers his risk it then becomes about the level or lower than the level of the average sex offender in jail. It's not an exceptional risk and that's what I meant by that – if he was able to behave himself and not get into any trouble for five years – but I'm relying on five years continuously in the community, not breaching [indistinct] brought back into custody when the time starts again once he's released. And I know that's been difficult for [the respondent] for all of his life – all of his adult life. He tends to resist direction. He tends to get brought back from release. He tends to reoffend even though he promises not to. So I don't have a great confidence that [the respondent] will be able to always overcome his vulnerability to feeling emasculated and for the need to

[21] A reference to a diagnostic tool.

> feel powerful to act out in an antisocial way. And so my experience and my knowledge of the factors leads me to believe that it takes usually five or more years just to develop that relationship to some trusting sort of relationship whereby you can then work with the person increasingly and it takes that time for the corrections staff to show that to – to set the limits that are always there in jail, on a person in the community so that they know what they can and cannot do in the community. To look for the risk factors to try and modify those risk factors when they find them. So my examination would be 10 years as I find very few people manage to survive only five years in that circumstance, but I do acknowledge nobody can depict the future with any accuracy."[22] (emphasis added)

[42] Under cross-examination by Ms Holliday, Dr Moyle said:

> "And that wouldn't it be the case that if he didn't reoffend in the next five years in terms of a serious sexual offence his risk would be reduced down to an adequate level?---It's very difficult as he's only had the one conviction for a sexual offence. I think you're quite right, there's no pattern to rely on. But he states that he's an anger rapist. That's a - - -."[23]

[43] And later:

> "But if he managed, with the assistance of treatment and also his own plan to not reoffend sexually in five years' time from release from custody, surely that indicates that the risk has reduced to an acceptable level?---Look, I can't argue against that."[24]

[44] Dr Beech gave this evidence:

> "And, Dr Beech, in that report, at page 15, you opine that where [the respondent] is subject to a supervision order, that it should be for five years?---That's correct.
>
> And in your opinion, is that the period of time required to adequately protect the community?---I believe so. I think – as I said in my report, this is nagging suggestion from the material that he was involved in a sexual relationship with the victim for a longer period of time, which might suggest paedophilia, but there's nothing else other than that, and ultimately, I guess it wasn't proven or accepted, so there's a nagging suspicion, but otherwise, I think five years is adequate."[25]

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[22] Transcript 1-17 to 1-19.

[23] Transcript 1-19.

[24] Transcript 1-19.

[25] Transcript 1-28.

[45] Dr Beech's reference to the respondent being involved in a sexual relationship with a child, is a reference back to the allegations which were said to support the count of maintaining a sexual relationship with the child. As already observed, the prosecution of that count was abandoned.

[46] Later, still under examination-in-chief by Ms Clohessy Dr Beech said this:

> "And would it be fair to say that perhaps you've given more weight than the other reporting psychiatrists, due to that good behaviour in custody, in terms of your opinion about to what extent the symptoms of those personality traits has settled over time?---I think so. I think I've seen that as quite a significant change. There's no breaches since 2014, whereas before there were breaches. That – you know, as I said, there's some verbal aggression and things like that. I – I've taken – also, I said, it's been significant that not only did he complete the intensive sexual offenders program for Indigenous males, that's an intensive program, but he had two female facilitators. And, I think, if you look at my report, probably at line 605, they thought that he controlled and regulated emotional arousal. Now, obviously there's ongoing work for coping skills and managing his emotional arousal, but they thought that he managed that in what would have been an intensive challenging situation with females. And the concerns earlier in his life, I believe, were that he was violent, volatile, misogynist. So I think that's also evidence of change."[26]

Conclusion on the Psychiatrics' evidence

[47] Dr Timmins was in somewhat of a disadvantaged position to her two colleagues. The respondent presented to her as an offender who denied his offending behaviour and had refused treatment through sexual offender treatment programs. Those factors obviously influenced her opinion stated in her report that a lengthy period of a supervision between eight to ten years was necessary. Her major concern appeared to be that the respondent was likely to have difficulties relating to those supervising and treating him.

[48] Dr Moyle and Dr Beech both interviewed the respondent after he had made admissions and struck up a relationship with facilitators in the SOPIM treatment program that he had completed. While there may perhaps be doubts as to the respondent's version of the offending against the child, he accepted that he sexually assaulted the child, he successfully completed the SOPIM and his behaviour in prison has markedly improved.

[49] Dr Beech recommended a five year supervision order. While Dr Moyle expressed various concerns, ultimately under cross-examination by Ms Holliday he conceded that if the respondent succeeded on supervision for a period of five years his risk will then be at an acceptable level.

[50] Where the evidence of Dr Beech and Dr Moyle on this topic differs from that of Dr Timmins, I prefer the evidence of Dr Beech and Dr Moyle because they, unlike Dr Timmins, had the

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[26] Transcript 1-30.

opportunity to interview the respondent after he had made admissions and completed the SOPIM.

[51] I therefore find that the current state of the respondent is that if he can successfully complete a period of five years under supervision then he will from that point be at a stage where the risk of reoffending by the commission of a serious sexual offence would be low.

[52] Questions then arise as to the significance of that finding within the legislative framework.

The proper construction of s 13A of the *DPSOA*

[53] The question I must decide is whether adequate protection of the community can be ensured by placing the respondent on a supervision order and part of that consideration requires a determination of the length of the supervision order.

[54] Section 13A is part of a number of provisions which deal with supervision orders.[27] By s 13(6), when the Court is considering either making a continuing detention order or a supervision order, "the paramount consideration is … to ensure adequate protection of the community."[28] Before making a supervision order (as opposed to a continuing detention order) the Court must consider whether "adequate protection of the community can be reasonably and practicably managed by a supervision order."[29] In the context of s 13(2) a prisoner who has been found to be a "serious danger to the community"[30] should not be released on supervision unless the risk that he will commit a serious sexual offence can be reduced to an "acceptable" level by the supervision order. That issue must be determined by looking at the evidence and the terms of any proposed supervision order, and assessing the factors identified in s 13(4) of the *DPSOA*.

[55] Section 16 prescribes certain mandatory requirements of a supervision order and then empowers the Court to include "any other requirement the Court … considers appropriate."[31] Therefore, by ss 16 and 13A, the Court must structure a supervision order to "ensure adequate protection of the community."[32] In fixing the period of the supervision order the Court must predict the time in the future at which the respondent will be an acceptable risk without supervision."[33]

[56] Many of the opinions expressed by the psychiatrists in their reports in respect to the length of the supervision order are vague. I suspect that is because the psychiatrists are not being asked

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[27] See also ss 13, 16.

[28] Section 13(6)(a).

[29] Section 13(6)(b).

[30] Section 13(1)-(2).

[31] Section 16(2).

[32] *Attorney-General (Qld) v Van Dessel* [2007] 2 Qd R 1 at [31].

[33] In an application to extend a supervision order under s 19B a similar consideration arises; *Attorney-General (Qld) v Fisher* [2018] QSC 74; *Attorney-General v Fardon* [2019] QSC 2 at [4].

to address the right question. The correct legal consideration is "when will the respondent reach a point at which he/she is an acceptable risk without a supervision order?" Assessment of the risk as "acceptable" or otherwise is a matter for the Court not the psychiatrists, but the psychiatrists can, and do, express risk in terms of degree; high, moderate or low. The psychiatrists should be requested to report (if they can) on their predictions as to when the risk will reduce to low, for instance. That evidence will then be directly relevant to the determination under s 13A.

[57] The psychiatrists' opinions here that risk will reduce over a five year period is subject to the proviso that the supervision order is complied with. A question then arises as to what extent the Court can take into account the fact that if Dr Moyle and Dr Beech are wrong then there is a power under s 19B to extend the order and if there is breach of the order then an extension is authorised by s 22. By taking those considerations into account is the Court "[having] regard to whether or not the prisoner may become the subject of … [further supervision order]". That consideration is prohibited by s 13A(2).

[58] Section 13(5)(b) authorises the making of a supervision order. Section 15 is then in these terms:

> "**15 Effect of supervision order or interim supervision order**
>
> A supervision order or interim supervision order has effect in accordance with its terms—
>
> (a) on the order being made or on the prisoner's release day, whichever is the later; and
>
> (b) for the period stated in the order."

[59] Section 15 is presently in the same form as it was enacted in 2003. However, s 13A was exacted by the *Dangerous Prisoners (Sexual Offenders) Act* 2003 (Qld) and *Other Legislation Amendment Bill* 2010 which also introduced Division 4A to Part 2; "**Extending supervises release**." Section 19B, which is within Division 4A is in these terms:

> "**19B Attorney-General may apply for further supervision order**
>
> (1) This section applies to a released prisoner subject to a supervision order (the "current order").
>
> (2) The Attorney-General may apply for a further supervision order for the released prisoner.
>
> (3) The application may be made only within the last 6 months of effect of the current order.
>
> (4) Despite subsection (2), the Attorney-General can not make the application if a further supervision order has been made for the released prisoner.
>
> (5) However, subsection (4) does not prevent the making of the application if—

(a) under section 13 (5) (b) or 30 (3) (b) , a new supervision order is made for the released prisoner; and

(b) no further supervision order has already been made for the new supervision order."

[60] The *DPSOA* has always included Division 5 which concerns breaches of supervision orders. That Division includes s 22. That relevantly provides as follows:

"**22 Court may make further order**

(1) The following subsections apply if the court is satisfied, on the balance of probabilities, that the released prisoner is likely to contravene, is contravening, or has contravened, a requirement of the supervision order or interim supervision order (each the 'existing order').

(2) Unless the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by the existing order as amended under subsection (7), the court must—

(a) if the existing order is a supervision order, rescind it and make a continuing detention order; or

(b) if the existing order is an interim supervision order, rescind it and make an order that the released prisoner be detained in custody for the period stated in the order.

…

(7) If the released prisoner satisfies the court, on the balance of probabilities, that the adequate protection of the community can, despite the contravention or likely contravention of the existing order, be ensured by a supervision order or interim supervision order, the court—

(a) must amend the existing order to include all of the requirements under section 16 (1) if the order does not already include all of those requirements; and

(b) may otherwise amend the existing order in a way the court considers appropriate—

(i) to ensure adequate protection of the community; or

(ii) for the prisoner's rehabilitation or care or treatment.

…"

[61] Section 22(7) authorises amendments of the supervision order by extending its period.[34]

[62] The *Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill* 2009 was read for the second time on 1 September 2009. The Attorney-General and Minister for Industrial Relations, Hon CR Dick told the House on that occasion:

> "The bill amends the Dangerous Prisoners (Sexual Offenders) Act to limit the maximum period of supervision orders to five years. It is considered that the highest risk period of offenders is the first few years after their release from custody. In order to effectively supervise the increasing number of released prisoners, it is considered that a limit is required to the length of supervision orders and that a period of five years supervision should provide adequate protection to the community. This proposed amendment will, however, allow for unlimited applications for further supervision orders where risk factors remain."[35]

[63] At the time the bill was read a second time, the proposal was to enact s 13A in terms differently to what was finally enacted. The bill proposed s 13A as follows:

> "**13A Court may make further order**
>
> '(1) If the court makes a supervision order, the order must state the period for which it is to have effect.
>
> '(2) The period can not end later than 5 years after the prisoner's release day.'"[36]

[64] The explanatory notes to the bill relevantly provided as follows:

> "Clause 8 of the Bill inserts a new section 13A into the DPSOA and will limit the maximum period of a supervision order to give years.
>
> The highest risk period for offenders is the first few years after their release from custody. It is considered that a limit is appropriate for the length of supervision orders and that a period of five years supervision should provide adequate protection to the community.
>
> Clause 17 of the Bill, however, inserts a new division 4A into Part 2 of the DPSOA which will allow the Attorney-General to make unlimited applications for further supervision orders of up to five years duration where risk factors remain. In this

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[34] *Attorney-General v Van Dessel* [2007] 2 Qd R 1, 31; *Attorney-General (Qld) v Foy* [2014] QSC 304, 14; *Bickle v Attorney-General* [2016] 2 Qd R 523, 540, 21-24.

[35] Hansard 1 September 2009, page 1980.

[36] *Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill* 2009, clause 8.

way the amendment will also facilitate an automatic review of supervision orders where previously no such process existed."[37]

[65] Of course, the explanatory notes refer to s 13A as originally proposed in the bill, not as finally enacted.

[66] I can find no extrinsic materials relevant to the question under consideration. The only real mention of s 13A in the cases is in the judgment of Dick AJ in *Attorney-General for the State of Queensland v Armstrong*,[38] but her Honour had no need to analyse the section is any detail.[39]

[67] Section 13 requires a current assessment of future risks. As Morrison JA explained in *Attorney-General for the State of Queensland v Kanaveilomani*:[40]

> "…
>
> [118] In that context s 13 falls for consideration. The section only applies if the court is satisfied that the prisoner "is a serious danger to the community in the absence of a division 3 order": s 13(1). Section 13(2) then provides a definition for when a prisoner is "a serious danger to the community". That is the case where there is an unacceptable risk that the prisoner will commit a serious sexual offence "… if the prisoner is released from custody". In subsection (1) the present tense is used, and in subsection (2) the wording says "if" the prisoner is released, not "when" the prisoner is released.
>
> [119] In deciding whether a prisoner is a serious danger to the community under subsection (1), s 13(4) requires that the court have regard to a number of matters. Whilst it is no doubt true that any psychiatrist reports will assess risk in the future, there are three matters which the court must take into account which, by their terms, look to future matters. Subsection (4)(c) requires the court to consider "information indicating whether or not there is a propensity on the part of the prisoner to commit serious sexual offences in the future". That refers to a current propensity, but obviously in respect of future offences. The second is under subsection (4)(h) which refers to the risk that the prisoner will commit another serious sexual offence if released into the community. That clearly looks to the future, though it requires the court to make an assessment of that risk at the time of the hearing. The third is under subsection (4)(i), which is the need to protect members of the community from the risk the prisoner will commit another serious sexual offence if released.

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[37] Explanatory notes to *Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill 2009*, pp 2-3.

[38] [2011] QCS 40.

[39] At [56].

[40] [2013] QCA 404.

> [120] In my opinion s 13 is to be construed as its plain words suggest, namely that the court's assessment is of the prisoner's current state and in respect of release at the time the application is determined, and not at some indeterminate time in the future. Since an application has to be brought within six months of the end of the period of imprisonment, followed by a period of time for the preliminary hearing under s 8, the preparation of psychiatric reports under s 11 and the eventual hearing, one could confidently expect that the normal course would mean that the final hearing was at some point close to the prisoner's release day under the period of imprisonment. That being so, the court's assessment under s 13(1) is of matters that are current and do not look to the indeterminate future. Where the final hearing might extend beyond the release date, and orders are made under s 9A of the Act, the assessment by the court is still of matters that are current to the time of the hearing, and not looking to the indeterminate future.
>
> …"

[68] It follows then that setting a period of supervision under s 13A must involve an assessment now of the prisoner's current state but predicting when he will be an acceptable risk in the community without a supervision order.

[69] The Court cannot consider "whether or not the prisoner may become the subject of an application for a further supervision order or a supervision order" in the future. However, it does not follow that the consideration of the appropriate length of the order is undertaken without reference to the statutory scheme.

[70] Ms Holliday for the respondent submitted that s 13A(2) would be offended if the Court considered that the prisoner would only cease to be an unacceptable risk in the community after ten years on supervision but set the duration of the order at five years on the basis that the order could later be extended under s 19B. I accept her submission as a correct statement of the operation of the section in that situation. In that situation, the supervision order would not provide "adequate protection of the community". On those facts, "adequate protection of the community" would only be ensured by the making of a supervision order, and a later order extending the period of supervision.

[71] However, when assessing, as at today, what supervision order is required to provide adequate protection of the community, the statutory context is not an irrelevant consideration. So, the evidence that I have accepted is that if the respondent complies with the supervision order for five years he will no longer pose an unacceptable risk. The legislation provides for an extension of the supervision order (in some cases upon breach) and that can be taken into account in determining whether on the evidence in this case a supervision order of five years provides adequate protection of the community.

[72] I have accepted the evidence that if the respondent satisfactorily completes supervision for a period of five years he will thereafter not pose an unacceptable risk. If he breaches the supervision order or does not perform and thereby enlivens the discretion under ss 19B or 22 then the supervision order can be extended. Of course, that would be a completely different determination made by the Court at that time. Against the statutory scheme, which includes

ss 19B and 22, I am satisfied that a supervision order on the terms that I intend to order for a period of five years provides adequate protection of the community.

Terms of the supervision order

[73] The parties have agreed on the terms of the supervision order. I accept that the terms are appropriate.

Final findings and orders

[74] I find that:

(i) the respondent is a serious danger to the community if released from custody without a supervision order being made;

(ii) adequate protection of the community can be reasonably and practicably managed by a supervision order; and

(iii) the requirements of s 16 can be reasonably and practicably managed by Corrective Services Officers.

[75] I order the respondent be released from custody subject to the requirements set out in the Schedule to these reasons until 3 March 2024.

SUPREME COURT OF QUEENSLAND

SCHEDULE TO:	*Attorney-General for the State of Queensland v KAH* [2019] QSC 36
PARTIES:	**ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND** (applicant) **v** **KAH** (respondent)

SCHEDULE

THE COURT, being satisfied to the requisite standard that the respondent, is a serious danger to the community in the absence of an order pursuant to Division 3 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the Act), ORDERS THAT:

1. The respondent be subject to the following requirements until 3 March:

The respondent must:

Statutory Requirements

1. report to a Corrective Services officer at the Queensland Corrective Services Probation and Parole Office closest to his place of residence on the day of release from custody and, at that time, advise the officer of his current name and address;
2. report to, and receive visits from, a Corrective Services officer at such times and at such frequency as determined by Queensland Corrective Services;
3. notify a Corrective Services officer of every change of his name, place of residence or employment at least two business days before the change happens;
4. be under the supervision of a Corrective Services officer;
5. comply with a curfew direction or monitoring direction;
6. comply with any reasonable direction under section 16B of the Act given to him;

7. comply with every reasonable direction of a Corrective Services officer that is not directly inconsistent with a requirement of the order;

8. not leave or stay out of Queensland without the permission of a Corrective Services officer;

9. not commit an offence of a sexual nature during the period of the order;

Employment

10. seek permission and obtain approval from a Corrective Services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment;

11. notify a Corrective Services officer of the nature of his employment, or offers of employment, the hours of work each day, the name of his employer and the address of the premises where he is or will be employed at least two (2) days prior to commencement or any change;

Accommodation

12. reside at a place within the State of Queensland as approved by a Corrective Services officer by way of a suitability assessment and obtain written approval prior to any change of residence;

13. if this accommodation is of a temporary or contingency nature, you must comply with any regulations or rules in place at this accommodation and demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services;

14. not reside at a place by way of short term accommodation including overnight stays without the permission of a corrective services officer;

General terms

15. not commit an indictable offence during the period of the order;

16. not have any direct or indirect contact with a victim of his sexual offences;

Activities and associates

17. respond truthfully to enquiries by a Corrective Services officer about his activities, whereabouts and movements generally;

18. disclose to a Corrective Services officer the name of each person with whom he associates and respond truthfully to requests for information from a Corrective Services officer about the nature of the association, address of the associate if known, the activities undertaken and whether the associate has knowledge of his prior offending behaviour;

19. notify a Corrective Services officer of the make, model, colour and registration number of any vehicle owned by or generally driven by him, whether hired or otherwise obtained for his use;

20. submit to and discuss with a Corrective Services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;

21. if directed by a Corrective Services officer, make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by Corrective Services officer who may contact such persons to verify that full disclosure has occurred;

22. notify the supervising Corrective Services officer of all personal relationships her enters into;

Alcohol and Drugs

23. abstain from the consumption of alcohol and illicit drugs for the duration of this order;

24. submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by a Corrective Services officer;

25. disclose to a Corrective Services officer all prescription and over the counter medication that he obtains;

26. not visit hotels, clubs and/or nightclubs licensed to supply or serve alcohol, without the prior written permission of a Corrective Services officer;

Treatment and Intervention

27. attend upon and submit to assessment, treatment, and/or medical testing by a psychiatrist, psychologist, social worker, counsellor or other mental health professional as directed by a Corrective Services officer, at a frequency and duration which shall be recommended by the treating intervention specialist;

28. permit any medical, psychiatrist, psychologist, social worker, counsellor or other mental health professional to disclose details of treatment, intervention and opinions relating to level of risk

of re-offending and compliance with this order to Queensland Corrective Services if such a request is made for the purposes of updating or amending the supervision order and/or ensuring compliance with this order;

29. attend any program, course, psychologist, social worker or counsellor, in a group or individual capacity, as directed by a Corrective Services officer in consultation with treating medical, psychiatric, psychological or other mental health practitioners where appropriate;

Contact with children

30. not establish or maintain any supervised or unsupervised contact including undertaking any care of children under 16 years of age except with prior written approval of a Corrective Services officer. If directed to do so by a Corrective Services officer, fully disclose the terms of the order and nature of offences to the parents, guardians and caregivers of the children before any such contact can take place; Queensland Corrective Services may disclose information pertaining to him to the parents, guardians or caregivers and external agencies (i.e. Department of Child Safety) solely in the interests of ensuring the safety of the children;

31. advise a Corrective Services officer of any repeated contact with a parent, guardian or caregiver of a child under the age of 16 and, if directed by a Corrective Services officer, make complete disclosure of the terms of the supervision order and the nature of the offences to the parent, guardian or caregiver and permit a Corrective Services officer who may contact such persons to verify that full disclosure has occurred;

32. not access school or child care centre at any time without the prior written approval of a Corrective Services officer;

33. notify a Corrective Services officer before attending on the premises of any establishment where there is a dedicated children's play area or child minding area, including the times in which you wish to attend;

34. notify a Corrective Services officer before attending public parks, including the times in which you wish to attend;

35. notify a Corrective Services officer before attending on the premises of any shopping centre, including the times in which you wish to attend;

36. not join, affiliate with, attend on the premises of or attend at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is

either child membership or child participation without the prior written approval of a Corrective Services officer;

Technology, telephones and devices

37. notify a Corrective Services officer of any computer or other device connected to the internet that he regularly uses or has used;

38. supply to a Corrective Services officer any password or other access code known to him to permit access to such computer or other device or content accessible through such computer or other device and allow any device where the internet is accessible to be randomly examined using a data exploitation tool to extract digital information or any other recognised forensic examination process;

39. supply to a Corrective Services officer details of any email address, instant messaging service, chat rooms, or social networking sites including user names and passwords;

40. allow any other device including a telephone to be randomly examined. If applicable, account details and/or phone bills are to be provided upon request of a Corrective Services officer;

41. advise a Corrective Services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by him within 24 hours of connection or commencement of use and includes reporting any changes to mobile phone details;

42. except with prior written approval from a Corrective Services officer, not own, possess or regularly utilise more than one mobile phone.