

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Fardon*
[2013] QSC 264

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
ROBERT JOHN FARDON
(respondent)

FILE NO/S: BS5346/03

DIVISION: Trial Division

PROCEEDING: Application

DELIVERED ON: 27 September 2013

DELIVERED AT: Brisbane

HEARING DATE: 23–24 September 2013

JUDGE: Peter Lyons J

ORDER: **Adjourned to a date to be fixed, to permit finalisation of appropriate orders.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY – where an order was made on 1 July 2011 that the respondent be detained in custody for an indefinite term for care, control or treatment – where the applicant has applied for an annual review of that order – where the respondent has a history of past sexual offences – where the respondent has a history of breaches of previous supervision orders – where the respondent has recognised problems he will face if released from custody – where the respondent has stated an intention to comply with the requirements of a supervision order – where the respondent has formed a relationship with, and received treatment from, a forensic psychologist – where there has been a reduction in the negativity of the respondent’s attitude towards officers of Queensland Corrective Services – where it was common ground that the evidence demonstrated that there is an unacceptable risk that the respondent would commit a serious sexual offence if released from custody without his being subject to a supervision order – whether adequate protection of the community can be reasonably and practicably managed by a supervision order – whether the respondent should be released subject to a supervision order

Dangerous Prisoners (Sexual Offenders) Act 2003 (Qld),
s 11, s 13, s 16, s 29, s 30

A-G v Fardon [2003] QSC 331, cited
A-G (Qld) v Fardon [2007] QSC 299, cited
Attorney-General (Qld) v Fardon [2013] QCA 64, cited
Attorney-General for the State of Queensland v Fardon
 [2011] QCA 155, cited
Attorney-General for the State of Queensland v Fardon
 (No 2) [2011] QSC 128, cited
Attorney-General v Lawrence [2011] QCA 347, cited
R v Fardon [2010] QCA 317, cited

COUNSEL: J Horton for the applicant
 D O’Gorman SC for the respondent

SOLICITORS: Crown Solicitor for the applicant
 Patrick Murphy Solicitors for the respondent

- [1] On 1 July 2011, the Court of Appeal made an order under s 22 of the *Dangerous Prisoners (Sexual) Offenders Act 2003 (DPSOA)* that the respondent, Mr Fardon, be detained in custody for an indefinite term for care, control or treatment. This is, in effect, the first annual review of that order.

Background

- [2] Mr Fardon’s criminal history and his periods in custody have been set out extensively in earlier judgments. Nevertheless, it is convenient to make brief reference to some matters.
- [3] Mr Fardon was born on 6 October 1948. In 1967, at the age of 18, he pleaded guilty to attempted carnal knowledge of a girl under the age of 10 years. He was released on a good behaviour bond. In 1980, Mr Fardon pleaded guilty to charges of rape and indecent dealing. The victim was a 12 year old girl. At the same time, he pleaded guilty to the unlawful wounding of the 15 year old sister of the rape victim. For the rape conviction, he was sentenced to a term of 13 years imprisonment; with lesser concurrent terms imposed for the other offences.
- [4] Mr Fardon was released from prison after serving eight years. Within 20 days, he committed further offences of rape, sodomy and assault occasioning actual bodily harm. He was convicted of these offences in 1989, and sentenced to two terms of imprisonment of 14 years, and a lesser term, all to be served concurrently¹.
- [5] Little is known of his sexual offence in 1967. The offences for which he was convicted in 1980 and 1989 were associated with the taking of drugs and alcohol.
- [6] Mr Fardon has a more extensive criminal history, with other offences in New South Wales, Victoria, and the Northern Territory, as well as Queensland. Apart from the sexual offences already mentioned, his offending was generally property related, and of limited relevance for the present proceedings.

¹ *A-G v Fardon* [2003] QSC 331 at [38]. The reasons indicate, contrary to the submissions of the applicant in the present case, that Mr Fardon pleaded guilty to two of the offences, and was convicted after trial of the third.

- [7] In 2003, an order was made for Mr Fardon's detention under the *DPSOA*. On 27 September 2006, a supervision order was made under the *DPSOA*, subject to conditions, resulting in his release from prison. Mr Fardon contravened those conditions on three occasions. Thus on 4 May 2007, he attended a school, though on a pre-arranged visit to address Year 11 students, in the presence of his support worker². On 11 July 2007, he aided a neighbour, who was also subject to a supervision order, to disobey a curfew restriction. On 21 July 2007 he travelled without authority to Townsville³.
- [8] He was then returned to custody. On 19 October 2007, an order was made amending the supervision order made in 2006, resulting in Mr Fardon's release from custody⁴.
- [9] On 3 April 2008, Mr Fardon was apprehended, and charged with rape. Although convicted at trial, the conviction was quashed and a verdict of acquittal was entered⁵. Before his apprehension, however, he had contravened conditions of the order by visiting a licensed club, without consent; and by attending, without supervision, the home of a woman who was intellectually disabled⁶. On 20 May 2011, when the 2008 contraventions were dealt with, an order was made for Mr Fardon's release subject to a supervision order. However, on 3 June 2011 an order was made staying the operation of that order; and on 1 July 2011 the detention order referred to at the beginning of these reasons was made. A review of that order was determined on 13 February 2013, resulting in a supervision order. However, that was overturned on appeal, and the matter was remitted to the trial division of this Court for a rehearing⁷.
- [10] Mr Fardon has provided to the doctors who have interviewed him a relatively consistent account of his earlier life. He was the subject of physical abuse from his father until about the age of 14 years. He was subjected to sexual abuse by a cousin between the ages of 7 and 14 years. He left home at about age 14, living on the streets. He became involved in a bikie gang at some point.
- [11] Since 1978, he has spent most of his life in prison. It has been calculated that in this period, he has been in custody for all but about five years.

Legislative provisions

- [12] This review is regulated by s 30 of the *DPSOA*, which is as follows:

“30 Review hearing

- (1) This section applies if, on the hearing of a review under section 27 or 28 and having regard to the required matters, the court affirms a decision that the prisoner is a serious danger to the community in the absence of a division 3 order.
- (2) On the hearing of the review, the court may affirm the decision only if it is satisfied—

² *Attorney-General for the State of Queensland v Fardon (No 2)* [2011] QSC 128 at [17].

³ *Attorney-General for the State of Queensland v Fardon* [2011] QCA 155 at [6].

⁴ *A-G (Qld) v Fardon* [2007] QSC 299.

⁵ *R v Fardon* [2010] QCA 317.

⁶ *Attorney-General for the State of Queensland v Fardon (No 2)* [2011] QSC 128.

⁷ *Attorney-General (Qld) v Fardon* [2013] QCA 64.

- (a) by acceptable, cogent evidence; and
 - (b) to a high degree of probability;
- that the evidence is of sufficient weight to affirm the decision.
- (3) If the court affirms the decision, the court may order that the prisoner—
 - (a) continue to be subject to the continuing detention order;
 - or
 - (b) be released from custody subject to a supervision order.
 - (4) In deciding whether to make an order under subsection (3)(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.
 - (5) If the court does not make the order under subsection (3)(a), the court must rescind the continuing detention order.
 - (6) In this section—

required matters means all of the following—

 - (a) the matters mentioned in section 13(4);
 - (b) any report produced under section 28A.”

Evidence

- [13] It is convenient to commence with the evidence of Mr Nick Smith, a forensic psychologist, who has been engaged by Queensland Corrective Services (*QCS*) to provide psychological treatment to Mr Fardon. He has been doing so since July 2012. Typically the treatment is by way of weekly counselling for a period of about 90 minutes. He has seen Mr Fardon on about 50 occasions.
- [14] At an earlier point in time, Mr Smith reached a diagnosis that Mr Fardon was affected by a Post-Traumatic Stress Disorder. That view was not shared by the psychiatrists who have provided reports in these proceedings. In his oral evidence, it seemed Mr Smith was not confident that if he repeated the testing, he would make the same diagnosis. Nevertheless, he considered that Mr Fardon displayed significant symptoms of stress, and that treatment of it was important in assisting in the management of Mr Fardon’s conduct.
- [15] The principal areas which are the subject of Mr Smith’s treatment are the consequences of the abuse experienced by Mr Fardon in childhood; and the stress he currently experiences. His stress is the product of his being in prison, including fear of assault and abuse from other prisoners, increased as a result of the media attention which Mr Fardon has attracted. Mr Fardon also experiences stress related to his concerns about a transition from life in an institution, which he has experienced for many years, to life in the community, which has changed greatly over his long period in custody. As the diagnosis would indicate, there was also stress related to childhood abuse.

- [16] In an earlier report⁸, Mr Smith stated that Mr Fardon's insight into the factors behind his offending behaviour and his anti-social tendencies was good. He displayed sound judgment about the matters with which he would struggle in the community. He had a negative bias to QCS staff; but showed a good awareness and insight into the distorted basis for this perspective on life. In his current report, Mr Smith stated that Mr Fardon's identification of dysfunctional patterns of behaviour and triggers for anxiety and trauma episodes continued to improve; though his improvement is limited by the fact he remains in prison. Mr Fardon's engagement in treatment continued to improve; though progress will be slow. Work has been done on relapse prevention strategies for minimising the risk of re-offending, or otherwise breaching a supervision order. Over the long time during which Mr Fardon has been in prison, he has developed and maintained a defiant attitude towards prison staff. Mr Smith attributes this to Mr Fardon's antisocial personality, and decades of institutionalisation into prison life. Nevertheless, there have been no breaches by Mr Fardon of prison discipline nor significant incidents within the prison, for several years; and Mr Smith observed numerous positive interactions between Mr Fardon and QCS officers; as well as a positive relationship between Mr Fardon and a previous Case Manager.
- [17] In his oral evidence, Mr Smith said that Mr Fardon had shown a genuine expression of recognition of the harm he had caused, though Mr Smith could not judge Mr Fardon's emotional response to his actions. Mr Fardon retained an instinctive distrust of QCS officers, which could in some circumstances present complications for compliance with a supervision order. However, Mr Smith has in the past provided him with clarification of the reasons for certain things, to which Mr Fardon had responded quite well, without necessarily accepting what he was told at face value.
- [18] On 13 September 2013, Mr Fardon was seen at the correctional centre by Ms Spencer, his Case Manager. He reacted badly, and was hostile and offensive to Ms Spencer, indicating that he would not be cooperative with the case management process. Mr Smith was asked about this incident. He considered Mr Fardon's reaction to be underpinned by his distrust of officers of QCS. Mr Smith said that recent sessions of therapy had increased Mr Fardon's level of distress quite notably, producing an elevated level of anxiety, contributing to Mr Fardon's reaction. In cross-examination, he said that on the day of the incident, there had been a lengthy therapy session in which Mr Fardon had gone into aspects of his childhood experiences as a result of which he became unusually distressed, and more unstable and agitated than he usually was.
- [19] Dr Donald Grant was one of the psychiatrists appointed under s 29 of the *DPSOA* to provide an assessment of the risk that Mr Fardon would commit another serious sexual offence. Dr Grant has seen Mr Fardon on a number of occasions since 2006.
- [20] In his report of 28 April 2012, Dr Grant did not assess the risk that Mr Fardon might commit some further sexual offence if released without the imposition of a supervision order. If he were released subject to such an order, there was a moderate to high risk that he might commit some form of offence, non-sexual offending being more likely than sexual offending. The risk of sexual offending, however, was considered not to be insignificant, and the likely context was

⁸ Mr Smith's report of 28 September 2012.

a relationship with a woman, in which Mr Fardon might not sufficiently respect her rights or recognise his responsibilities. He considered that Mr Fardon's management under a supervision order would be very challenging. He at that time thought a major barrier to Mr Fardon's successful transfer to the community was Mr Fardon's lack of motivation to achieve progress. This was thought to make successful treatment difficult. Dr Grant recommended extended individual therapy, as a means of further assessment of Mr Fardon's motivation and to encourage changes which would facilitate Mr Fardon's transfer to the community.

- [21] In oral evidence given in October 2012, Dr Grant identified the source of the risk that Mr Fardon might offend on release as being his psychopathic personality. He said that such a personality tends to settle from the time a person is over 40 years of age. There was evidence that this had occurred in Mr Fardon's case, and that there was some "maturation happening". That reduced the risk of offending, and changed its likely character.
- [22] Dr Grant provided a brief report dated 12 January 2013. By this time, Mr Fardon had seen Mr Smith on about 18 occasions. Dr Grant then stated that Mr Fardon's risk of re-offending "in a sexual way and in a generally violent way" was high. He thought that Mr Fardon could not be predictably safely managed in the community under a supervision order, unless he first completed a sexual offenders' treatment program.
- [23] In his report of 22 July 2013, Dr Grant recorded a reduction in Mr Fardon's aggression over the period with which he has had dealings with him. He described him as now being calmer and less intense, than he had been in previous interviews. He considered that he was no longer prone to impulsive violence. He also recorded that Mr Fardon's attitudes to others have mellowed; and that he has not been the subject of a breach in prison for many years. The risk of violent sexual offending had reduced. Nevertheless, he recorded a tendency to entitlement, a lack of respect for others, and a tendency towards self-serving attitudes or possible dishonesty, as aspects of his antisocial/psychopathic personality disorder. The changes in Mr Fardon's behaviour were consistent with his aging.
- [24] Mr Fardon has refused to undertake a sexual offender's treatment program. His explanation of this is that he commenced such a program many years ago; but the need to disclose childhood abuse in the course of group therapy resulted in conduct from other prisoners with which Mr Fardon found it difficult to cope. Dr Grant thought that such a program would be of assistance in reducing risk, and in assisting Mr Fardon to avoid further offending; as well as in providing a more detailed knowledge of risk factors. However, Dr Grant considered that Mr Fardon does not suffer from a specific paraphilia; and notwithstanding the utility of such a program, it was not essential that he undertake one. This represents some change from the view Dr Grant expressed in his report of 12 January 2013.
- [25] Dr Grant did not make a diagnosis of sexual paraphilia; and in particular he did not make a diagnosis of sexual sadism; notwithstanding the nature of Mr Fardon's sexual offending.
- [26] Dr Grant recorded that Mr Fardon expects to have less conflict with QCS, should he be released, because the attitude of its officers, and the manner in which they administer supervision orders, has improved since the time that he was first subject to such an order. He recorded Mr Fardon as expressing a lot more confidence about

how he would cope with a supervision order, and about how supervision would be applied, since his therapy with Mr Smith, and his understanding of some changed attitudes in the Department. He is now much more confident that he would be able to work with officers of QCS. Dr Grant stated orally that he considered Mr Fardon's increased confidence in his ability to work within a supervision order was the major change Dr Grant had observed in the last twelve months.

- [27] Dr Grant recorded Mr Fardon as expressing a willingness to comply with conditions restricting his activities, "providing the supervisors ... don't keep applying extra provisions". While Dr Grant referred to Mr Fardon's defiant attitude to the QCS, he stated in his oral evidence that at least some of the matters of which Mr Fardon complained appeared to have a reasonable basis.
- [28] Dr Grant took a positive view of the fact that Mr Fardon was undergoing therapy with Mr Smith. He referred to Mr Smith's reports as supporting the fact that Mr Fardon has engaged well in therapy, and is making gradual progress. Dr Grant's opinion was that there was now greater confidence that Mr Fardon would cooperate with a supervision order and remain breach free.
- [29] Dr Grant diagnosed Mr Fardon as having an antisocial personality disorder; and as reaching the cut-off point for psychopathy on the psychopathy checklist. He also recorded that Mr Fardon had a history of alcohol and drug use, which has been in remission for many years in prison. He identified anxiety symptoms of fluctuating severity, some of which were post-traumatic, the result of childhood abuse and traumatic experiences in prison; and others resulting from prison life.
- [30] For his current report, Dr Grant used two risk assessment instruments, as well as applying clinical judgment. Dr Grant considered that the risk for sexual re-offending by Mr Fardon was now moderate, even if he was not subject to a supervision order. He considered the risk could be reduced to low to moderate, by the application of an appropriate supervision order "providing Mr Fardon was able to work within such a supervision program in a co-operative way". In this report, he expressed the view that there had been some improvement in the level of confidence that Mr Fardon would cooperate with a supervision order, and remain breach free. He queried whether Mr Fardon's current positive attitudes would survive the transition to life in the community, though he thought that continued therapy would have a positive effect. While he thought that, for Mr Fardon, rehabilitation in the community if he were released subject to a supervision order would remain difficult, it was now possible for that process to begin.
- [31] In his oral evidence, Dr Grant thought Mr Fardon might be getting to the point of recognising that he needs to comply with a supervision order, if he is to be allowed to live in the community. He considered that the risk of some form of breach of the order was high; though that seemed to relate to matters of less significance to the risk that Mr Fardon would commit a sexual offence. He considered that the incident involving Ms Spencer did not "bode too well for his ability to contain his antagonism towards supervisors, at times".
- [32] Dr Grant considered that the matters of primary concern in Mr Fardon's case were the risk that he would return to using drugs and alcohol; and the risk that he would enter into a relationship (also described in his oral evidence as "sustained interaction of some sort"; and "a progressive thing") with a woman, in the course of which

some form of sexual offending might occur. As to the former, Dr Grant referred to Mr Fardon's now substantial history of avoiding the use of drugs and alcohol. The evidence indicated that he avoided the use of drugs and alcohol during his periods of release, notwithstanding that at least on one occasion he attended at licensed premises. Of this, Dr Grant said in his oral evidence, "...he's been good from that point of view...that's a plus for him." He also recorded Mr Fardon's stated intention to maintain himself drug and alcohol free. On that basis, Dr Grant appeared not to be unduly concerned about the risk of offending as the result of Mr Fardon's taking drugs or alcohol. Nevertheless, he stressed the importance of ongoing random testing.

- [33] Relevant to Dr Grant's concern about the development of a relationship with a woman were a number of conditions proposed on his behalf for inclusion in a supervision order. Dr Grant did not indicate that a breach of them was particularly likely.
- [34] At this point it is convenient to make some reference to the form of supervision order proposed on behalf of the respondent. It contains provisions about supervision, and compliance with directions. The case has been conducted on the basis that Mr Fardon would be subject to GPS monitoring. The proposed order also includes requirements that Mr Fardon remain alcohol and drug free; and that he submit to random testing. He would be required to discuss weekly his proposed activities; to disclose any pending intimate relationship; and on request to identify persons with whom he associates. If directed, he would be required to disclose to others the terms of the supervision order, and the nature of his past offending. He would be required to undergo treatment, and develop a risk management plan. He would be required not to have contact with the woman who was the complainant on the 2008 charge.
- [35] Dr Grant was cross-examined, and gave evidence, without objection, about the current level of effectiveness of the enforcement of conditions of supervision orders. With the use of GPS monitoring and tamper alerts, the location of a person released on a supervision order is known; and if the person attempts to abscond, that would be quickly identified, and the person apprehended. The formation of a relationship would be likely to be detected before it became a matter of concern. If there were a breakdown in Mr Fardon's relationship with QCS officers, this could be detected, and attended to. Generally, if Mr Fardon did not adhere to the supervision order, QCS officers would know, and could take appropriate steps. The regime had also improved in helping a person subject to a supervision order with the practical aspects of rehabilitation. There was no evidence to contradict this evidence from Dr Grant.
- [36] The other psychiatrist appointed under s 29 of the *DPSOA* to provide an assessment of the risk of Mr Fardon's committing a serious sexual offence was Dr Michael Beech. Dr Beech provided a report of 1 August 2012; another of 1 February 2013; and his current report, dated 14 July 2013. He interviewed Mr Fardon on the occasion of the first and third of these reports.
- [37] In his report of 1 August 2012, Dr Beech considered that the risk of further sexual violence if Mr Fardon were released was moderately high. It would be reduced if he were placed on a stringent supervision order; but Dr Beech expressed concern that the greatest impediment to the reduction of this risk was that Mr Fardon would not comply with a supervision order that would contain the necessary conditions.

- [38] In his report of 1 February 2013, Dr Beech referred to the counselling Mr Fardon was receiving from Mr Smith in the following terms:
- “...(it) is now a significant risk-reducing factor that makes it more likely that (Mr Fardon) will remain engaged with treatment if released, and from there he will be more likely to use this support to develop strategies to assist him in dealing with the stresses of community living.
- It also makes it more likely that he will listen to advice and not persist with the self-defeating antagonism towards supervision, QCS, and the limits that are placed on (*sic*) by a supervision order. It is likely that he will still struggle with supervision, but it is now more likely that he will use the support available to him to manage this with better insight and fewer material breaches. This in turn means that it is more likely that he will abide by the conditions which act to reduce the risk of his re-offending.”
- [39] In his report of 14 July 2013, Dr Beech recorded Mr Fardon’s identification of some matters which contributed to his hostility to QCS officers when he had been previously released. One was that he planted a garden without permission. Another was that he bought a dog, and was told that he could not keep it. A third was that he drove a car, without permission. He also recorded Mr Fardon as considering that he had not been provided with adequate support when released; and that he had been “set up to fail”. Dr Beech recorded Mr Fardon as acknowledging that he was “somewhat defiant” when previously released.
- [40] In his current report, Dr Beech recorded that Mr Fardon’s earlier prison experiences and his personality had together “given rise to an oppositional, and indeed at times defiant, streak” towards QCS staff, which had been a feature of earlier releases from prison. Nevertheless Dr Beech recorded that currently:
- “... there was a theme also of accommodation to the Supervision Order in the sense that QCS could be supportive, and that he could mediate and negotiate with them. There was a sense of greater desire for cooperation and a stepping back from earlier self-destructive oppositionality.”
- [41] Dr Beech was asked about the incident involving Ms Spencer. He thought it demonstrated Mr Fardon’s capacity for hostility towards officers of QCS. However, he considered it difficult to generalise from that incident, to Mr Fardon’s conduct if subject to a supervision order. He referred to the circumstances identified by Mr Smith. He also noted that Mr Fardon’s case manager had recently changed, at a time when Mr Fardon’s legal proceedings were coming on for hearing. He also noted that there was no condition requiring Mr Fardon’s participation in the case management process.
- [42] Dr Beech also recorded that Mr Fardon displayed “some self-awareness particularly about past behaviours, old personality traits, earlier resentments, grievances, and defiance”. While an air of entitlement remained, it was focused mainly on “his desire for ongoing treatment and exploration of his childhood abuse”; although, on occasion, “self-defeating themes of stubbornness emerged”.
- [43] Dr Beech described Mr Fardon as talkative, verbally facile, and prone to circumlocution; often seeming glib, but at other times speaking with apparent earnestness and genuineness.

- [44] Dr Beech stated that, Mr Fardon being in his sixties, he was at an age where the risk of further violence declines significantly.
- [45] Dr Beech again referred to Mr Fardon's consultations with Mr Smith. Mr Fardon indicated that the therapy had helped him to gain some insight into his own abuse, and its link to his offending. Moreover, he said that he was able to correlate his own hurt and suffering with that which he inflicted on the victim of his offending, and thus to gain an insight into the consequences of his own actions. He identified those consequences as being anxiety, hurt, and emotional problems; and recognised that he had caused torment to his victims with lasting effects on their ability to trust others, to be with men, and to find stability. Mr Fardon expressed a wish to apologise to one of his victims. Dr Beech considered these descriptions as being "intellectual", rather than as displaying empathy.
- [46] Dr Beech discussed with Mr Fardon his plans if he were released. I have previously noted his observations about Mr Fardon's more positive attitude to QCS officers in that context. Mr Fardon also recognised matters with which he would have to deal on release, including abstinence from alcohol and drugs; anxiety and emotional instability, and the use of medication to assist with these things; adjusting to life in the community (particularly coping with technological advances and other features of life of which he has had little experience in prison); and ongoing education.
- [47] Dr Beech also recorded Mr Fardon's desire to be released from prison, coupled with a fear about how he would cope.
- [48] Consistent with his report of 1 August 2012, Dr Beech recorded Mr Fardon as generally displaying good behaviour in prison, and as complying with centre rules and directions.
- [49] Dr Beech considered that Mr Fardon has an Antisocial Personality Disorder with psychopathic features, that arose from an abusive childhood in unstable living circumstances. In his oral evidence, Dr Beech stated that Mr Fardon's score on the Hare Psychopathy Checklist reached the Australian threshold for a diagnosis of psychopathy, but not that used in the United States of America. He stated that there is in fact no absolute cut-off for the diagnosis, there being a spectrum of symptoms of psychopathy.
- [50] Dr Beech regarded the risk that Mr Fardon would reoffend sexually (if not subject to a supervision order) was moderately high. The likely form of sexual offending would be associated with the formation of a relationship with a woman, in the course of which he would manipulate her into sexual acts against her will. In his oral evidence, he expressed the view that the use of sudden violence for the purpose of committing a sexual assault on a stranger was unlikely. In his report of 14 July 2013 he expressed concern, should Mr Fardon return to substance abuse and intoxication, there could be the release of pent up resentment and anger, resulting in such an offence. Consistently, however, he considered this to be much less likely, given Mr Fardon's age, his abstinence from drugs and alcohol, and his lack of general violence over the past decade.
- [51] The risks that Dr Beech described would, he considered, be reduced to moderate by the imposition of an appropriate supervision order. Dr Beech considered Mr Fardon to be more willing to abide by a supervision order now. He considered Mr Fardon

to be better prepared for release and supervision than he was in the past. He recorded Mr Fardon as displaying “some insight into his self-defeating behaviours”. He noted that Mr Fardon recognised the therapy provided by Mr Smith as supportive, as assisting in his dealings with QCS staff, and as lessening the risk of simple “oppositonality”. Dr Beech recorded Mr Fardon’s behaviour in prison as speaking to “reduced defiance, impulsivity, and violence”, which has been sustained.

- [52] Dr Beech expressed the view that Mr Fardon “is more likely than not to abide generally with a supervision order”. He explained this in his oral evidence by stating that there was some risk that Mr Fardon would engage in minor breaches of conditions; for example, contrary to a direction not to use the internet past 10:00 pm at night, using it at 10:30 pm. However, in his oral evidence, he said that Mr Fardon could see that his hostility to supervision, and his breaching of previous supervision orders, were self-defeating, and would simply result in a return to prison; and that if he repeated his previous behaviour, such as his unauthorised departure to Townsville, he would probably die in prison. In his report, Dr Beech considered that redundant clauses in a supervision order, and redundant conditions and restrictions, should be avoided, to reduce opportunities for antagonism. He accepted in cross-examination that compliance with the conditions of an order could be monitored by QCS officers.
- [53] Both Dr Grant and Dr Beech stated that exhibit 1 identified conditions of the kind they had in mind when commenting on the utility of a supervision order in Mr Fardon’s case.
- [54] Mr Fardon gave evidence, saying that he had formed a good relationship with Mr Smith and that his sessions with Mr Smith have been of great benefit to him. He wishes to continue them if released into the community. He also gave evidence that he had prepared a relapse prevention plan, which he had discussed with Mr Smith. He said that he had greater motivation and preparedness to work with QCS, as a result Mr Smith’s counselling, and that he was prepared to cooperate with QCS if released subject to a supervision order. He expressed a willingness to comply with the terms and conditions of the supervision order, by reference to that made on 13 February 2013 (which is similar to exhibit 1). He identified Mr Mike Cory, a chaplain at the Prison Ministry, as his support worker, were he to be released.
- [55] Mr Fardon was cross-examined with a view to demonstrating his defiant attitude to conditions of a supervision order, when released on previous occasions.

Submissions

- [56] It was common ground that the evidence demonstrated that there is an unacceptable risk that Mr Fardon would commit a serious sexual offence, if released from custody without his being subject to a supervision order. However, the applicant contended that Mr Fardon should continue to be subject to the detention order made on 1 July 2011.
- [57] The applicant submitted that there are strong reasons to believe that the respondent would not comply with the conditions of a supervision order. The submission relied upon his history of non-compliance with such an order when released in the past; his continuing antipathy towards QCS; his treatment of Mr Smith as an advocate,

rather than a person who might assist him to change his behaviour; the likelihood that Mr Fardon would defy directions if QCS was not sufficiently accommodating towards him, or if he considered restrictions were unreasonable; and his failure in a clinical context to state his unconditional willingness to comply with supervision requirements. It was submitted that if Mr Fardon were to re-offend, the offence would be of similar severity to his 1980 and 1989 offences. It was submitted that supervision is not a realistic alternative.

- [58] It was submitted orally for the applicant that factors which might support Mr Fardon's release subject to a supervision order (his age, his relationship with Mr Smith, the absence of prison breaches, his reduced hostility, and his abstinence from drugs and alcohol), did not in fact reduce the risk of sexual offending to a point where the order could be made. It was submitted that age was not, on the evidence, a factor which reduced the risk of offending. The incident with Ms Spencer demonstrated a level of hostility which might emerge in circumstances Mr Fardon would face in the community. His engagement in treatment with Mr Smith had not reached the stage of showing a tangible, risk-reducing effect. Moreover, the risk assessment of both psychiatrists was premised on Mr Fardon's compliance with the requirements of a supervision order. However, it was conceded that the risk of any breach anticipated by Dr Beech suggested it would not result in harm to a person. The same appeared to be accepted in relation to breaches of the order anticipated by Dr Grant, with the exception of the risk that Mr Fardon might abscond. It was submitted that a higher degree of satisfaction that Mr Fardon would fully comply with the requirements of a supervision order was required, before he could be released. It was also submitted that, while Mr Fardon's attitude to the supervision of QCS officers was relevant to assessing the likelihood that Mr Fardon would comply with a supervision order, his attitude may not have changed.
- [59] Dr Grant and Dr Beech assessed different levels of risk of Mr Fardon's further offending if released from custody without the imposition of a supervision order. They also assessed different levels of risk of his offending if released subject to a supervision order. The applicant did not submit that, if the risk were reduced by the imposition of a supervision order to either of the levels referred to by the doctors, Mr Fardon should nevertheless remain in custody; rather the challenge was as to whether the reductions would be achieved. Moreover, it might be noted that the submissions for the applicant did not deal with the significance of intervention by QCS officers, consequent upon a breach, for the risk of further offending by Mr Fardon.
- [60] For Mr Fardon, it was submitted that he should be released subject to a supervision order. Reliance was placed on the evidence of Drs Beech and Grant, as demonstrating the benefit of a supervision order. The type of offending considered most likely by Dr Beech was particularly susceptible to minimisation by an order. Reliance was placed on Dr Beech's evidence that a violent sexual assault was now "much less likely". It was submitted that, in the present proceedings, the applicant carries the burden of demonstrating that Mr Fardon should not be released subject to a supervision order. Reliance was placed on Mr Fardon's previous adherence to important conditions, such as abstention from alcohol and illicit drugs. It was also submitted that, if an appropriately strict supervision order were imposed, any breaches would be likely to be detected. It was submitted orally that Mr Smith's therapy, Mr Fardon's insight into his behaviour, and his advancing years, were all

risk-reducing factors. Reliance was also placed on the absence of breaches of prison discipline for some years. As a result, adequate protection of the community could be provided by a supervision order. It was submitted that the issue was not whether there was a risk of a breach of a supervision order, but of serious sexual offending, if Mr Fardon were released subject to such an order. It was submitted that the evidence of Dr Beech and Dr Grant showed that if a supervision order were imposed, it was likely that conduct which might result in re-offending would be identified. It was submitted that breaches of the order which the psychiatrists foresaw would not greatly increase the risk of sexual offending, but would be an initial step along the way to such offending; and would enable intervention to prevent its occurrence.

- [61] The applicant accepted that the onus lay on him to establish that a detention order should be made rather than a supervision order.

Consideration

- [62] The terms used by Dr Grant and Dr Beech to assess the risk that, if released, Mr Fardon would commit a further sexual offence, are rather imprecise descriptors. Dr Beech in his report of 1 August 2012 explained his assessment of a moderately high risk of further sexual offending, as meaning that the risk was greater than for the average sexual offender, but not in the range of those at highest risk. He did not, in the material relied on in the present hearing, explain his assessment of the risk of re-offending as moderate, if Mr Fardon were released subject to a supervision order, though it is plainly lower than a moderately high risk. It is not clear, therefore, whether the risk he assesses that Mr Fardon would commit a sexual offence if released subject to a supervision order, is greater than the risk that the average sexual offender would reoffend.
- [63] Dr Grant, in his report of 22 July 2013, explained the moderate risk he assessed (if Mr Fardon were not subject to a supervision order) as being a risk of re-offending which was greater than for the average sex offender, with the difference being “relatively moderate in extent”. His assessment of the risk of Mr Fardon committing a further sexual offence if released subject to a supervision order as being low to moderate is again obviously of a lower order; but it is not clear whether it is greater than the risk that the average sexual offender would reoffend.
- [64] It is nevertheless unclear, if Mr Fardon were to be released without a supervision order, whether there is a material difference between Dr Grant’s assessment that the risk of reoffending would be moderate; and Dr Beech’s assessment that that risk would be moderately high. Nor is it clear whether, if Mr Fardon were released subject to a supervision order, there is a material difference between their respective assessments of the risk as low to moderate, and moderate. Neither party made anything of the differences in the terms used by the psychiatrists for their assessments. Broadly speaking, the two psychiatrists identified similar factors as relevant to the assessment of the risk that Mr Fardon might offend if released; and identified similar circumstances in which such offending might occur.
- [65] Notwithstanding the differences in terminology, neither of the psychiatrists sought to suggest that the risk that Mr Fardon might offend if released from custody subject to a supervision order was such that his detention should continue. Indeed, Dr Grant expressly stated that Mr Fardon’s rehabilitation in the community could now begin.

- [66] An application may be made for orders under the *DPSOA* only in respect of a person who has committed a serious sexual offence⁹. Even then, a relatively high threshold is set before an order can be made¹⁰. This rather suggests that the mere fact that a person who has committed a serious sexual offence has the same risk of committing a further sexual offence as the average sexual offender, does not provide a basis for making an order under Division 3 of the Act; and in particular, for making an order for the person's continued detention. Nevertheless, decisions about orders are matters of judgment. If the offence which the person might commit would involve significant violence, for example, a detention order might be made, even if the risk were lower than average. Ultimately the Act provides little clear guidance about what constitutes "unacceptable risk" that a person will commit a serious sexual offence; or what level of protection is "adequate protection of the community".
- [67] Mr Fardon's past offences, particularly his sexual offences committed in 1980 and 1989, demonstrate that he has been capable of the commission of sexual offences involving significant violence. There is a significant psychopathic element to his personality. While I accept that the risk that he might commit a violent rape has been significantly reduced, there is a real risk that, if he were released from custody without the imposition of a supervision order, Mr Fardon would commit a sexual offence against a woman with whom he is in a relationship, involving some form of coercion. Given the extended definition of "violence" in the schedule to the *DPSOA*, such an offence could well be a serious sexual offence. Moreover, on Dr Beech's evidence, there remains, if Mr Fardon were simply released from custody, the prospect that, under the influence of alcohol and drugs, Mr Fardon would resort to violence for the purpose of a sexual assault on a stranger. In all the circumstances, and notwithstanding the threshold identified in s 30(2) of the *DPSOA*, I am satisfied that, in the absence of an order under Division 3 of the *DPSOA*, if Mr Fardon were released from custody, he would be a serious danger to the community.
- [68] In determining whether to make a supervision order, the paramount consideration under s 30(4)(a) of the *DPSOA* is the need to ensure adequate protection of the community. It is also necessary to consider, under s 30(4)(b) of the *DPSOA*, whether adequate protection of the community can reasonably and practicably be managed by a supervision order; and whether the requirements of s 16 can reasonably and practicably be managed by QCS officers.
- [69] The requirements of s 16 relate to reporting, providing information including the current name and address, and changes of place of residence and employment, of the person subject to the order; compliance with directions; not leaving Queensland without permission; and not committing an offence of a sexual nature. No evidence was led, and no suggestion was made, that these requirements could not be reasonably and practicably managed by QCS officers. It was accepted by the applicant that s 16 did not give rise to any matter which weighed against the making of a supervision order.
- [70] The substantial question raised by s 30(4) of the *DPSOA* is whether adequate protection of the community can be reasonably and practicably managed by such an

⁹ See s 5, particularly s 5(6), of the *DPSOA*.

¹⁰ See s 13 (1)-(5).

order. In deciding whether to make a supervision order, the paramount consideration is the need to ensure adequate protection of the community.

- [71] The legislation does not in terms specify the type of protection to be considered. However, it seems to me that that is indicated by the legislative context. Thus, the starting point for a review under s 30 is a consideration whether the person is a serious danger to the community in the absence of an order under Division 3. The expression “serious danger to the community” is defined in the schedule to the *DPSOA* by reference to s 13(1). That subsection in turn is explained by s 13(2), by reference to the existence of an unacceptable risk that the person will commit a serious sexual offence. Such an offence is defined in the schedule to mean an offence of a sexual nature involving violence, or against children. In determining whether the person is a serious danger to the community, the court is required to have regard to the matters identified in s 13(4) which are there said to be relevant to the question whether the person is a serious danger to the community, and which in a number of cases are directed to matters relating to sexual offending. In particular, paragraph (h) refers to the risk that the person will commit another serious sexual offence if released into the community; and paragraph (i) refers to the need to protect members of the community from that risk. Section 29 provides for obtaining psychiatric reports for the review, to which the provisions of s 11 are made applicable. Thus the report must indicate the psychiatrist’s assessment of the level of risk that the person will commit another serious sexual offence, and the reasons for the assessment. This context suggests that the primary focus when considering adequate protection of the community is the risk of the commission of a serious sexual offence.
- [72] Mr Fardon’s history of offending is obviously a matter of significant concern. I have referred to this earlier, when considering whether he would be a serious danger to the community if released from custody, without being subject to a supervision order. Although it is now a long time since he was last convicted of a serious sexual offence, the nature of his offending, coupled with the evidence of the psychiatrists as to Mr Fardon’s personality, means that his earlier offending remains quite relevant to the question under consideration.
- [73] The history of his breaches of previous supervision orders is also relevant. The breaches were wilful, and manifest a defiant attitude to previous orders, and to the role of QCS officers in relation to compliance with those orders. However, the breaches vary in their significance. Some emphasis was placed on Mr Fardon’s travelling to North Queensland without approval. Mr Fardon told Dr Beech in May 2012, in respect of this breach, that he was returning to Brisbane when apprehended, a matter not challenged when he gave evidence. Even if that be true, the breach was a matter of some significance. It may be said that, because of his remoteness from supervision by QCS officers, the risk of the commission of a sexual offence was increased; although there has been no suggestion that such an offence was committed on this occasion.
- [74] It seems to me that potentially the most significant breach was Mr Fardon’s going unsupervised to the home of an intellectually disabled woman. That conduct carried with it the risk of the commission of a sexual offence, particularly for someone with Mr Fardon’s personality.
- [75] The fact that Mr Fardon visited licensed premises was also of some significance, given the risk that he might commit a serious sexual offence while under the

influence of alcohol. However, it also seems to me also to be a matter of significance that on the occasions when Mr Fardon was released from custody in the period between September 2006 and April 2008, there is no evidence suggesting that Mr Fardon consumed alcohol, or used illicit substances.

- [76] The breaches of the requirements of supervision orders which have been identified did not include a failure to comply with reporting requirements. Dr Beech records Mr Fardon as saying that there was a hiatus in the reporting conditions, and that his trip to Townsville occurred in this period. It would seem therefore that he complied generally, and perhaps completely, with reporting requirements when previously released from custody¹¹.
- [77] A matter of concern associated with the breaches by Mr Fardon of requirements of previous supervision orders is their association with an underlying negative attitude to officers of the QCS, which meant that Mr Fardon had an attitude of being opposed to directions, and at times he became hostile to the officers themselves. The concern, it seems to me, is not so much whether or not there was some justification for some aspects of Mr Fardon's attitude; rather it is the fact that it seems to have led to breaches of the requirements of an order on some occasions.
- [78] Another reason for concern about Mr Fardon's compliance with the requirements of supervision orders relates to the difficulties he would experience if released from custody. His unfamiliarity with many aspects of ordinary life in the community is likely to cause him difficulty, giving rise to anxiety which, in turn, might make him prone to breach the requirements of a supervision order. Another concern, it seems to me, though not the subject of much attention at the hearing, is the limited support available to Mr Fardon should he be released from custody. Finally, there is some concern about Mr Fardon's capacity (in part affected by matters already referred to) and intention to comply with the requirements of a supervision order.
- [79] There are, however, some matters which suggest the likelihood of compliance. It seems to me to be of some relevance that Mr Fardon has recognised problems he will face if released from custody. I refer in particular to his recognition of the importance of avoiding alcohol and drugs; the need to treat his anxiety and emotional instability; the difficulties he will face with modern life in the community; and his need to address the difficulties he has had with accepting supervision.
- [80] There is also his stated intention to comply with the requirements of a supervision order. The applicant's submissions criticised him for doing this only in his affidavits, and not in a clinical setting. However, one of those affidavits was sworn some time ago, in February of this year. Dr Grant records Mr Fardon as having no objection to GPS monitoring; and that he would be happy to live in the Wacol precinct "in a restricted lifestyle". With regard to a supervision order he also records Mr Fardon as saying "if I have to do it, I have to do it"; and that he had no problems with requirements restricting his activities, although he would be concerned about supervisors imposing extra requirements.
- [81] Associated with this question is Dr Grant's evidence that Mr Fardon showed much greater confidence in his ability to cooperate with a supervision order, which Dr Grant described as "the major change that I've seen ... in the last 12 months or

¹¹ See also the evidence of Dr Beech, quoted in *Attorney-General (Qld) v Fardon* [2013] QCA 64 at [41].

so". It is rather difficult to think that Mr Fardon would be concerned with his ability to cooperate with such an order, absent an intention to do so.

- [82] Both Dr Beech and Dr Grant record Mr Fardon as expressing a wish to be released from prison. In particular, he told Dr Beech that he does not wish to die in prison. It seems to me that this would provide motivation for Mr Fardon to comply with a supervision order.
- [83] Notwithstanding the submissions made on behalf of the applicant, it seems to me that Mr Fardon's relationship with, and receipt of treatment from, Mr Smith are factors which tend to make compliance with the requirements of a supervision order more likely. For the applicant, it was submitted that the evidence demonstrated that while Mr Fardon had engaged in therapy, no progress was shown. However, the evidence from Dr Grant was that Mr Smith's report showed that Mr Fardon was making gradual progress; and there had been some improvement in terms of confidence that Mr Fardon would cooperate with a supervision order and remain breach free. He also said that if Mr Fardon continued in therapy, that would have a positive effect on his ability to adjust to life in the community, and to reduce his anxiety, which was something that made him more difficult to manage. In his report of February 2013, Dr Beech expressed the view that the counselling from Mr Smith was "a significant risk-reducing factor that makes it more likely that he will remain engaged with treatment if released, and from there he will be more likely to use this support to develop strategies to assist him in dealing with the stresses of community living". He also thought that this therapy would assist him with his attitude towards supervision, and the limits imposed by the supervision order, helping him to manage the difficulties associated with this, resulting in fewer material breaches and making it more likely that he would abide by conditions which act to reduce the risk of his re-offending. Since then, Mr Fardon has engaged in a further seven months of therapy. In his current report, after referring to a number of factors, including the therapy, Dr Beech concluded that it would be more likely than not that Mr Fardon would comply generally with a supervision order.
- [84] Mr Fardon intends to continue to be treated by Mr Smith, if released from custody. There was no suggestion that the treatment would not be available to him. Dr Grant referred to the fact that Mr Fardon's relationship with Mr Smith would have to survive Mr Fardon's transition from custody. However no specific risk was identified; and the success of the relationship to date, and Mr Fardon's apparent appreciation of it, suggest rather strongly that it will survive the transition. If so, it is likely to assist Mr Fardon to comply with the requirements of a supervision order; and in particular, to avoid further offending.
- [85] As will be apparent, the evidence indicates a reduction in the negativity of Mr Fardon's attitude towards officers of QCS. Dr Grant recorded Mr Fardon as saying that he had more recent discussions with QCS officers, during which he found them more accommodating, and as a result he felt that he would be more cooperative with them. He also expected QCS officers probably to be different in their dealings with him, when compared to his experience on previous releases. There did, however, remain the suggestion that he would be defiant, if QCS officers were not open to his requests. It is apparent that Mr Fardon's dealings with Mr Smith have provided him with some better basis for understanding requirements imposed on him, although he did not accept uncritically all that Mr Smith conveyed to him.

- [86] Mr Fardon's negative attitude to officers of QCS is of long standing. Nevertheless, for a number of years now, Mr Fardon has not breached prison discipline, nor has he been involved in any significant negative incident. This seems to me relevant in assessing whether, if Mr Fardon were released from custody subject to a supervision order, his attitude to officers of QCS might lead to his breaching the requirements of the order.
- [87] I have previously mentioned Dr Beech considered it more likely than not that Mr Fardon would obey generally the requirements of a supervision order. While there is a risk of some non-compliance, on Dr Beech's evidence that does not appear to be in respect of matters that would be of any significant concern.
- [88] Dr Grant thought some breach of the requirements of a supervision order was likely. Generally, these would be in areas which are not of real concern, in that they would not immediately raise a real risk of some form of sexual offence. The one potential exception raised by Dr Grant was the risk that Mr Fardon would abscond. However, he thought that if that happened, it was likely that Mr Fardon would be caught fairly quickly; and, with GPS monitoring, "absconding is less of an issue".
- [89] The overall effect of the evidence, it seems to me, is that there are significantly better grounds for confidence that Mr Fardon will comply with the requirements of a supervision order now, than was the case on the previous occasions when he was released subject to such an order. Mr Fardon is better motivated to do so. While some hostility to QCS officers remains, its level has reduced. Therapy from Mr Smith is likely to continue to assist in this regard. In any event, Mr Fardon has been able to avoid, for some considerable time, breaches of prison discipline, when this hostility was at a higher level. In the circumstances, his negative attitude to supervision by QCS officers is considerably less likely to result in any breach of the requirements of a supervision order, than was the case when Mr Fardon was released in the past. He experiences considerable anxiety now, while in custody. Some of that would cease on his release; though he would then experience anxiety, perhaps at a greater level, from other sources. He has managed to comply with the requirements of prison discipline notwithstanding his current levels of anxiety. Continuing therapy, together with appropriate supervision, should assist him to cope with anxiety on his release, reducing the risk of non-compliance with the order, because of anxiety and stress. There remains some risk that Mr Fardon would breach an order; but such breaches would not, at least when they first occur, be likely on the evidence to be associated with the commission of a sexual offence.
- [90] However, the real focus of these proceedings is not whether or not Mr Fardon might commit some breach of the requirements of the supervision order. It is whether adequate protection of the community can be reasonably and practicably managed by a supervision order, with the paramount consideration being the need to ensure such protection. In other words, the mere fact that a person the subject of such an order might breach a requirement of it, is not itself decisive.
- [91] In the present case, as I have indicated, if Mr Fardon were released subject to a supervision order, there is reason to be concerned that he might not comply with all of its requirements; although I have identified a number of matters which tend to provide some confidence that, at least in substance, he will comply. However, the evidence of Dr Grant demonstrates that it is unlikely than any breach of a requirement of a supervision order would go undetected for any substantial period

of time. That in turn makes it unlikely that Mr Fardon would progress to committing a sexual offence.

- [92] It is also relevant to consider the nature of any sexual offence which Mr Fardon might commit¹². The major concern identified by both the psychiatrists was that Mr Fardon would form a relationship with a woman, in the course of which he would coerce her into sexual behaviours (as described by Dr Beech¹³); or he would become exploitative and sexually demanding, and would exceed recognised boundaries as a consequence of his sense of entitlement (as described by Dr Grant¹⁴). Notwithstanding the seriousness of such conduct, there is a difference between it and the offences which he committed in 1980 and 1989. While there is also some risk that, under the influence of alcohol or drugs, Mr Fardon might commit a sexual offence involving physical violence, that is substantially less likely.
- [93] I also note that the risk which the psychiatrists assess that Mr Fardon might commit any form of sexual offence, if released subject to a supervision order, appears to be of the order of risk that the average sexual offender would re-offend. The applicant did not attempt to suggest that, with this level of risk, adequate protection of the community was not ensured.
- [94] On balance, it seems to me that if Mr Fardon were released into the community subject to a supervision order including appropriate conditions, adequate protection of the community can be reasonably and practicably managed by the order. There appear to be good prospects that he would comply substantially with the requirements of such an order. Some risk remains that he would breach some requirements of the order; but there is little real risk that he would progress to the commission of a sexual offence.

Conclusion

- [95] I am prepared to affirm the decision that Mr Fardon is a serious danger to the community in the absence of an order made under Div 3 of the *DPSOA*. I am also prepared to rescind the detention order. I am prepared to order that Mr Fardon be released from custody, subject to a supervision order. Though some minor adjustment of the wording may be required, and some further conditions might be appropriate, I consider that exhibit 1 generally identifies suitable conditions to be imposed on Mr Fardon.

¹² *Attorney-General v Lawrence* [2011] QCA 347.

¹³ See T1-34.

¹⁴ See T1-48.