

# SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Downs*  
[2014] QSC 140

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**  
(applicant)  
v  
**RONALD JAMES DOWNS**  
(respondent)

FILE NO/S: BSC 530 of 2008

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 20 June 2014

DELIVERED AT: Brisbane

HEARING DATE: 20 June 2014

JUDGE: Ann Lyons J

ORDER: **The application for further orders pursuant to s 22 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* is dismissed.**

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 released on a supervision order pursuant to the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) in 2008 - where the respondent was subject to contravention proceedings on the basis that it was reasonably suspected that he was an unacceptable risk of contravening requirements of his supervision order – where the applicant requested the court make further orders pursuant to s 22 for the continuing detention of the respondent – whether the respondent was likely to, either at the time of the alleged contravention or at the time of the final hearing, breach his supervision order  
*Dangerous Prisoners (Sexual Offenders) Act 2003, s 22*

COUNSEL: B Mumford for the applicant  
T Ryan for the respondent

SOLICITORS: Crown Law for the applicant

## Howden Sagers for the respondent

**Background**

- [1] In 2008 the applicant sought orders that the respondent be subject to the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the “Act”). Mr Downs was examined by three psychiatrists for the purposes of the original hearing namely Dr Robert Moyle, Dr Josephine Sundin and Dr Michael Beech. At the time of that application in 2008 the respondent was 46 years old and had a lengthy criminal history. That history included property and dishonesty offences over a 30 year period, as well as convictions and sentences for offences of a sexual nature on three occasions:
- (a) On 20 October 1980: The respondent was convicted and sentenced to six months imprisonment for an offence of aggravated sexual assault on a child under the age of 14 years. This offence occurred when the respondent lifted a three year old male child whom he knew from a pram and attempted or simulated intercourse with the child.
  - (b) On 8 November 1999: The respondent pleaded guilty to six counts of indecent dealing with a child under the age of 12 years. The child was the daughter of a friend who was between 4 and 6 years old, and involved conduct which included kissing the complainant on the lips, having the complainant fondle his penis, playing with the complainant’s vagina through her clothing, sucking her nipples and licking on her vagina. The respondent was sentenced to two years’ imprisonment, with parole after nine months.
  - (c) On 14 November 2005: The respondent pleaded guilty and was sentenced to a two and a half year term of imprisonment for the unlawful carnal knowledge of a child under the age of 12 years.
- [2] The report indicate that the respondent suffers from mild mental retardation and was raised in a dysfunctional family with a drunken, violent father and was subjected from a young age to sexual assault by an older brother. I note Daubney J’s reference to the opinion of Dr Moyle in his reasons in the following terms:
- “This 46 year old man has been intellectually disadvantaged all his life, was exposed [precociously] to sexual misbehaviour and was raised in a family where violent expression of emotions was seen as a reasonable way of communication and where discontrol of one’s urges to drink excessively was the norm.”
- [3] The reporting psychiatrists noted that whilst in prison Mr Downs had completed a sex offender program (ISOP). He received a good exit report from the ISOP program which had been designed to meet the needs of the cognitively challenged. Justice Daubney was satisfied that the respondent would be a serious danger to the community in the absence of a Division 3 order. However he was satisfied that the conditions proposed would ensure the “adequate protection of the community” particularly as they would remain in place for 15 years.
- [4] On 7 May 2008 Daubney J, having considered the reports and evidence of the psychiatrists ordered that Mr Downs be released on a supervision order which required him to submit to 37 conditions which included that:
- (xi) he not commit an offence of a sexual nature during the period of the order;

- (xii) he not commit an indictable offence during the period of the order;
- (xix) he abstain from the consumption of alcohol; and
- (xxii) he not visit premises licensed to supply or serve alcohol, without the prior written permission of the authorised Corrective Services officer.

### **Dr Sundin's evidence**

- [5] In the report prepared for the court in 2008, Dr Sundin diagnosed Mr Downs as suffering from:
- (a) paedophilia, sexually attracted to both, non-exclusive, not limited to incest;
  - (b) mild mental retardation (IQ between 55 and 75);
  - (c) an antisocial personality disorder; and
  - (d) alcohol abuse in remission in a controlled environment.
- [6] Dr Sundin noted that the major factor in the respondent's favour was the fact that he had been compliant with the institutional rules of prison and therefore might similarly adapt to community orders. She considered however that his risk for future sexual recidivism remained high. Dr Sundin indicated that if Mr Downs was to be released into the community the orders would need to be highly regimented and she recommended electronic monitoring for a substantial period of time after release. She also indicated:
- “Mr Downs will need very clear orders explained to him of the expectations of his community behaviour and in particular the prohibitions on his behaviour. These will need to be repeated to Mr Downs on quite a number of occasions for him to understand them and for him to begin to understand the need for compliance.”

### **Dr Beech**

- [7] Dr Beech considered that the respondent presented with limited intellectual capacity and assessed him as suffering from mild mental retardation. He also considered that the respondent suffered from post-traumatic stress disorder as a consequence of the childhood sexual abuse he suffered. He also considered that he had an antisocial personality disorder and rated highly on the personality traits of being cunning, irresponsible, lacking empathy and being superficial. Dr Beech considered that the respondent was a non-exclusive paedophile, attracted to females. He stated:
- “His sexual offending should be seen in a light of four critical factors. Firstly he has a very limited intellectual ability to critically think about his behaviour, to control his urges and to learn ways to cope. Secondly he suffers from a sexual deviance with an attraction to young girls. Thirdly he has come through his childhood with very distorted views about sexual relationships as a result of his own abuse and as a result of his father's coarse sexist teachings. Finally, he is antisocial, again probably as a result of a highly prejudiced childhood, and prone to lawbreaking and is dismissive of social morals and rules.”
- [8] Dr Beech considered that all of those factors meant treatment and management was complex. He also noted that he had a limited capacity to accept his role and

responsibility in the offending, particularly given his views that young women were flirtatious and the instigators of sexual advances. Dr Beech was satisfied that if the respondent was released into the community without supervision he would be a high risk of reoffending sexually and that the offences would be of a similar nature involving forming a relationship with a person who has a young female child and positioning himself over time into a situation of confidence to allow him to prey on children. However, Dr Beech considered that his risk of sexual reoffending would be significantly reduced if he was closely monitored and limits were placed on him. He considered that supervision should be strict given his history of breaches of bail conditions in the past. With appropriate conditions Dr Beech thought the risk would be reduced to moderate.

### **History since release**

- [9] Mr Downs was released in May 2008 and initially resided at the Wacol Precinct for two years until accommodation was found for him in a house nearby close to the railway station at Wacol. He had a number of supports in the community, particularly from members of a church fellowship, who would visit him and check on his living circumstances and how he was coping. He also had the support of his brother and his brother's wife. The respondent saw his psychologist Lars Madsen regularly and he also had a good relationship with his case officer. It was noted that he would regularly telephone his case officer for assistance particularly when he was under stress or thinking bad thoughts. He was subject to a curfew of 10pm whilst in the community.

### **The alleged contravention**

- [10] It is alleged that on 19 February 2014 the respondent breached the supervision order because he confirmed with an officer of the High Risk Offender Management Unit details of a conversation he had with another offender on 13 February 2014 in which he expressed his desire to abduct a child and commit sexual offences against that child. The Integrated Offender Management System notes record that Mr Downs told an officer "He was so pissed off with everything going on with his brother" he had had thoughts last week of "going stupid". He stated he planned to go to a hotel, get drunk, wait at the train station for a girl or whatever to come along so he could take them to his house and "have a bloody good time with them". He said however that he did not follow through with that plan. On the basis of that information the officer swore a Complaint and Arrest Warrant dated 19 February 2014 stating;

"Ronald Downs has expressed thoughts, described a plan, identified a potential target and has the means to follow through with a sexual offence. On this basis, I reasonably suspect that Ronald Downs is an unacceptable risk of contravening conditions (xi), (xii), (xix) and (xx) of his supervision order issued in the Supreme Court at Brisbane on 7 May 2008."

- [11] It would seem clear that on 13 February 2008 however that Mr Downs did not in fact breach any of the conditions of his supervision order but rather went back to his home and took out his frustrations on the washing. He subsequently stated that he did not proceed with his plan because of what he had been previously told by his psychiatrist, because he had a GPS monitor and because of the support people he

had in his life. I also note that Mr Downs has not previously been the subject of contravention proceedings in respect of his order.

- [12] It would be apparent therefore that Mr Downs was subject to these contravention proceedings on the basis that it was reasonably suspected that he was an unacceptable risk of contravening requirements (xi), (xii), (xix) and (xx) of the supervision order made in relation to him under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the Act) on 7 May 2008. It was not alleged that the respondent had in fact contravened any of the requirements but rather was an “unacceptable risk” of breaching the supervision order.
- [13] The respondent has been detained in custody in relation to the alleged contravention since 20 February 2014 which is a period of four months.

### **The requirements of s 22**

- [14] It would seem clear that a warrant for the arrest of the respondent was issued pursuant to s 20 of the Act when the officer states he reasonably suspected that the respondent had contravened a supervision order. Section 21 then required that he be detained in custody until the decision of the court under s 22.
- [15] Pursuant to s 22 the court must be 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. Section 22 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.

(3) For the purpose of deciding whether to make a continuing detention order as mentioned in subsection (2)(a), the court may do any or all of the following—

- (a) act on any evidence before it or that was before the court when the existing order was made;
- (b) make any order necessary to enable evidence of a kind mentioned in section 13(4) to be brought before it, including, for example, an order—
  - (i) in the nature of a risk assessment order, subject to the restriction under section 8(2); or

- (ii) for the revision of a report about the released prisoner produced under section 8A;
  - (c) consider any further report or revised report in the nature of a report of a type mentioned in section 8A.
- (4) To remove any doubt, it is declared that the court need not make an order in the nature of a risk assessment order if the court is satisfied that the evidence otherwise available under subsection (3) is sufficient to make a decision under subsection (2)(a).
- (5) If the court makes an order in the nature of a risk assessment order, the psychiatrist or each psychiatrist examining the released prisoner must prepare a report about the released prisoner and, for that purpose, section 11 applies.
- (6) For applying section 11 to the preparation of the report—
- (a) section 11(2) applies with the necessary changes; and
  - (b) section 11(3) only applies to the extent that a report or information mentioned in the subsection has not previously been given to the psychiatrist.
- (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.
- (8) The existing order may not be amended under subsection (7)(b) so as to remove any requirements mentioned in section 16(1).”

- [16] If a breach is proven, the released prisoner must satisfy the court on the balance of probabilities that despite the contravention or likely contravention of the existing order the adequate protection of the community can be ensured by the existing order or amended order. Unless that onus is satisfied 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.
- [17] The question for the court therefore is whether the court is satisfied on the balance of probabilities that the respondent “is likely to contravene a particular condition of the supervision order.” The difficulty is that the section does not make it clear the point in time the court is required to make that assessment.
- [18] Doctors Beech and Sundin prepared further reports dated 24 March 2014 and 20 May 2014 respectively in which they fundamentally endorsed their previous reports and discussed the alleged contravention.

## Submissions

- [19] The applicant submits that there is sufficient evidence to conclude that Mr Downs is likely to contravene conditions (xi), (xii), (xix) and (xx) of the supervision order imposed by Daubney J on 7 May 2008. In its supplementary outline, the applicant submits that the Act contemplates taking action by through the issuing of a warrant in the circumstances where a contravention is “*likely*”. In the circumstances of s 22 of the Act, the applicant submits that the term “likely” must mean “probable” or “potential”. In this case, the applicant submits that the respondent has made a statement of intent to get intoxicated and offend against a young female in response to external stressors. In these circumstances, the applicant submits that a contravention was likely as at 19 February 2014. The applicant considers that this is relevant date for the assessment of the likely contravention, rather than at the time of the final hearing.
- [20] The respondent submits that at the present time, the opinions of the psychiatrists do not establish, on the balance of probabilities, that Mr Downs is likely to contravene conditions (xi), (xii), (xix) and (xx) of the supervision order. The respondent submits that the court is to consider whether Mr Downs is likely to contravene his supervision order at the time of the final hearing, rather than at the time that the warrant was issued pursuant to s 20 of the Act. The respondent argues that while there may exist the possibility of a contravention in the future, the mere existence of that possibility does not make a contravention “likely” and consequently this possibility does not satisfy the test within s 22(1) of the Act.

## Dr Beech’s opinion

- [21] Dr Beech noted the respondent’s mild intellectual impairment, his traumatic childhood and the fact he suffered from a form of post-traumatic stress disorder. He noted a significant criminal history with a range of offences that included fraud and deceit. He also noted that Mr Downs had been an impulsive man during his life and was prone to suffering adversely from stress and to acting out in sometimes a reckless manner, or with significant emotional volatility. He stated that over time there was evidence that this had settled and matured, probably in the context of quite significant psychological therapy and the passage of years. Dr Beech noted the history of sexual reoffending and Dr Madsen’s view that there were two periods of sexual offending.
- [22] He considered that Mr Downs suffers from paedophilia, although he has been able to engage in adult relationships. He noted that there had been two victim types, one type, who had been children placed in his care, with whom he has formed some sort of relationship and used that as an opportunity to offend. The other type of victim had been the result of more impulsive acts when he had approached people and indecently assaulted them, or attempted to do so. These have been strangers off the street. He considers that Mr Downs has “quite significant psychopathic traits”.
- [23] Overall however Dr Beech considered that Mr Downs has done well on a supervision order. Whilst there have been some breaches of the order, they have been in relation to issues of impulsivity. He did not consider there had been any significant contraventions since 2008 and considered that he had benefited from the counselling and support that the order has facilitated. He considered that he had used counselling appropriately and had been able to progress in the community. He

considered he was able to live in a semi independent fashion. He had maintained an association with church groups and had engaged in a variety of activities but had not formed any intimate relationships. He considered that Mr Downs' support system, when called upon, seemed to be "tenuous".

- [24] Dr Beech considered that the current alleged contravention occurred in the context of a significant stressor in that his brother who was another supervised sex offender had been returned to custody. His brother and his brother's partner were one of his few and regular visitors. Dr Beech considered he was genuinely concerned about his brother's welfare particularly given there were thoughts that he had been assaulted in the watch house. Dr Beech stated, "The material indicates that over time Mr Downs became increasingly distressed by the circumstances. In my opinion, it is likely that he then, in this stressful period returned to using sex as a form of coping. As the stressors mounted his thoughts turned again to sexual activity and he developed reckless thought of going to the railway station and abducting or coercing or simply urging a female to return with him to his house." He continued:

"I think at interview he tends to minimise the extent and nature of the thinking that he had at that time. It is possible that Mr Downs though did have those thoughts, acted appropriately to choose some of the strategies he learned, and then reported them to his case officer in an attempt to garner some praise. However, I am not ultimately convinced that this was the most likely scenario and I have a worrying concern that in fact that what Mr Downs reported was a post hoc account of an aborted near miss offence. He has in the past acted impulsively to attempt to abduct a child. It is likely that he does have those thoughts and moments of distress. I think that it is quite possible that he did set about walking towards the station with that in mind but, to his credit, he brought himself up the driveway and returned to the house. It is unclear but it seems that he may have started to do it again on the following day but again held himself back and returned to strategies that he had learned. I am concerned that although he seems to have called up support persons he did not follow through with this.

It is my opinion that in these moments of stress Mr Downs did go back to old patterns of thinking and did return to thoughts about using sex as a coping mechanism. I think that there was a period of time when his risk of gaining victim access was mounting and the risk of sexual offence had heightened.

Overall, though, I consider that his general trajectory has been a positive one and that with the passage of time the risk has now reduced again. I think that with appropriate supports in the community including more frequent counselling sessions with Dr Madsen and continuing oversight that the risk of further offences has now reduced back to the level it was when he was released in 2008. Ultimately it is my belief that without a supervision order Mr Downs is in the group of people of high risk of reoffending. With supervision and support this risk returns to moderate. However, case officers, support persons and counsellors need to keep an eye on his mental state so that timely interventions can be put in place if there is

ever evidence that he is becoming increasingly stressed. I do not think the risk of this occurring is imminent but more likely to follow the pattern as it did this time with evidence of mounting concern.”

- [25] Dr Beech considered that the use of a GPS monitor was important given that he was still prone to impulsive urges and given his intellectual impairment has difficulties processing information and solving problems.

### **Dr Sundin’s report**

- [26] Dr Sundin noted her previous report of 4 April 2008 where she considered that Mr Downs had a high score on the HARE psychopathy scale but not such as would attract a label of psychopath. She considered that overall on all the risk assessment instruments the respondent represented an overall high risk for future sexual recidivism. She noted that his mild mental retardation, his antisocial personality disorder and a lack of reliability on self-reporting would pose difficulties for Corrective Services in the management of him in the community.
- [27] Dr Sundin also noted his history of impulsive acts in the past, a range of exploitative behaviours as well as misogynistic attitudes that were voiced by him. She also considered that if he were released into the community, he needed to be highly regimented and that he needed clear curfew and electronic monitoring for a substantial period of time after release, together with abstinence from alcohol. In terms of his behaviour since he had been placed on a supervision order Dr Sundin noted that Mr Downs had been in the community for a six year period and that he had not sexually reoffended in that time. Dr Sundin considered that whilst there had been some breaches of his order he has not engaged in any antisocial behaviours, indictable offences or sexual offences. She also noted he had not abused alcohol or other substances and had remained engaged with both the prison fellowship and church organisations.
- [28] Dr Sundin indicated that Mr Downs had continued to see his psychologist on a regular basis and had not only achieved independent living but maintained it. Dr Sundin considered that Mr Downs continued to maintain a moderate to high level of sexual interest/sexual preoccupation. She also considered he had ongoing cognitive distortions as to young females approaching him or others and asking for sex, and that he had continued to access the internet for the purposes of viewing pornography on a regular basis. Dr Sundin stated that the level of access and attention was questionable and whilst it appeared that he accessed the material consistently, she notes that he denies that he is masturbating to it, and that he maintains his interest is only in adult sexual contacts.
- [29] Dr Sundin also indicated that he was seeing his psychologist consistently and was demonstrating evidence of positive impression management. He had participated in a group sex offenders’ program but notes that Dr Madsen has expressed concerns about the way in which Mr Downs had reverted back to his stance of victim blaming and non-acceptance of responsibility for his actions. Dr Sundin stated that Mr Downs has a sense of frustration with his curfew and his electronic monitoring device, arguing he has been assaulted because he wears such a device and that it interferes with his prospects of employment. Dr Sundin indicated that she was mindful of Mr Downs’ ongoing cognitive distortions around sexual issues, his mild mental retardation, his continued evidence of impulsive decision-making and

continued evidence of positive impression management and a lack of reliable accounting of his movements. She was encouraged by his engagement with church and prison fellowship and his attendance with Dr Madsen.

- [30] However, Dr Sundin indicated that she still had caution in relation to his safety within the community and his persistent sexually deviant attitudes. She indicated that Mr Downs had solidified his awareness that to substantively breach his order will result in a return to jail. However, there was an absence of any appreciation of the wrongness of his offending behaviour. Dr Sundin considered Mr Downs manifested emotional dysregulation and threatened to grab a girl/child and sexually engage with them. She indicated this statement was made to at least two Corrective Services officers but now maintains he made no such claim, and is insistent that Corrective Services overreacted and misinterpreted what were the nine statements.
- [31] In conclusion, Dr Sundin indicated she continued to be of the opinion that Mr Downs represents an unacceptably high risk to the community were he to be unsupervised. She considered all of the conditions put in place by Justice Daubney needed to remain in place. She considered there needed to be the objective record of his movements, given his inability to reliably give a report. She noted that the greatest risk would be to children should he be put in some sort of caregiver role and that the other issue was disinhibition arising from intoxication but noted that that does not appear to have been a problem during the supervision period. Whilst Dr Sundin would be prepared to reduce his curfew or lift the curfew hours, she was reluctant to withdraw the GPS tracking device. She considered that this was a “necessary contingency management strategy in an impulsive man vulnerable to emotional dysregulation, who engages in positive impression management and who is unreliable in his self report of his movements”.

### Conclusion

- [32] In my view s 22 requires the court at the time of the hearing of the application to be satisfied in relation to the issue of contravention. The question for the court is whether at that point in time the court is satisfied on the balance of probabilities that the respondent “is *likely* to contravene, is contravening or has contravened a requirement of a supervision order”.
- [33] In terms of whether the respondent is likely to contravene his supervision order in the future, having considered the reports of Dr Beech and Dr Sundin and the affidavits of Mr Smith and Mr Wilden, I am not satisfied on the balance of probabilities that at this point in time the respondent is currently **likely** to contravene a requirement of the supervision order.
- [34] I note Dr Beech’s view that Mr Downs had progressed in the community and that overall he has done well on the supervision order during the last six years. He considered that he had matured, that he had benefitted from counselling and was able to live in the community in a semi independent fashion despite his cognitive difficulties. Dr Beech considered that when he was under stress Mr Downs had resorted to his old ways of coping by using sex. It would seem clear however that Mr Downs used the strategies he had been taught to overcome those issues and he did not revert to offending behaviour.

- [35] I also note that Dr Sundin also considered that Mr Downs has not sexually reoffended at all whilst he has been in the community for the last six years. Dr Sundin however stressed the importance of a strict supervision regime and its importance to Mr Downs. Significantly he has not used alcohol or other substances and he is engaged with his psychologist, prison fellowship and church organisations.
- [36] In my view Mr Downs is not “likely” to contravene the supervision order because the conditions imposed are appropriately managing the risk posed. If I am wrong in this regard and s 22 requires the court to assess the question at the time Mr Downs was arrested I am not satisfied that as at 19 February 2014 Mr Downs was “likely” to contravene, was contravening or had contravened his supervision order, on the balance of probabilities. It would seem to me that whilst Mr Downs experienced thoughts of going to the hotel and getting drunk, and then going to the train station to find someone to have sexual activity with, he did not in fact go to the pub or get drunk and he did not go to the railway station. Whilst he walked out of his house with the intention of walking towards the station, it would seem that the evidence indicates he in fact stopped himself in the driveway, was able to control himself and return to his house. He then took out his frustration by doing household chores. It is clear that he did not approach the railway station.
- [37] It would also seem clear that after that he returned to his residence and the next day called his case officer to tell her that he felt stressed and that he had had those thoughts. During the following week he attended his church, maintained his usual routine and ultimately indicated that the stressors had gone away. I accept Dr Beech’s opinion that there was a period of time where there was a risk of him contravening the supervision order but that period of time passed. He was able to use his strategies to distract himself and did not drink and did not approach anyone for the purposes of sex. By 19 February 2014 not only had Mr Downs not breached his supervision order but he was not at that point in time “likely” to contravene it.
- [38] Whilst there might have been some evidence for an officer to have a ‘reasonable suspicion’ as required by s 20 I am not satisfied that the requirements of s 22 have been satisfied and there is no basis therefore for making further orders.
- [39] The application for further orders pursuant to s 22 should be dismissed. There is no doubt however that the supervision order put in place on 7 May 2008 should continue for the period of 15 years of the original order.