

SUPREME COURT OF QUEENSLAND

CITATION: *Attorney-General for the State of Queensland v Griffin* [2018] QSC 157

PARTIES: **ATTORNEY-GENERAL FOR THE STATE OF QUEENSLAND**
(applicant)
v
PAUL MARK GRIFFIN
(respondent)

FILE NO: 1647 of 2018

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court of Queensland at Brisbane

DELIVERED ON: 9 July 2018

DELIVERED AT: Brisbane

HEARING DATE: 9 July 2018

JUDGE: Applegarth J

ORDER: **The respondent be released subject to a supervision order for a period of 10 years.**

CATCHWORDS: CRIMINAL LAW – SENTENCE – SENTENCING ORDERS – ORDERS AND DECLARATIONS RELATING TO SERIOUS OR VIOLENT SEXUAL OFFENDERS OR DANGEROUS SEXUAL OFFENDERS – DANGEROUS SEXUAL OFFENDER – GENERALLY — where the applicant seeks for an order pursuant to s 13 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) – where the respondent concedes that on the evidence the Court would be satisfied to the requisite high degree that he is a serious danger to the community in the absence of a Part 2, Division 3 order – where the evidence supports the conclusion that a supervision order will provide adequate protection of the community

COUNSEL: M Maloney for the applicant
S Robb for the respondent

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

- [1] The applicant seeks an order under s 13 of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld). The applicant acknowledges that, on the evidence before the Court, it is open to conclude that adequate protection of the community can be ensured by a supervision order in the terms proposed.
- [2] The respondent concedes that, on the evidence including the expert evidence, the Court would be satisfied to the requisite high degree that he is a serious danger to the community in the absence of a Part 2, Division 3 order.
- [3] The respondent submits that the proposed supervision order will be effective in managing the unmodified risk that he will commit a serious sexual offence if released.
- [4] The making of an order in the terms of the draft supervision order provided by the applicant, for a term of 10 years' duration, is not opposed.
- [5] Although the making of a supervision order is not opposed and the applicant concedes that it is open to make such an order for a period of 10 years, I should independently exercise my discretion as to the making of an order and my discretion as to the kind of order which is made.
- [6] The following part of these reasons in relation to the facts (which are not in dispute) and the relevant legal principles are drawn heavily from the written submissions of the applicant and the respondent.

The statutory scheme

- [7] The objects of the Act and its scheme are well-established and it is not necessary to quote the terms of s 13 and other provisions.
- [8] The first enquiry is whether or not the respondent is a serious danger to the community in the absence of a Division 3 Order. The statutory test is whether there is an unacceptable risk that the prisoner will commit a serious sexual offence if released without a Division 3 order.¹ That matter must be proven by sufficient cogent evidence, and the Court is required to consider each of the matters stated in s 13(4). If satisfied to the high degree of probability required that, if released without a Division 3 order there is an unacceptable risk that the respondent will commit a "serious sexual offence", then the second inquiry is as to the form of order to be made. In considering these matters, the paramount consideration is to ensure adequate protection of the community.
- [9] It is for the applicant to establish that adequate protection of the community cannot be ensured by the adoption of a supervision order.² PD McMurdo J (as his Honour then was) in *Attorney-General for State of Queensland v S*. said:

“[38] Other judgments of the Court of Appeal have expressed the present question somewhat differently. In *Attorney-General (Qld) v Lawrence*,

¹ *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) ("The Act") s 13 (2).

² See *Attorney-General for the State of Queensland v Lawrence* [2009] QCA 136.

Chesterman JA (with whom Margaret Wilson J agreed) said this as to the relevant onus of proof:

‘[I]n cases where the Attorney-General contends that the community will not be adequately protected by a prisoner’s release on supervision the burden of proving the contention is on the Attorney. The exceptional restriction of the prisoner’s liberty, after he has served the whole of whatever imprisonment was imposed for the crimes he committed, and for the protection of the public only, should not be imposed unless the inadequacy of a supervision order is demonstrated. The liberties of the subject and the wider public interest are best protected by insisting that the Attorney-General, as applicant, discharges the burden of proving that only a continuing detention order will provide adequate protection to the community.’³

Similarly, in *Yeo v Attorney-General (Qld)*, Margaret McMurdo P (with whom White JA agreed) said:

“[73] Under s 13(6), the paramount consideration in determining whether to order a continuing detention order or a supervision order is the need to ensure adequate protection of the community. This requires the judge to make a value judgment based on the evidence. It is impossible to eliminate all risk of criminal offending, including offending against children, from a community. A judge must determine what is adequate protection of the community in all the circumstances (*Attorney-General v Sutherland* [2006] QSC 268, [28]-[30]; *Attorney-General v DGK* [2011] QSC 73, [28]). The respondent has not persuaded me that the adequate protection of the community in this case cannot be assured by the release of the appellant into the community under a carefully structured supervision order, conscientiously supervised by corrective services officers. It follows that I must release the appellant on an appropriate supervision order.”⁴

[10] Ultimately, it must be open to conclude that, “... a supervision order would be efficacious in constraining the respondent’s behaviour by preventing the opportunity for the commission of sexual offences.”⁵

[11] It has been said:

“The means of providing the protection, and avoiding that risk, is a supervision order. When a court is assessing whether a supervision order can reasonably and practically manage the adequate protection of the community, it is necessarily assessing the protection the order can provide against that risk. Before making the

³ *Attorney-General for the State of Queensland v S*. [2015] QSC 157 [38].

⁴ *Yeo v Attorney-General for the State of Queensland* [2011] QCA 170 at [73].

⁵ See *Attorney-General for the State of Queensland v Fardon* [2011] QCA 111 per Chesterman JA at [29].

order a court has to reach a positive conclusion that the supervision order will provide adequate protection.”⁶

- [12] A relevant consideration is whether the respondent is likely to comply with the requirements of a supervision order. If the respondent is unlikely to comply with the requirements of a supervision order, and the result of such non-compliance would present an unacceptable risk of the commission of a serious sexual offence, then a supervision order is most unlikely to be made. Ultimately, the Court must be satisfied that adequate protection of the community can be reasonably and practicably ensured by a supervision order. However, this does not entail proof that a supervision order is unlikely to be contravened, even in some trivial way. Many supervision orders contain numerous and exacting requirements which are designed to reduce risk and encourage positive behaviour by the respondent. Non-compliance with a particular provision may not, in itself, signal that the respondent has become an unacceptable risk of committing a serious sexual offence. Instead, it may alert the authorities supervising the respondent to a problem which needs to be addressed. Therefore, whilst I do not have to be satisfied to a high degree that every requirement in the supervision order is likely to be complied with over a period of 10 years, I have to consider whether the respondent is likely to comply with it. Any supervision order carries some risk that it will not be complied with. The relevant issue is whether the terms of the supervision order provide adequate protection of the community.
- [13] Relevant to the making of an order pursuant to s 13(5) for continuing detention or supervised release is whether a supervision order would ensure adequate protection of the community and whether its requirements can be reasonably and practicably managed by corrective services officers.⁷ Unless evidence is before the Court to indicate otherwise, the Act assumes that the requirements of supervision orders can be reasonably and practicably managed by corrective services officers.⁸
- [14] There is an implicit requirement in s 13 that a continuing detention order should only be made where the applicant proves that the community cannot be adequately protected by a supervision order.⁹ A supervision order need not be risk free; that would be an impossible bar.¹⁰ The starting position for a s 13(5) order is a supervision order; for that starting position to be displaced, the applicant must prove a continuing detention order is an appropriate order:¹¹

“The question is whether the protection of the community is adequately ensured. If supervision of the prisoner is apt to ensure adequate protection, having regard to the risk to the community posed by the prisoner, then an order for supervised release should, in principle, be preferred to a continuing detention order on the basis that the intrusions of the act upon the liberty of the subject are exceptional,

⁶ See *Turnbull v Attorney-General for the State of Queensland* [2015] QCA 54 at [36].

⁷ The Act s 13(6).

⁸ *Attorney-General (Qld) v Francis* [2007] 1 Qd R 396 at [37].

⁹ *Attorney-General for the State of Queensland v Sutherland* [2006] QSC 268 at [27].

¹⁰ *Attorney-General v Francis* [2006] QCA 324 at [39].

¹¹ *Attorney-General for the State of Qld v Lawrence* [2010] 1 Qd R 505 at 512 at [31].

and the liberty of the subject should be constrained to no greater extent than is warranted by the statute which authorised such constraint.”¹²

- [15] If a supervision order is made, the Court must state the period for which a supervision is to have effect. The minimum period for which a supervision order can be imposed is five years.¹³

Overview of the facts

- [16] The respondent was born on 8 June 1986, and is now 32 years old. In 2008, he was convicted in the District Court at Napier in New Zealand of attempting to rape a female child under 12. On 13 August 2015, he was convicted of rape of a child. He was sentenced to three years and six months imprisonment. His full term release date is 20 July 2018. This offence is the index offence giving rise to the application for orders under s 13 of the Act.
- [17] The respondent has convictions for sexual offending against children in New Zealand and Queensland. The respondent has made admissions regarding other potential offending conduct and with respect to a sexual preoccupation with female children. It is reasonable to conclude, on the psychological and psychiatric reports and the respondent’s offending history, that he has a demonstrated pattern of offending sexually against children that involves predatory grooming,¹⁴ and that he has a propensity to commit serious sexual offences in the future.¹⁵
- [18] On 13 August 2015, in the District Court at Ipswich, the respondent pleaded guilty to one count of rape. He was sentenced by Richards J to three years and six months imprisonment. A period of 203 days of pre-sentence custody was declared as time already served.
- [19] On present calculations, the respondent is due for release on 20 July 2018.

Criminal history

- [20] The following table outlines the respondent’s relevant criminal history:

Date	Description of Offence	Sentence
District Court of Napier, New Zealand 12/07/2008	<ul style="list-style-type: none"> • Attempt to rape female under 12 	Conviction recorded. Order that the offender be imprisoned for a period of five years.

¹² *Attorney-General v Francis* [2006] QCA 324 at [39].

¹³ The Act s 13A.

¹⁴ At s 13(4)(d).

¹⁵ At s 13(4)(c).

District Court at Ipswich 13/08/2015	<ul style="list-style-type: none"> • Rape (on 29/12/2014) 	Conviction recorded. Order that the offender be imprisoned for a period of three years and six months. The court declared that 203 days of pre-sentence custody be imprisonment already served under the sentence. Parole eligibility be fixed at 21/04/2016.
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Previous offences of a sexual nature

- [21] On 12 July 2008, in the District Court at Napier, New Zealand, the respondent pleaded guilty to one count of attempt to rape a female under 12.
- [22] The victim was six years of age. The respondent had become close friends with the victim's mother and he had become a trusted visitor at the victim's home. On the day of the offending the victim was being cared for by a babysitter and the respondent visited the house. Upon arriving he cuddled the victim on a bed until the babysitter intervened. The respondent then took the victim outside and played with her in an area that was sheltered from view of the babysitter. The respondent removed the victim's lower clothing and sat her on his lap and attempted to penetrate her genitalia with his penis. He was then interrupted by the victim's ten year old sister and then ran off, leaving the house.
- [23] The respondent was sentenced to five years' imprisonment.
- [24] Following his release from custody the respondent was deported to Australia where he was subject to the Australian National Child Offender Register and required to report to police.

The current offences

- [25] On 13 August 2015, in the District Court at Ipswich, the respondent pleaded guilty to one count of rape.
- [26] The victim was eight years old at the time of the offending. The victim's referred to the respondent as her "uncle". On 29 December 2014, the victim's mother took the victim and the victim's sister to visit her grandmother. The respondent lived with the grandmother. The victim, her sister and the respondent were watching movies in the respondent's bedroom, the victim and her sister were lying on either side of the respondent on the bed. The victim was laying under a blanket.
- [27] The respondent put his hand down the victim's pants and inside her underwear and has then put his finger into her vagina. The victim told him to stop, but he continued to touch her. The victim said "it hurt a bit". The victim has then got up and left the bedroom.
- [28] The offending was detected in January 2015. At this time the victim disclosed to her mother what had happened. The respondent was contacted in a pretext telephone conversation with the victim's mother. During this conversation the prosecution noted the respondent "was not fully

willing to accept the offending; in fact it could probably be best described by him as a minimalist approach to the allegation”.

- [29] When police spoke to the respondent about the offending he refused to participate in an interview.
- [30] In the sentencing submissions the prosecution noted that the respondent committed the current offence against a child approximately one year after his release from custody in New Zealand for an offence of a similar nature. The prosecution also noted the trauma of the respondent’s offending against the child victim and her mother. The prosecution stated the respondent’s offending was “quite unprompted, but in a sense, quite brazen because there were other adults at or about the house at the time, and he knew that. And he raped this child in front of another child, although I must confess, that the other child gave no evidence to suggest that she saw anything ... it shows his risk factors in any event ...”.
- [31] In passing sentence Richards DCJ stated “You were a family friend and as a result, there was a certain amount of trust placed in you, which you clearly abused”.
- [32] The respondent was sentenced to three years and six months imprisonment. A period of 203 days of pre-sentence custody was declared as time already served. A parole eligibility date of 21 April 2016 was made.

Drug and alcohol history

- [33] The respondent does not smoke and only drinks alcohol occasionally. In the past he has occasionally used cannabis but has never used any other illicit substance.

Medical and psychiatric history

- [34] The respondent reported to Dr Beech that he has no significant medical history.
- [35] The respondent denies any significant psychiatric history.

Events in prison

Prison conduct

- [36] The respondent is currently incarcerated at Wolston Correctional Centre and has a high security classification. In May 2016, he was approved for transfer to residential.
- [37] In general the respondent’s conduct, hygiene and behaviour towards officers has consistently been reported as satisfactory. The respondent is a quiet and compliant prisoner. There have been no institutional behaviour concerns.
- [38] During his current custodial episode the respondent has held various employment positions including as the visits cleaner and in the Stainless Steel Workshop. He experienced some difficulties with the senior workers in the Stainless Steel Workshop. Overall the respondent demonstrated a genuine interest and good work ethic in the workshop and attended work regularly.

- [39] The respondent has not undertaken any vocational or educational programs.

Treatment Programs

- [40] Whilst in custody in New Zealand, on 12 December 2012, the respondent completed a treatment program at the Te Piriti Special Treatment Unit for treatment of his sexual offending. Program Facilitators noted that the respondent often had to be encouraged to participate in activities as his mood was often negative. It was further noted that his lack of confidence and low self-esteem became barriers to his treatment. Further, the respondent had issues with motivation and commitment during the program.
- [41] During the program the respondent described that at the time of his offending he had low mood, low self-esteem, sexual preoccupation, was sexually attracted to the victim and did not have an intimate partner. Of particular concern was that he “described cognitive distortions that allowed him to offend against the victim, such as it is alright for males and females to have sex regardless of age, the victim was old enough and she wanted it”.
- [42] Program Facilitators noted that whilst the respondent took responsibility for his offending he had a tendency to focus on the negative aspects to himself which at times permitted him to forget the consequences and effects of his offending, particularly in relation to his victim.
- [43] During the program a Penile Plethysmography was conducted with the respondent. The results indicated:

“Significant arousal to both male and female stimuli across a range of ages from prepubescent through adult and involving both coercive and passive stimuli. Mr Griffin reported that he had been most aroused to coercive situations involving prepubescent girls, though he said that he was working on increasing his arousal to adult females in consenting situations. He explained that he may have been aroused to young males as he now has more homosexual friends. Mr Griffin reported that in the early stages of the assessment he had tried to suppress his arousal to stimuli involving younger girls but had failed.

...

He acknowledged that he was sexually preoccupied and understood the need to ensure that he was not masturbating to deviant fantasies and images. Mr Griffin reported his efforts to formulate and use an appropriate adult fantasy. He also acknowledged experiencing deviant thoughts of girls aged 10-18 years which he continues to need to manage. Mr Griffin confirmed that in the past he had found it easier to communicate and spend time with children, that he felt shy around adults and had never had a girlfriend.

Overall Mr Griffin’s arousal pattern was consistent with his self report and indicated a high degree of general sexual preoccupation.”

- [44] On 17 March 2016, the respondent completed the Getting Started: Preparatory Program (GS:PP) at Wolston Correctional Centre. Program Facilitators noted at the conclusion of the program that the respondent demonstrated an increasing insight into his sexual offending behaviour and accepted full responsibility for his sexual offending behaviour. Further it was noted the respondent was able to demonstrate empathy for his victim as well as general empathy towards others.

- [45] In the completion report it was noted the respondent demonstrated a commitment to change and willingness to participate in future sexual offending programs. Overall, Program Facilitators observed the respondent was open in discussing his offending and an active contributor during group discussions.
- [46] During the GS:PP it was noted that the respondent presented with cognitive responsivity factors which present as a barrier to future participation on sexual offending programs. It was recommended that he be further assessed for suitability in the Inclusion Sexual Offending Program (ISOP) to best accommodate these factors.
- [47] On 7 July 2016, an interpretative report of WAIS-IV Testing was completed based on a psychological assessment with the respondent undertaken on 18 February 2016 which resulted in a recommendation that he undertake the ISOP.
- [48] On 7 December 2016, the respondent completed the ISOP at the Wolston Correctional Centre. He participated in the program between 26 July 2016 and 7 December 2016, attending a total of 48 sessions. In an exit report detailing the respondent's participation in the ISOP, Program Facilitators reported his level of confidence increased as the program progressed which was evident in his contributions to group discussions and interaction within the group. Facilitators noted the respondent's general motivation and engagement fluctuated throughout the program. He demonstrated adherence to group rules and processes and was supportive of his peers and respectful to Program Facilitators.
- [49] When discussing his offending, Program Facilitators considered that the respondent's identified sexual attraction to female children and his emotional identification to young children continues to elevate his risk. In this regard there remains barriers to constructing effective protective strategies for the future. When discussing his offending the respondent openly acknowledged his attraction to female children and took responsibility for his contact sexual offences. Program Facilitators however were concerned that the respondent significantly minimised and justified his viewing of child exploitation material. The respondent demonstrated an awareness of the factors that contributed to his offending which included loneliness and isolation. The respondent was able to identify that social interaction and communication are areas he needs to address to reduce his risk level in the future.
- [50] During the program the respondent made admissions to the incident where he attempted to rape an adolescent female whilst she was asleep. He stated that the police were aware of the incident.
- [51] Of concern, Program Facilitators noted the respondent appeared to lack insight into the consequences of his offending behaviour to the victim. The respondent struggled to take the perspective of the victim and the effects of his offending on her. Further when discussing secondary victims, namely his grandfather given that the victim was a family member, the respondent minimised the effects of his offending prefacing his responses with "I guess he would feel". During the program the respondent identified his grandfather as his primary support person. Program Facilitators found the respondent's lack of regard to the impact of his offending on his grandfather to be of concern.
- [52] Program Facilitators considered that the respondent lacked understanding of the wider consequences of his offending, minimised his offending behaviour and had developed self-focus statements stating he had "lost enough already" through his offending. In relation to his emotions Program Facilitators noted the respondent developed an awareness of his emotions

and the behaviours that ensue from his offending but that he lacked the skills to effectively manage his negative emotions. It was also noted that the respondent's avoidant coping behaviours such as isolation during periods where he feels stressed is entrenched.

- [53] Overall, Program Facilitators noted throughout the program the respondent had increased his awareness and understanding of his offence pathway. However, he has struggled to identify strategies to manage risk and Program Facilitators had concerns about his strategies being robust enough for the community.
- [54] The completion report recommended the respondent access professional counselling to assist him in developing realistic and appropriate strategies to further explore and manage his sexual attraction to female children. It was also recommended that he seek professional counselling from a psychologist or psychiatrist to assist him in realistic and appropriate strategies to manage and regulate his emotions. Further, it was recommended that the respondent participate in the Staying on Track: Sexual Offending Maintenance Program either in the community or in custody in order to maintain his awareness of high risk factors, coping skills and appropriate interventions.

Parole

- [55] The respondent's parole eligibility date was 21 April 2016. He made an application for parole on 13 May 2016. At its meeting on 13 July 2016, the Queensland Parole Board considered the respondent's application and decided to defer its decision pending provision of further material. At this meeting the Board determined the home assessment submitted by the respondent was unsuitable. At its meeting on 4 August 2016 the Board decided to defer its decision pending provision of the completion report for ISOP. At its meeting on 7 December 2016, the Board decided to defer its decision until in receipt of an alternative home assessment report.
- [56] At its meeting on 4 January 2017, the Board considered the respondent's application and formed the preliminary view not to grant his release on parole on the basis that the respondent posed an unacceptable risk to the community. The Board referred to the respondent not having a suitable home assessment and observations during the ISOP that he was unable or unwilling to develop strategies to manage his fantasies about children. The Board invited the respondent to provide a further written submission or further supporting documentation to address the issues raised by the Board.
- [57] At its meeting on 23 March 2017, the Board considered the respondent's application and formed the preliminary view his application should be declined. The Board invited the respondent to provide a further written submission or further supporting documentation to address the issues raised by the Board.
- [58] At its meeting on 11 May 2017, the Board considered the respondent's application and all documents received and decided he would be an unacceptable risk to the community on a parole order and therefore declined the application.

Psychological and psychiatric reports

Report of Dr Alan Hackney, Psychologist, dated 24 March 2010

- [59] This report was prepared by Dr Hackney on instructions from the New Zealand Parole Board regarding the respondent's suitability to be released on parole. Dr Hackney was provided with

the respondent's NZ police communication file, criminal history, various other documents and interviewed him on 12 March 2010 and 24 March 2010 to inform this report.

- [60] Dr Hackney provided a comprehensive report detailing the respondent's patterns of previous offences, offending background, and treatment on his plans upon release. These factors informed Dr Hackney's assessment of the respondent's risk of sexual recidivism.
- [61] When describing the respondent's presentation Dr Hackney opined that he was friendly, had a shy manner but answered questions honestly with no attempt to hide information and even provided evidence of further offending not previously reported to authorities. Dr Hackney noted the respondent appeared to be a man of below average intellectual functioning.
- [62] During the interview the respondent made admissions to Dr Hackney relating to an incident of sexual offending involving a four year old female victim. He stated the child touched his genitals and then sat on his knee. The respondent stated he received a message from the victim's father and shortly after the victim and her family moved away.
- [63] When discussing his offending relating to his incarceration in New Zealand, the respondent stated that he attended the victim child's house on one day and found the victim's mother was not at home. The victim was aged six. He asked the victim about the swimming pool and the victim then took the respondent outside to show him. He stated that they sat next to the pool and the victim started to play with his genitals and that she then sat on him inappropriately. Dr Hackney noted the respondent's account of the offending differed from the police note on the incident which stated "Griffin went to the victim's address while mother was out. Took her outside removed her underwear down to her knees and attempted to have sexual intercourse with her. Offender has been unable to penetrate victim fully and has been interrupted by a sister".
- [64] Dr Hackney reported that the respondent showed no insight into his offending. The respondent stated in relation to the victim that she "should have known better" and "should have known what she was doing was wrong". Dr Hackney opined that the respondent showed no evidence of remorse and no indication that he understood the seriousness of his offending.
- [65] Dr Hackney assessed the respondent on a number of risk assessment tools to assess his risk of sexual recidivism with the following results.
- [66] On the Automated Sexual Recidivism Scale which is based solely on static risk predictors the respondent was assessed as being in the medium-low risk category.
- [67] On the Stable-2007, the respondent was assessed as being in the high needs group in terms of sexual offender's dynamic risk.
- [68] Ultimately, Dr Hackney opined that the actuarial assessments indicate the respondent's unmodified risk of sexual re-offence is medium low. Dr Hackney further opined that analysis of the dynamic risk factors indicate a high risk of re-offending in a sexual manner with potential victims being prepubescent females that are likely known to him.

Report of Dr Michael Beech, Psychiatrist, dated 13 August 2017

[69] The report was prepared on instructions from Crown Law for the purpose of a risk assessment regarding a potential application under the Act. The report was based on an interview with the respondent undertaken at the Wolston Correctional Centre on 30 June 2017, as well as extracts from files of the Office of the Director of Public Prosecutions, Queensland Corrective Services and transcripts of the sentencing proceedings.

[70] Dr Beech's opinion is as follows:

“SUMMARY AND OPINION

Paul Griffin is a 31-year-old, single, never married, man who was convicted in 2015 of the digital rape of an eight-year-old girl in 2014. He had befriended her and her family and invited her into a situation where he could offend against her, notwithstanding the nearby presence of others. That offence occurred approximately a year after his release from a five-year sentence in New Zealand for a strikingly similar offence against a six-year-old girl. Again he had befriended her, and again it occurred in proximity to others. There are also two unreported and unlitigated incidents, one involving a four-year-old child in another and intoxicated 15-year-old girl that Mr Griffin has disclosed.

There are a number of antecedents to this offending. He was raised by his grandparents, and had no contact with his father and limited contact with his impaired mother. He had some physical impairment, and he is borderline intellectual functioning, and he was teased and was friendless at school. He has low self-esteem and self-confidence, and he is generally self-conscious about his appearance, and he has very limited adult social connections. Instead, he feels comfortable around children and identifies with them. He has not had an intimate relationship with an adult female, but he has used adult pornography, which then shifted to child exploitation material. It is likely that in the lead up to the offending he become sexually preoccupied, and he probably uses sex as a way of coping with distress, such as the passing of his grandmother.

Importantly, he has reported sexual fantasies involving children. This has included fantasising about coercing a child to act in a manner similar to that in the GEM. In my opinion, these fantasies and his own offending indicate that he has Paedophilia, with an attraction to female children.

Generally, there is no significant other criminal offending other than a plethora of traffic offences for unlicensed driving and hooning. Importantly though, in 2004 he left Australia while he was subject to probation and community service and remained in New Zealand where he committed the sexual offence. There is no significant history of substance misuse although a worrying report by him of the assault on the intoxicated girl.

In New Zealand he completed an adapted sexual offender program. He has now completed a modified sexual offender program in Queensland. In my opinion, he does not seem to have taken a lot from those programs. There is limited victim empathy. He has some understanding of the underlying basis for his offending but it would seem that he continues to fantasise about girls, or has recently reported this. He has not had specific treatment for these deviant sexual fantasies. I believe

that his strategies for risk Management on release show a lack of insight and are unrealistic. He has no suitable accommodation and he has not lived independently before.

I have assessed Mr Griffin with a number of measurements that have been shown to have some validity in the prediction of violent sexual reoffending. Please see Appendix C.

On the Static 99 - R, I gave them a score of five, which places him in the group at higher risk than the average offender (mean score 2).

On the Hare Psychopathy Checklist revised, I gave them a score of 17/40. This is not particularly elevated for a prison population and it is not in the range of psychopathy.

On the risk also actual violence protocol I noted:

- the chronicity of offending
- physical coercion (he persisted)
- psychological coercion (grooming)
- attitudes that condone violence (in the past and possibly continuing)
- problems of self-awareness
- problems with stress or coping (likely)
- sexual deviance
- borderline intellectual functioning
- problems with intimate relationships
- problems with non-intimate relationships
- problems with employment
- nonsexual criminality (limited)
- problems with planning (for independent living)
- problems with treatment (limited response)
- problems with supervision (warrant)

In my opinion, the risk of reoffending in the community on release without supervision is high. Mr Griffin has paedophilia and it is likely that he continues to fantasise about children. He has not lived independently and he has few if any supports other than his grandfather. He has limited self-awareness and limited strategies to militate against the risk of reoffending. I think it is likely that sometime in the near future, while stressed or idle, his attention will be drawn to a young girl who has come into his personal sphere. She may be a family member or the child of an associate or family friend. He will become aroused by her and he will start to fantasise about her. He will associate with her and befriend her, and in doing so start to groom her. The offending will occur somewhat opportunistically and it is unlikely that he will be deterred even by the nearby presence of others

including adults. It is likely that he will attempt some form of penetrative assault and the child might suffer psychologically and emotionally and physically.

It is possible now that he has learned from his second incarceration and his second offender program, and on the lease you would be able to find some form of accommodation and support, and he will actively avoid risk situations. At my interview with him, I was not convinced that he had the awareness or the strategies for this.

In my opinion, more needs to be done to address his risk factors. He needs specific treatment around his deviant sexual fantasies, both individual treatment and possibly medication.

There need to be better plans around his release from prison, particularly accommodation, support, and ongoing treatment.

There need, to be significant measures in place to prevent him having access to children in the future.”

Report of Dr Jane Phillips, Psychiatrist, dated 19 June 2018

[71] The report was based on an interview with the respondent undertaken at the Wolston Correctional Centre on 17 March 2018, as well as extracts from files of the Office of Director of Public Prosecutions, Queensland Corrective Services and transcripts of the sentencing proceedings.

“DIAGNOSTIC OPINION

- Mr Griffin meets diagnostic criteria for Pedophilic Disorder (sexually attracted to females). This diagnosis is supported by the convictions for child sexual offences; his admission to sexually deviant fantasies involving children; use of child exploitation materials; results of the Sexual Adjustment Inventory; and previous penile plethysmography.
- I have not found evidence to suggest that Mr Griffin meets criteria for any additional paraphilic disorders, in particular there is no evidence of sexual sadism disorder.
- Mr Griffin has borderline intellectual functioning. He has a history of learning difficulties; attended special classes; and has limited literacy and numeracy. A WAIS-IV conducted on the 18/02/2016 showed a full scale IQ of 77.
- I have found no evidence that Mr Griffin has ever suffered from a mental illness, including no previous episodes of depression, hypomania, mania, psychosis or post- traumatic stress disorder.
- There is no evidence to suggest that Mr Griffin has ever suffered from alcohol or illicit substance abuse or dependence.
- Mr Griffin does not meet criteria for a diagnosis of a co-morbid personality disorder. In particular he does not present with borderline or anti-social personality disorder, nor does he meet criteria for a diagnosis of psychopathy.

FORMULATION

Mr Griffin is a 32 year old single man with no dependents who has been in custody since January 2015, and is serving a sentence of 3 years and 6 months for the conviction of rape, involving the digital rape of an 8 year old girl. He had previously served a 5 year term of imprisonment in New Zealand for the attempted penile rape of a 6 year old child prior to being deported to Australia. The index sexual offence occurred whilst he was a reportable sexual offender. Both sexual offences involved befriending the victim and their family, such that he was in a position of trust, and the offending occurred despite being in the proximity of others, including adults.

In addition to his two previous sexual offence convictions, it is noted that Mr Griffin has previously made admissions to a third sexual offence for which he has not been charged, but he denied this at my assessment. At my assessment Mr Griffin outlined that the incident occurred when he was 15 or 16 years old and that a 14 or 15 year old girl had made allegations that he committed digital and penile vaginal rape while she was heavily intoxicated and passed out. Of note, collateral information indicates that during the ISOP Mr Griffin openly discussed an incident where he attempted to rape an adolescent female; to Dr Andrews Mr Griffin reported that he had attempted to have sexual intercourse with the girl while she was passed out, but was interrupted by one of her friends; and he made similar disclosures during the previous sexual offending treatment program in New Zealand in 2012. In one treatment session in New Zealand he made admissions to digital and penile rape.

In addition, it is noted that Mr Griffin previously made a disclosure of a further sexual offence against 4 year old girl, however, he denied this at my assessment. The previous disclosure was made to a psychologist during an assessment for the New Zealand Parole Board. During the New Zealand sexual offending treatment program Mr Griffin denied offending against the 4 year old, but admitted that he had felt sexually attracted to her, engaging in sexual fantasies about her to which he masturbated. His other offending history is limited to a range of driving offences, wilful damage and breach of probation order and community service order by leaving Australia to move to New Zealand where he committed the first sexual offence.

His offending occurs on a background of a range of difficulties during his childhood. These included abandonment by his father; his mother having a serious acquired brain injury and being unable to provide him care; and being raised by his grandparents. He had borderline intelligence and learning difficulties; struggled academically at school; had limited literacy and numeracy; and left school following Year 7. He describes a history of being bullied at school as a result of his cognitive limitations and also due to having bowed legs. This bullying appears to have contributed to low self-esteem and a poor self-image. He has poor social skills, has limited social connectedness and has never been involved in a romantic or sexual relationship. He gravitated towards relationships with children, developing an emotional identification with children, which in part was to avoid the potential for rejection by adult females.

It was in this context that Mr Griffin developed a sexually deviant interest in underage females, and recurrent intrusive sexual fantasies involving pre-pubescent

and pubescent girls. This sexual deviance was reinforced by masturbation to the deviant fantasies and accessing child exploitation material on the internet. While Mr Griffin reports that he has sexual interest in females aged 10-13, given the victims of the sexual offences were aged 6 and 8, it is likely that Mr Griffin is most attracted to a younger age group. The selection of younger victim's may be partially explained by his reports that he believed this younger age group to be more easily manipulated to comply with his sexual offences, were "easier to get alone" and less likely to disclose the offending to adults.

It appears that the sexually offending occurred in the context of feeling socially isolated and lonely and it appears that he has developed a pattern of use of sex as coping. The offences occurred in the setting of increased sexual preoccupation; engaging in deviant sexual fantasies; and use of internet child exploitation materials. He has previously disclosed that during the index sexual offence he was attempting to have the victim play out a role seen in the child exploitation material. There is evidence of Mr Griffin engaging in grooming behaviour; of befriending adults who have children and spending time with the children such that he was in a position of trust. It is noted that the sexual offending recurred despite previous engagement in a sexual offending treatment program in New Zealand and it would appear that when in the community he was unable or unwilling to employ any of the strategies learned.

While it is positive that Mr Griffin has now engaged in a further sexual offending treatment program (ISOP), the sexual offending maintenance program (SOMP) and more recently has commenced individual offence specific psychological interventions with Dr Andrews, it is noted that he has made only limited progress. He continues to experience deviant sexual interest in children. At my assessment he significantly minimised aspects of his offending and his current sexually deviant fantasies. He continues to use permission statements and display cognitive distortions in relation sexual offending, and tends to minimise the impact of his sexual offending on victims and has yet to internalise a well-developed risk management plan. He has limited self-awareness or adaptive coping strategies.

He is socially isolated, and his main support has been his grandfather, who has now moved to New Zealand and has not been in contact of recent times. Even if his grandfather were to return to Queensland to be a support to Mr Griffin, it is unknown how much of a protective factor this would be. It is noted that he was living with his grandfather at the time of the index sexual offence and he had travelled to New Zealand with his grandfather in 2004 placing himself in breach of his community service order. In addition, it is noted that during a previous parole board home assessment it was outlined that his grandfather had limited knowledge of Mr Griffin's offending history and maintained that he was innocent of the index sexual offence. It is noted that Mr Griffin has never lived independently, and it remains untested how he will cope with the stressor of independent living.

In addition, it is of concern that Mr Griffin's only current community support is a platonic male friend who he met 1 year prior to this incarceration. Mr Griffin disclosed his friend is a father to 2 sons (aged 5 and 6) and two daughters (aged 1 and 4). This man reportedly remains in telephone contact and visits Mr Griffin at the prison. While Mr Griffin reports that this man is aware of his offending history, one would question whether this man was actually aware of the nature his offending history, as It seems unusual that a father of 4 young children of similar

ages to Mr Griffin's victims would persist with the relationship. While Mr Griffin states that he does not intend to have unsupervised contact with his friend's children, I am concerned that about the potential for future victim access and grooming of this man's daughters.

There are some positives. This includes Mr Griffin's understanding of the deviant nature of his sexual interest in children; willingness to engage in further group and individual psychological interventions; his willingness to consider biological interventions to address sexual deviancy; his stated willingness to comply with conditions of a supervision order; and the lack of co-morbid substance use or personality disorder. At this stage it remains untested whether he would meaningfully engage in community risk management interventions.

RISK ASSESSMENT

In order to assess Mr Griffin's risk of re-offending, I have used a number of actuarial and structured professional judgement risk assessment tools assessing both static and dynamic risk factors. The results of the risk assessment tools need to be interpreted with caution as they refer to group rather than individual risks, and many of the tools have not been validated in the Australian context. A description of each of the tools, and their scoring, is given in Appendix B.

Static 99-R (Coding Rules. Revised 2016)

Mr Griffin scored 5 on the Static-99R, which places him in the IVa category of risk which is defined as "above average risk" for being charged or convicted of another sexual offence.

In study samples for offenders with a Static 99-R score of 5, the 5 year sexual recidivism rate is 13.8%-16.6%.

Risk ratios describe differences between recidivism rates. For Static-99R, risk ratios compare the expected recidivism rate for offenders with a particular score, to the expected recidivism rate of offenders in the middle of the risk distribution. The middle of the risk distribution is defined as the rate for offenders having the median score (2). Mr Griffin had a Static-99R score of 5. On average, offenders with this score have a sexual recidivism rate that is 2.70 times the rate of offenders in the middle of the risk distribution.

Risk for Sexual Violence Protocol (RSVP)

The Risk for Sexual Violence Protocol is a structured professional judgement risk assessment tool for assessing the risk of sexual violence.

Mr Griffin was scored on the 5 content domains in the RSVP (using past ratings):

- Sexual Violence History - he had definite evidence of 1 of the 5 items, including chronicity of sexual violence; and partial evidence for the further risk factor of psychological coercion in sexual violence.
- Psychosocial Adjustment - he had definite evidence of a 4 of the 5 items, including extreme minimisation or denial of sexual violence; attitudes that support or condone sexual violence; problems with self-awareness; and problems with stress or coping.

- Mental Disorder - he had definite evidence of 1 of the 5 items, problems with sexual deviance, and partial evidence of the further item major mental illness (on basis of borderline intelligence).
- Social Adjustment - he had definite evidence of 3 of the 4 items, including problems with intimate relationships; problems with non-intimate relationships; and problems with employment; and partial evidence of non-sexual criminality.
- Manageability - he had definite evidence of all 3 items, problems with planning; problems with treatment and problems with supervision.

Using the RSVP Mr Griffin scores as a high risk of future sexual offending.

Stable-2007

On the Stable 2007 Mr Griffin was noted to have a definite problem in the areas of capacity for relationship stability; emotional identification with children; general social rejection; poor problem solving skills; sex drive/pre-occupation; sex as coping; and deviant sexual preference. He also had partial scores for all the remaining items including significant social influences; hostility towards women; lack of concern for others; impulsivity; and negative emotionality.

Mr Griffin scored 19 which indicates he is at high risk of re-offending.

Psychopathy Checklist Revised (PCL-R)

Mr Griffin scored 16/40 on the PCL-R which is not elevated compared to the male offender population and not consistent with a diagnosis of psychopathy.

Historical Clinical Risk -20_ Version 3 (HCR-20 V3)

The HCR-20 Version 3 is a structured professional judgement risk assessment tool used to assess the risk of physical violence, using both static and dynamic risk factors for physical violence.

- On the historical scale, Mr Griffin has definite evidence of 4 of the 10 items, including a history of problems with violence; relationships; employment; and treatment or supervision response. In addition, he had partial evidence of 2 items, other antisocial behaviour and major mental disorder (cognitive impairment).
- On the clinical scale, Mr Griffin has definite evidence of 1 of the 5 items, recent problems with treatment or supervision response, and partial evidence of a further 3 items of recent problems with insight, symptoms of major mental disorder (cognitive impairment); and instability.
- On the risk management scale, Mr Griffin has definite evidence of 4 of the 5 items, future problems with professional services and plans; living situation; treatment or supervision response; and stress or coping. In addition, he had partial evidence of 1 items, future problems with personal support.

The use of the HCR-20 indicates that Mr Griffin's risk of future physical violence is in the moderate range. It is my opinion that this likely over-estimates Mr

Griffin's risk of physical non-sexual violence, given that the HCR-20 includes sexual violence in the definition of violence. It is noted that Mr Griffin has no known history of physical non-sexual violence.

Overall risk level

Taking into account the results of the above risk assessment tools, it is my opinion that Mr Griffin's risk of future sexual re-offending falls in the high range, if released from custody without a supervision order. ,

It is my opinion that a supervision order would assist in reducing the risk of re-offending by offering assertive monitoring and interventions to target dynamic risk factors for sexual violence, including his sexual deviance. A supervision order would allow for risk management interventions such as individual offence specific psychological interventions; further sexual offender maintenance therapy; robust monitoring; and environmental measures. It is my opinion that Mr Griffin's risk of sexually re-offending would be in the moderate range if released via a structured environment such as The Precinct while on a supervision order. His risk would be moderate to high if released to a less structured environment in the community while on a supervision order.

The risk of sexual re-offending would increase in the setting of psychosocial stressors such that he felt lonely, sad or rejected; loss of social supports; increased sexual preoccupation; increased masturbation to sexually deviant fantasies; access to child exploitation materials; victim access; and rejection of supervision. He has limited adaptive coping skills to manage psychosocial stressors, and would be at risk of emotional collapse and returning to his maladaptive patterns of isolating himself and use of sex as coping in the context of psychosocial stressors.

The victim of future offending would likely be a female child, most likely pre-pubescent, but potentially pubescent. The sexual offending may involve touching of the child's genitals or digital or penile rape. It is most likely that future sexual offending would occur following a period of grooming behaviours directed to befriend a vulnerable parent or relative so that he could access their children, followed by grooming of the child victim. It is possible that he may act on his sexually deviant fantasies in a more impulsive manner without earlier evidence of grooming. There is the potential for future sexual offending to cause serious harm to the victim.

RECOMMENDATIONS FOR FUTURE MANAGEMENT

- I recommend that risk management interventions focus upon psychological interventions, supervision and monitoring, environmental measures and co-ordinated planning and information sharing between those involved in his management.
- It is my opinion that Mr Griffin would benefit from ongoing individual offence specific psychological intervention with Dr Andrews, or a similarly qualified forensic psychologist with experience in managing sexually deviant offenders. The psychological interventions will need to address his sexual deviance which remains an outstanding treatment need. He would benefit from further intervention focussing on adaptive coping skills,

problem solving, interpersonal skills, identifying high risk situations and relapse prevention planning.

- It may be appropriate that he undergo a further group sexual offending maintenance program when in the community, however, individual psychological intervention should be the priority in the first instance.
- It is my opinion that Mr Griffin should be referred to a forensic psychiatrist who has experience in the biological treatment options for sexual deviance. It is my opinion that it would be clinically appropriate for Mr Griffin to have a trial of anti-libidinal medication given his ongoing sexually deviant fantasies involving children and his ongoing high risk of sexual offending despite intensive psychological interventions. Of note, he would first need to undergo a range of medical investigations to rule out medical contraindications and for a baseline to compare ongoing monitoring. Importantly, it would be necessary for Mr Griffin to be prepared to give informed consent to such treatment, which could not be mandated under the conditions of a supervision order.
- Mr Griffin would benefit from assistance to find suitable long term accommodation. It is my opinion that his proposed accommodation at the boarding house at West End may prove problematic given he has never lived independently. From a clinical perspective it would be preferable for him to be transitioned to the community via a more contained environment such as The Precinct, so that his response to a less structured environment and community supervision could be assessed.
- Mr Griffin should have conditions that he is prohibited from having any contact with children. In addition, it is recommended that he have conditions that he not be able to attend any areas commonly frequented by children, such as schools, parks or childcare centres. Given his reported sexual arousal to seeing children in swimsuits at the beach, consideration could be given to further conditions preventing access to public pools and beaches.
- I agree with Dr Andrews' recommendation that given his pattern of accessing internet child exploitation material, and this being a factor in his prior offending, that Mr Griffin not be permitted to access the internet when in the community, or alternatively that any internet access be frequently and carefully monitored.
- It is recommended that his two support people, his grandfather and his platonic male friend, be provided with information regarding his prior offending, ongoing risk and risk management strategies. In particular, it will be important that his male friend, who is the father of 4 young children, is advised of the risk of Mr Griffin attempting to groom his children and the importance of Mr Griffin having no direct or indirect contact with his children.
- Given the chronic nature of Pedophilic Disorder, and the ongoing high risk despite intensive intervention, it is recommended that a supervision order be for a minimum duration of 10 years.”

Report of Dr Andrew Aboud, Psychiatrist

[72] Dr Aboud was appointed by the Court to prepare a risk assessment report pursuant to section 11 of the Act. The report was based on an interview with the respondent undertaken at the Wolston Correctional Centre on 13 April 2018, as well as extracts from files of the Office of Director of Public Prosecutions, Queensland Corrective Services and transcripts of the sentencing proceedings.

[73] Dr Aboud's opinion and recommendations are as follows:

“From a diagnostic perspective, Mr Griffin meets criteria for paedophilia, non-exclusive type, sexually attracted to females. He appears to have harboured sexually deviant thoughts and masturbatory fantasies regarding pubescent and prepubescent girls. While he claims that these thoughts have diminished, it is likely that they persist as problematically as has been the case throughout his adult life. His intellectual difficulties most reasonably can be formulated by way of a diagnosis of borderline intellectual impairment. Further I am of the view that he also suffers from an avoidant personality disorder. Taken together, his intellectual difficulties and personality vulnerabilities, most likely give rise to his social skills deficits, interpersonal skills deficits, low self-esteem, poor problem solving and adaptive coping skills. These problems most likely underpin his lack of self-confidence and anxiety in respect of engaging age appropriate females, and thus his emotional congruence for children. To some extent, this might help to explain some of his leaning toward children and his deviant sexual interests. His tendency toward avoidant coping, also lends itself to his use of sex as coping and sexual preoccupation as a means of maladaptive emotional management of negative affect, such as when he feels angry, rejected, isolated and sad.

I did not find evidence that Mr Griffin suffers from a major mental illness, such as a psychotic illness or a mood disorder.

RISK ASSESSMENT

I used six instruments to underpin the assessment of reoffending risk: Static-99R, Risk Matrix 2000/S, Risk Matrix 2000/V, PCL-R, HCR-20 and RSVP.

1. Static 99R

This is an actuarial risk assessment instrument used to predict risk of sexual and violent recidivism in adult males, using ten static variables.

I gave Mr Griffin a score of 5, which placed him in the group regarded as moderate-high risk of reoffending,

2. Risk Matrix 2000/S

This is an actuarial risk assessment instrument used to predict risk of sexual recidivism in adult males, using seven static variables (broken down into a two-step process).

I gave Mr Griffin a score of 3 for Step 1 with 1 ‘aggravating factor’ for Step 2, which placed him in the group regarded as high risk of reoffending.

3. Risk Matrix 2000/V

This is an actuarial risk assessment instrument used to predict risk of violent recidivism in adult males, using three static variables.

I gave Mr Griffin a score of 2, which placed him in the group regarded as medium risk of reoffending.

4. Psychopathy Checklist (PCL-R)

This is an instrument that measures traits indicating psychopathic personality, with 20 items and a maximum possible score of 40. Higher scores have been shown to be associated with increased risk for offending and reoffending.

I gave Mr Griffin a score of 16/40, which is below the cut-off point for diagnosing psychopathy.

5. HCR-20

This instrument uses both static and dynamic variables to structure assessment and assist professional/clinical judgement in estimating future general violence risk and how to best manage that risk. It incorporates 10 Historical (static), 5 Clinical (current dynamic) & 5 Risk Management (future dynamic) items, and leads to scores ranging from 0 to 40. Professional judgment is then used to place the subject at low, moderate or high risk.

According to my assessment Mr Gaske scored 14/20 for Historical items, 5/10 for Clinical items and 8/10 for Risk Management items. His overall score was 27/40. I deemed his overall risk to be moderate, with a relative loading for both static and future dynamic risk factors. This profile suggests that his risk would be escalated in the absence of a structured plan for ongoing management, and that it could be reduced by an external framework of monitoring, supervision and control. His future risk of instability post-release requires attention, and pre-release planning is indicated and particular attention should be placed on the potential for destabilisers and contextual factors which might destabilise him in the future (such as relationship difficulties, loneliness, negative affective states, sexual preoccupation, using sex as a coping mechanism to regulate emotions and manage stressors, contact with female children given his emotional congruence and sexual deviance).

6. Risk for Sexual Violence Protocol (RSVP)

This is an instrument uses both static and dynamic variables, that have been specifically demonstrated to be associated with risk of sexual violence, to structure assessment and assist professional/clinical judgement in estimating future sexual violence risk and how to best manage that risk. The instrument incorporates 22 items to look at sexual violence history, psychological adjustment, mental disorder, social adjustment and manageability.

I considered Mr Griffin to have positive scores for the following items:

- Chronicity of sexual violence
- Psychological coercion of sexual violence
- Extreme minimisation or denial of sexual violence
- Problems with self-awareness

- Problems with stress or coping
- Sexual deviance
- Problems with intimate relationships
- Problems with non-intimate relationships
- Problems with employment
- Problems with planning
- Problems with treatment
- I considered him to have partial/possible scores for the following items:
- Diversity of sexual violence
- Physical coercion of sexual violence
- Problems with substance use
- Non-sexual criminality
- Problems with supervision

Should he reoffend sexually, one would speculate that it would take the form of opportunistic or more likely planned sexual behaviour with a female child. The victim could be prepubescent, and as young as 4 years old, or adolescent, and up to 14 or 15 years old. He will most probably attempt to groom his victim by befriending her and her parents (or carers). He will likely engage his victim in a 'special' relationship, and play games, in keeping with his strong emotional congruence with children and familiarity with children's interests. His sexual offending will most likely include attempts to isolate his victim, and attempt to indecently touch her vaginal area. He may try to digitally penetrate her. He may try to penetrate her vagina with his penis. His other pathway to reoffending will involve the use of pornographic material depicting underage girls, which he may procure from the internet. While he may manipulate his victim and engage in psychological coercion, it is highly unlikely that he would resort to physical force or threat of violence or other retribution. High risk scenarios will include times when he is feeling lonely or experiencing negative affective states due to psychosocial stressors. He may use sexual behaviour to regulate emotions and may become sexually preoccupied. This will be fuelled by use of child pornography over the internet or otherwise. The main driver of his risk, however, is likely to be that of contact (especially if unsupervised) with a potential victim. This contact will lead to preoccupation and masturbatory fantasy, and attempts to increase access. This relates to his underlying sexually deviant drive.

OVERALL RISK LEVEL & RECOMMENDATIONS

Paul Griffin carries with a range of vulnerability factors associated with future offending. He is impulsive, somewhat avoidant and sexually deviant, with a strong paedophile drive. He tends to cope with psychosocial stressors by becoming sexually preoccupied. He has a deep seated emotional congruence with children, and enjoys their company and their interests. He has developed infatuations on female children who he has had close contact with, and he has used grooming

behaviours (of both the child and their parents) to further that contact. He appears to have used sexual behaviour as a means with which to cope with emotional difficulties, negative affect, and stress, and also in the context of paraphilic urge in respect of masturbatory behaviour associated with fantasy regarding female children with whom he has become familiar. This has been further driven by use of child pornography. He has been more vulnerable to offending when experiencing relationship and sexual frustration, feeling lonely and isolated, experiencing low self-regard, and especially when he has access to potential female child victims. I am aware that he has participated in adapted sexual offender treatment programs in custody in both New Zealand (2012) and Queensland (2016), I am also aware that he reoffended in 2014, following deportation from New Zealand, and after participating in the first treatment program.

Taking into consideration the various actuarial and dynamic assessments of future violence and sexual violence risk that have been applied, it is my view that Mr Griffin's **current unmodified risk would be high in respect of sexual reoffending and low in respect to violent offending**. If he was released into the community without any supervision, monitoring or support, I would be concerned that he would be vulnerable to encountering higher risk situations. Such higher risk situations would be associated with his experiences of psychosocial problems (such as intimate and non-intimate relationship difficulties, loneliness and isolation, interpersonal conflict, financial hardship) which cause negative affect or any contact with female children living in his vicinity. **In my opinion, the supervision and monitoring and supports available under the provisions of a supervision order would reduce his risk of sexual reoffending to between moderate and low**. Thus, if was released subject to a supervision order, I would consider the risk to be manageable.

If he was to be released, important management considerations would include: careful release planning; consideration of further participation in a sexual offenders maintenance program in the community; engagement with a psychologist (to address sexual deviance, problem solving, maladaptive coping, avoidant coping, intimacy deficits, low self-esteem, management of negative affective states, emotional congruence with children); possible assessment by a private psychiatrist, with a view to considering the benefits of medication treatment to reduce deviant sexual drive (ie antilibidinal hormonal medication); support to develop a social support network; support to find useful employment. In the first instance, however, it will be also be important to ensure: appropriate accommodation; electronic monitoring; curfew arrangements; abstinence from alcohol and illicit substances; no access to public places or public transport at times when there is a high likelihood of the presence of young girls (ie school children). In the longer term, some of these more restrictive measures might be reviewed. It would be important, however, given his history of previously escalating sexual preoccupation following contact with a female child, he should have no unsupervised access to children in the long term. Similarly, given his history of previously escalating sexual preoccupation in the context of using child pornography, he should have no unmonitored access to the internet.

If he was released on a supervision order, I would recommend its duration be for at least 10 years, given his young age, the relative chronicity of his offending and his underlying deviance.”

- [74] Dr Aboud also assesses the respondent's unmodified risk of sexual re-offending, in the absence of a Division 3 order, as high. Dr Aboud then opines that the risk of sexually re-offending would be reduced to between moderate and low given the supervision, monitoring and supports under a supervision order.
- [75] Dr Aboud is of the opinion that were a supervision order to be made it should be for a period of at least 10 years.
- [76] Dr Aboud then discusses the nature of the conditions that a supervision order should address.

Proposed treatment

[77] The respondent commenced treatment with psychologist Dr Michelle Andrews on 15 March 2018. Dr Andrews has sworn an affidavit annexing a psychological report dated 10 April 2018, and treatment session summaries dated 12 April 2018, 18 May 2018 and 1 June 2018.

[78] Dr Andrews' psychological report dated 10 April 2018 details a treatment plan and treatment needs determined after four sessions with the respondent. Dr Andrews makes the following treatment recommendations:

“Treatment with Mr. Griffin will incorporate aspects of psychoeducation, cognitive behavioural therapy and schema-based therapy. It will also incorporate aspects of mindful awareness particularly of bodily sensations, arousal responses and urges to assist in improving awareness of sexual urges and management of these urges and sexual fantasies. The following area will be focused on with Mr. Griffin:

1. Identification of risk factors and management strategies - within the first several sessions Mr. Griffin will be engaged in a process of identifying antecedents and risk factors for his offending. These will include internal risk factors (i.e. mood states, distorted cognitions, permission statements, lack of intimacy, poor self confidence, deviant thoughts) and external risk factors (i.e. access/proximity to children, environs, housing etc.). These will be provided to Mr. Griffin in a written document so that he is aware of risks factors. Management strategies for each risk factor will then be identified. This document will be the basis for his ongoing treatment targets.
2. Emotional and behavioural regulation strategies
 - a. Identifying and understanding emotions and emotional distress
 - b. Emotional dysregulation and the link to offending and paedophilic thoughts/fantasies. (i.e. chain analysis of actions)
 - c. “risky emotional states” and associated cognitions.
 - d. Emotional states associated with sexual offences/offending thoughts.
 - e. Strategies to manage emotional dysregulation.
3. Sexual Education and Managing Sexual urges
 - a. What constitutes appropriate and healthy sexual relationships.
 - b. Increasing awareness of sexual urges and increased sexual preoccupation
 - c. Understanding of sexual response cycle
 - d. Cognitive and behavioural strategies to manage urges
 - e. Understanding sexual fantasies
 - f. Managing deviant sexual fantasies
4. Given his Pedophilic interests and fantasies Mr. Griffin requires ongoing education and therapy to explore these interests including:

- i. Exploration of the development of sexual interest/ arousal in relation to minors.
 - ii. Perception of adult females vs. child females.
 - iii. Emotional congruence with young females (i.e. feeling less threatened and comfortable around with interacting with teens online).
 - iv. Potential fears/anxieties around adult relationships.
5. Mr Griffin needs to be encouraged to develop and engage in interests or hobbies to reduce idle time or time associating with other supervisees on the precinct. Structured activities will be explored with Mr Griffin.
 6. Given his history of difficulties controlling sexual urges, I would recommend referral to a psychiatrist to examine the utility of antilibidinal medication.

[79] As to future management, Dr Beech states:

- “1. It is possible now that he has learned from his second incarceration and his second offender program, and on release you would be able to find some form of accommodation and support, and he will actively avoid risk situations. At my interview with him, I was not convinced that he had the awareness or the strategies for this.
2. In my opinion, more needs to be done to address his risk factors. He needs specific treatment around his deviant sexual fantasies, both individual treatment and possibly medication.
3. There need to be better plans around his release from prison, particularly accommodation, support, and ongoing treatment.
4. There need to be significant measures in place to prevent him having access to children in the future.”

[80] I note that Dr Beech’s report was written before the respondent completed the Sexual Offender Maintenance Program and before he commenced one on one treatment with Dr Andrews.

Exercise of discretions under s 13

[81] Having regard to each of the matters stated in s 13(4) and, in particular the risk assessments to which I have referred, I am satisfied to the high degree required that the respondent presents an unacceptable risk of committing a serious sexual offence if released from custody without a supervision order being made. The evidence is cogent and satisfies me to a high degree of probability. The respondent has paedophilia and a deviant sexual interest in children. Whilst he has undertaken sexual offending programs in custody and has commenced individual therapy with an appropriate treatment provider, he has borderline intellectual functioning and treatment is in its early days. The respondent is amenable to continuing treatment if released on a supervision order. The principal risk of the respondent sexually reoffending is to female children and his past behaviour indicates that the primary risk is of offending after a period of predatory grooming.

- [82] The expert opinion is that what would otherwise be an unmodified high risk of offending can be reduced to a moderate or low level if the respondent is subject to a supervision order.
- [83] It is expected that the respondent will reside in the immediate future at the Wacol precinct, and that the individualised treatment commenced with Dr Andrews will continue.
- [84] Reduction of his risk to an acceptable level depends upon the respondent being suitably accommodated and supported, and also continuing to obtain treatment. It also depends upon strict compliance with a requirement that he have no contact with children. Absent indications to the contrary, I proceed on the basis that the requirements of the proposed supervision order can be reasonably and practicably managed by Corrective Services officers. On that basis, the respondent's opportunity to have contact with young children and to groom them is minimised.
- [85] In the circumstances and on the evidence before me, it is not established that the community will not be adequately protected by the respondent's release on a supervision order. The applicant properly acknowledges that, on the evidence before the Court, it is open to make a supervision order for a period of 10 years. Having considered the matter, with the benefit of the helpful submissions of the parties, I am satisfied that adequate protection of the community can be ensured by the terms of a supervision order in the form proposed. The terms of that order are strict and provide for the respondent to re-enter the community in a controlled way. He will reside at the Wacol precinct until suitable accommodation can be found. His movements will be controlled and he will be supervised so as to ensure that he has no contact with children.
- [86] Having regard to the expert evidence, it is appropriate that the supervision order be for a period of 10 years.
- [87] I propose to make a supervision order in accordance with Annexure A.

ANNEXURE A

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: 1647/18

Applicant

**ATTORNEY GENERAL FOR THE STATE OF
QUEENSLAND**

AND

Respondent

PAUL MARK GRIFFIN

SUPERVISION ORDER

Before: Justice Applegarth

Date: 9 July 2018

Initiating document: Originating Application filed 15 February 2018

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

1. The respondent be subject to the following conditions until 20 July 2028:

The respondent must:

Standard Requirements

1. report to a Corrective Services officer at the Queensland Corrective Services Probation and Parole Office closest to his place of residence between 9am and 4pm on the day of his release from custody and at that time advise the officer of his current name and address;
2. report to, and receive visits from, a Corrective Services officer at such times and at such frequency as determined by Queensland Corrective Services;
3. notify a Corrective Services officer of every change of his name, place or residence or employment at least two business days before the change happens;
4. be under the supervision of a Corrective Services officer;
5. comply with a curfew direction or monitoring direction;
6. comply with any reasonable direction under section 16B of the Act given to him;
7. comply with every reasonable direction of a Corrective Services officer that is not directly inconsistent with a requirement of the order;
8. not leave or stay out of Queensland without the permission of a Corrective Services officer;
9. not commit an offence of a sexual nature during the period of the order;

Employment

10. seek permission and obtain approval from a Corrective Services officer prior to entering into an employment agreement or engaging in volunteer work or paid or unpaid employment;
11. notify a Corrective Services officer of the nature of his employment, or offers of employment, the hours of work each day, the name of his employer and the address of the premises where he is or will be employed at least two (2) days prior to commencement or any change;

Accommodation

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

13. if this accommodation is of a temporary or contingency nature, you must comply with any regulations or rules in place at this accommodation and demonstrate reasonable efforts to secure alternative, viable long term accommodation to be assessed for suitability by Queensland Corrective Services;
14. not reside at a place by way of short term accommodation including overnight stays without the permission of a Corrective Services officer;

Indictable offences

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

Activities and associates

16. respond truthfully to enquiries by a Corrective Services officer about his activities, whereabouts and movements generally;
17. not to have any direct or indirect contact with a victim of his sexual offences;
18. disclose to a Corrective Services officer the name of each person with whom he associates and respond truthfully to requests for information from a Corrective Services officer about the nature of the association, address of the associate if known, the activities undertaken and whether the associate has knowledge of his prior offending behaviour;
19. notify a Corrective Services officer of the make, model, colour and registration number of any vehicle owned by or generally driven by him, whether hired or otherwise obtained for his use;
20. submit to and discuss with a Corrective Services officer a schedule of his planned and proposed activities on a weekly basis or as otherwise directed;
21. if directed by a Corrective Services officer, make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by authorised Corrective Services officer who may contact such persons to verify that full disclosure has occurred;

Alcohol and Drugs

22. abstain from the consumption of alcohol and illicit drugs for the duration of this order;
23. submit to any form of drug and alcohol testing including both random urinalysis and breath testing as directed by a Corrective Services officer;
24. disclose to a Corrective Services officer all prescription and over the counter medication that he obtains;

Medical and Treatment

25. attend upon and submit to assessment, treatment, and/or medical testing by a psychiatrist, psychologist, social worker, counsellor or other mental health professional as directed by a Corrective Services officer at a frequency and duration which shall be recommended by the treating intervention specialist;
26. permit any medical, psychiatrist, psychologist, social worker, counsellor or other mental health professional to disclose details of treatment, intervention and opinions relating to level of risk of re-offending and compliance with this order to Queensland Corrective Services if such a request

is made for the purposes of updating or amending the supervision order and/or ensuring compliance with this order;

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

Contact with Children

28. not establish or maintain any supervised or unsupervised contact including undertaking any care of children under 16 years of age except with prior written approval of a Corrective Services officer. The respondent is required to fully disclose the terms of the order and nature of offences to the guardians and caregivers of the children before any such contact can take place; Queensland Corrective Services may disclose information pertaining to the offender to guardians or caregivers and external agencies (i.e. Department of Child Safety) in the interests of ensuring the safety of the children;
29. to advise a Corrective Services officer of any repeated contact with a parent of a child under the age of 16. The offender shall if directed by a Corrective Services officer make complete disclosure of the terms of this supervision order and the nature of his past offences to any person as nominated by a Corrective Services officer who may contact such persons to verify that full disclosure has occurred;

Attendance at places

30. not without reasonable excuse be within 100 metres of schools or child care centres without the prior written approval of a Corrective Services officer;
31. not to visit or attend on the premises of any establishment where there is a dedicated children's play area or child minding area without the prior written approval of a Corrective Services officer;
32. not visit public parks, beaches or public swimming pools without the prior written approval of a Corrective Services officer;
33. obtain the prior approval of a Corrective Services officer before attending the premises of any shopping centre;
34. not join, affiliate with, attend on the premises of or attend at the activities carried on by any club or organisation in respect of which there are reasonable grounds for believing there is either

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

- 35. not collect any material that contains images of children, and dispose of such material if directed to do so by a Corrective Services officer;
- 36. comply with every reasonable direction of a Corrective Services officer in relation to attendance at hotels, clubs and/or nightclubs licensed to supply or serve alcohol;

Technology and devices

- 37. comply with every reasonable direction of a Corrective Services officer in relation to accessing a computer or the internet;
- 38. supply to a Corrective Services officer any password or other access code known to him to permit access to such computer or other device or content accessible through such computer or other device and allow any device where the internet is accessible to be randomly examined using a data exploitation tool to extract digital information or any other recognised forensic examination process;
- 39. supply to a Corrective Services officer details of any email address, instant messaging service, chat rooms, or social networking sites including user names and passwords;
- 40. not access child exploitation material or images of children on a computer or on the internet or in any other format;
- 41. allow any other device including a telephone to be randomly examined. If applicable, account details and/or phone bills are to be provided upon request of a Corrective Services officer;
- 42. to advise a Corrective Services officer of the make, model and phone number of any mobile phone owned, possessed or regularly utilised by you within 24 hours of connection or commencement of use and includes reporting any changes to mobile phone details;
- 43. except with prior written approval from a Corrective Services officer, you are not to own, possess or regularly utilise more than one mobile phone.

Signed:

Registrar of the Supreme Court of Queensland