

Response to sexual assault

Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault



Queensland Government

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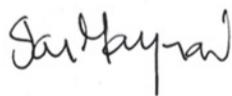
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These guidelines have been developed through a strong collaborative approach by a Government Interagency Working Group including representatives from:

- **Queensland Police Service**
- **Department of Justice and Attorney-General**
 - *Office of the Director of Public Prosecutions*
 - *Queensland Courts*
 - *Victim Assist Queensland*
 - *Youth Justice Conferencing*
- **Department of Communities, Child Safety and Disability Services**
- **Queensland Health**
 - *Aboriginal and Torres Strait Islander Health Unit*
 - *Clinical Forensic Medicine Unit*
 - *Child Advocacy Service*
 - *Royal Brisbane and Women's Hospital Department of Social Work Services (Sexual Assault Service)*

The Strategic Policy Priority Areas, System Policy and Performance Division of Queensland Health were consulted during this process.

Mr Ian Maynard
Director-General
Department of Health



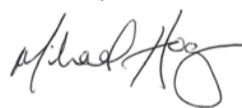
Mr Ian Stewart
Commissioner of Police
Queensland Police Service



The guidelines are intended to outline key principles and a best practice framework for working with people who have experienced sexual assault. This includes children and young people who have been sexually abused or sexually assaulted.

The term victim is used throughout the document where there is reference to specific legislation and where the person is either a male or female who has experienced sexual assault. The term sexual assault is used throughout the document and includes those assaults where rape and/or sexual abuse has taken place or is alleged to have taken place.

Mr Michael Hogan
Director-General
Department of Communities, Child Safety and Disability Services



Mr John Sosso
Director-General
Department of Justice and Attorney-General



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Preface

The guidelines are designed to promote whole-of-government interagency cooperation and service coordination with an aim to improve governmental responses to victims of sexual assault. The need for enhanced coordination and cooperation has long been recognised and resulted in the development of the *2001 Queensland Government Interagency Guidelines for responding to adult victims of sexual assault*.

The 2013 guidelines aim to facilitate best practice, quality service and support to people who have experienced sexual assault.

Legislation relevant to and defining sexual assault includes but is not limited to:

- *Aboriginal and Torres Strait Islander Peoples Recognition Act 2013*
- *Child Protection Act 1999*
- *Criminal Code Act 1899*
- *Criminal Law (Sexual Offences) Act 1978*
- *Domestic and Family Violence Protection Act 2012*
- *Evidence Act 1977*
- *Health Act 1937 & associated regulations*
- *Hospital and Health Boards Act 2011*
- *Mental Health Act 2000*
- *Police Powers and Responsibilities Act 2000*
- *Public Health Act 2005*
- *Victims of Crime Assistance Act 2009*

Policy referred to includes but is not limited to:

- Queensland Government Language Services Policy
- Queensland Health Protocol for conducting child sexual assault examinations

The guidelines should be read in conjunction with internal agency procedures such as the Office of the Director of Public Prosecutions Guidelines and the Queensland Police Service Operational Procedures Manual. In addition to legislation, policies and procedures, the Queensland Government joins with governments around Australia in the implementation of the National Plan to Reduce Violence against Women and their Children 2010-2022.

Each government agency has a complementary and essential role in ensuring that people have access to effective, timely and appropriate information, support, care and treatment following a sexual assault.

Given the nature of the crime, sexual assault is an area of legal and social complexity. The guidelines are designed to help government officers and agencies work together in the best interests of the person who has been sexually assaulted through better understanding one another's roles and responsibilities.

The Queensland Government encourages reporting of criminal activity and prosecution of offender(s) where possible.

Glossary

CPA	<i>Child Protection Act 1999</i>
DCCSDS	Department of Communities, Child Safety and Disability Services
DFVPA	<i>Domestic and Family Violence Protection Act 2012</i>
EA	<i>Evidence Act 1977</i>
FME	Forensic Medical Examination
FMO	Forensic Medical Officer
FNE	Forensic Nurse Examiner
ODPP	Office of the Director of Public Prosecutions
QH	Queensland Health
QPS	Queensland Police Service
SAIK	Sexual Assault Investigation Kit
Victim Assist	Victim Assist Queensland
YJC	Youth Justice Conferencing

Section 1

Introduction

Governance

The government agencies responsible for delivering a service to victims of sexual assault, in accordance with relevant legislation, whole-of-government policy and internal departmental procedures, are responsible for the ongoing governance of this document. The guidelines are underpinned by each government agency's own internal policies and procedures which they are obligated to adhere to. Each government agency has a formal complaints mechanism which is accessible to members of the public.

The Government Interagency Working Group will meet bi-annually to review the guidelines and consider matters of particular concern for people impacted by sexual assault and to consider the impact of any legislative change.

Sexual assault

Sexual assault is a crime of violence. It is a humiliating and degrading experience. It has an emotional, physical, financial and social cost, not only to those directly affected, but also for the community as a whole.

The number of reported sexual offences against women aged 15 or over in Queensland in 2011/2012 was 2035 compared with 227 against males.¹

Major Australian studies indicate that only 11-25 per cent of sexual assaults are reported to the police and that most offenders are known to the victim.² People who experience sexual assault may feel a range of emotions including shock, fear, guilt, shame, depression and an inability to trust others. The social stigma attached to sexual assault can heighten these feelings and increase the trauma experienced. It is imperative that when disclosing or reporting a sexual assault, people receive an effective, professional and appropriate response from the agencies to which they report.

Community education can encourage family and friends to respond supportively and appropriately to a disclosure of sexual assault. However, in order to assist their recovery, victims may also need access to a range of personal support services including counselling, medical services and assistance to report the crime to the police.

The information provided in the guidelines is intended to provide a strategic overview to support the development of policies and procedures at a local level. Local level procedures will differ according to the nature of the service system in each area. It is also intended to contribute to improving service responses to victims.

Responses to victims

Following disclosure of a sexual assault, the following needs of the victim should be addressed:

- immediate safety needs
- immediate health needs
- options for pursuing justice
- ongoing emotional needs for longer term wellbeing.

In order to avoid secondary traumatisation and mitigate the risk of negative, long term outcomes, government responses to sexual assault must be both sensitive and effective. These responses therefore need to take into account the diversity of victims, including their cultural and linguistic background, disability, sexual orientation, age and geographical location. In addition to assisting recovery, more sensitive and effective responses may also lead to an increase in reporting rates.

This, in turn, can lead to a more accurate understanding of the prevalence of sexual assault, inform community education and awareness approaches, and result in improved prevention strategies.

¹ Queensland Police Service (2012) Statistical Review 2011-2012 Brisbane

² Australian Bureau of Statistics (1996) Women's Safety Survey, Cat.no. 4218.0 (unpublished data) as cited in Office of Women's Policy (1999) A Social and Economic Profile of Women in Queensland 1999 Brisbane; Australian Bureau of Statistics (1996) Victims of Crime Survey

Children and young people

It should be noted that the *Child Protection Act 1999* (CPA) is relevant where there are concerns that a child has been sexually abused and where a child does not have a parent able and willing to protect them from the abuse. The main principle for administering the CPA is that the safety, wellbeing and best interests of a child are paramount. Section 159B of the CPA imposes a responsibility on particular service providers to assess and meet the protection and care needs of children and provide collaborative and coordinated support to their families.

The definition of harm in the CPA includes harm resulting from sexual abuse or exploitation. A child is defined in the CPA as an individual less than 18 years of age. Where the child or young person is under the age of 16, their parent or guardian should be consulted where possible and appropriate. Whilst certain circumstances may not make this possible, the child or young person should have access to a support person throughout the response.

The safety and protection of children and young people who are sexually assaulted is a high priority. When disclosing a sexual assault, young people should be encouraged to access services so that they are aware of their options in terms of support, assistance, treatment and prevention.

When working with a young person who reports a sexual assault, personnel from the Queensland Police Service, Department of Communities, Child Safety and Disability Services (DCCSDS) and Queensland Health (QH) are required to follow the statutory requirements under the CPA and the *Public Health Act 2005* relevant to their position.

Where the child or young person is subject to an order granting custody or guardianship of the child, the Chief Executive, Child Safety, DCCSDS, must be notified regarding the report of a sexual assault.

Confidentiality cannot be guaranteed where a child or young person is believed to be in need of protection from harm. To work in the best interest of that child or young person, information may need to be exchanged between departments. It is best practice for the child or young person to be advised that a report to the DCCSDS and the police may take place. Certain circumstances may not make this possible.

Section 2

Principles of the Interagency Guidelines

Government responses to sexual assault are framed by the following overarching principles:

- All agencies will focus on the safety, physical and psychological needs of the victim
- The victim's right to privacy and confidentiality will be respected at all times unless disclosure is required by another law
- Comprehensive information about all processes and options will be offered in a way which is non-judgemental, appropriate, clear and sensitive to the victim in terms of language, culture, age, disability, gender, sexuality and location
- The victim's informed decision will be respected at every stage of the process
- The victim's sense of personal control will be supported and encouraged
- All relevant agencies will work collaboratively to respond to sexual assault, to provide clear, up to date and comprehensive information about other agencies and services and will facilitate access to appropriate agencies and services on request
- All agencies will ensure documentation and records are prepared in accordance with individual agency requirements and respect confidentiality, privacy, security and choice.

Fundamental Principles of Justice for Victims of Crime and Complaints Mechanism

Government responses are also framed by the legislated responsibilities defined in the Fundamental Principles of Justice for Victims of Crime (Principles of Justice) in Queensland, set out in Chapter 2 of the *Victims of Crime Assistance Act 2009*.

If a victim feels they have been treated unfairly or without respect by a Queensland Government officer, they have the right to complain to the government agency responsible for the conduct of the officer or to Victim Assist Queensland (Victim Assist).

As a guide, the following is a summarised version of the Principles of Justice:

Fair and dignified treatment

The victim must be treated fairly and shown dignity, respect, compassion and courtesy. The government entity must take in to account and be responsive to the particular needs of the victim relating to the victim's age, sex, race, cultural identity, impairment, sexuality or religion.

Privacy of victim

A person's personal information, including their address and phone number, can only be disclosed with consent or as authorised by the law.

Information about services

The victim must be given timely information about relevant services available to them, including welfare, health, counselling, legal help and financial assistance.

Information about investigation of the offender

If the victim asks, they should be given information about the investigation of the offender where possible. Information given to a victim may include the progress of the investigation and the name of the person charged.

Information about prosecution of the offender

If asked by the victim, the prosecuting agency is to give the victim details about the crime committed against them, including when the victim may attend a court proceeding, notice of a decision to change a charge, or notice of the outcome of a court proceeding.

Victim to be advised on their role as a witness

A victim, who is to be a witness for the prosecution in the trial for the crime committed against them, is to be informed by the prosecuting agency about the trial process and their role as a witness.

Minimal exposure to and contact with the offender

As much as possible, relevant agencies present at court are to ensure the victim has minimal contact with or exposure to the offender during court proceedings or in the court building.

Victim Impact Statement

During sentencing of the offender, the victim has the right to give details of the impact and harm caused to the victim by the offence, to the prosecutor as an impact statement. Victims can access information about completing a victim impact statement by calling Victim Assist on 1300 546 587 or by accessing a copy of the [*Guide to Making a Victim Impact Statement*](#) at www.justice.qld.gov.au.

Information about the convicted offender

A victim can apply to be registered on the Victims Register. If the offender is then convicted and imprisoned, the victim will be provided with this information on request. This includes information on the sentence, an escape from custody, or day of release. To be included on the Victims Register call 1800 098 098.

Making a complaint

If a victim of crime feels a government agency, person or persons within the agency have engaged in conduct that is not consistent with the Principles of Justice, they have the right to make a complaint. Victims can access information about making a complaint by calling Victim Assist on 1300 546 587 or by accessing a copy of the [*Complaint Form*](#) at www.justice.qld.gov.au.

Government agencies are obligated to have a formal complaints management system, and the Queensland Government is committed to having these systems available and acted upon in accordance with the Principles of Justice.

Section 3

The Roles of Key Government Agencies

Queensland Police Service

The Queensland Police Service (QPS) has three main functions in relation to sexual assault cases including:

1. Investigate complaints of sexual assault and establish whether an offence of sexual assault has been committed.
2. Protect victims of sexual assault.
3. Identify, apprehend and prosecute offenders.

In carrying out this role, the police should:

- observe QPS Operational Procedures Manual
- observe QPS local procedures or instructions
- observe legislative requirements
- observe the Fundamental Principles of Justice for Victims of Crime
- provide victims with information regarding the investigation and prosecution
- provide protection to victims at immediate risk of sexual assault
- provide victims with information about support services

Queensland Health

In responding to sexual assault, the role of QH is to provide medical care, forensic medical examinations (FME), sexual health assistance and information and support. These responses are provided by public hospitals, the Clinical Forensic Medicine Unit and may include specialist sexual assault teams. The extent and nature of this care varies across hospital and health services in accordance with local procedures and resources.

Assistance and care in the acute phase includes:

- medical treatment
- collection and documentation of medico-legal evidence where appropriate
- sexual health information and treatment
- information about rights as a victim of crime
- information about reporting to police and legal processes
- support and information extended to support networks.

In addition, QH provides education and training to government and non-government agencies, with an aim to broaden community knowledge, improve responses and prevent sexual violence as outlined in the National Plan to Reduce Violence against Women and their Children 2010 – 2022.

Department of Justice and Attorney-General

The Office of the Director of Public Prosecutions (ODPP), Victim Assist Queensland (Victim Assist), Youth Justice Conferencing (YJC) and the Queensland Courts all fall within the responsibilities of the Department of Justice and Attorney-General. The following provides an overview of each of these separate agencies.

Office of the Director of Public Prosecutions

The ODPP represents the Crown in criminal proceedings against persons accused of committing serious criminal offences including sexual assault.

The criminal proceedings include:

- the committal hearing, before a Magistrate in Brisbane Central, Ipswich and Southport Magistrates Courts. In other centres, this hearing is conducted by prosecutors within the police
- trials before a judge alone or a judge and jury
- sentencing hearing before a judge
- any appeals arising from the trial or sentence.

In addition to prosecuting matters in court, the ODPP is responsible for:

- assisting victims by providing information about the progress of a prosecution, the victim's role as a witness, and how the victim can inform the court of the impact of the crime by providing a victim impact statement
- giving victims reasons for decisions made in relation to proceedings which directly affect them
- taking into account the wishes of a victim who does not wish to proceed with a prosecution for any reason
- providing information about the availability of other resources and processes that may assist victims
- requesting that the court give sexual assault matters appropriate priority
- ensuring the victim has minimal contact with or exposure to the offender during court proceedings or in the court building

- liaising with other relevant agencies to ensure that the victim and family members understand the legal and procedural issues which may impact them.

In carrying out the role of the ODPP, all officers are obliged to comply with the Director's Guideline No. 25 as at 2013 http://www.justice.qld.gov.au/_data/assets/pdf_file/0015/16701/Directors-guidelines.pdf. This aims to ensure that the Principles of Justice, as set out in the *Victims of Crime Assistance Act 2009* are complied with.

Victim Assist Queensland

Victim Assist provides access to specialised support services and financial assistance for victims of personal acts of violence including sexual assault.

Financial assistance may be available to victims of sexual assault to help them pay for the cost of goods and services that have arisen, or will arise as a consequence of the assault.

This includes medical and dental expenses, and expenses associated with improving safety or relocation from their current location in order to escape the offender.

Victim Assist also provides information, referrals and support (which may include court support) to victims, and assistance in making a victim impact statement if the victim chooses to make one.

Youth Justice Conferencing

If the offender is a young person, there may be alternative processes to the matter being dealt with by a court. The purpose of YJC is to hold the young offender accountable for their actions and to come to an agreement on what they will do to attempt to make reparation for the harm caused. To safeguard the victim, additional procedures are adopted before a conference for a sexual assault can occur. These include referring the victim to a counselling service as well as compulsory attendance of the juvenile offender in a specialist treatment service.

Queensland Courts

Queensland Courts afford victims of sexual offences, affected child witnesses and special witnesses protections when proceeding through court. These are detailed in the *Evidence Act 1977* (EA) and the *Criminal Law (Sexual Offences) Act 1978*.

Section 21A of the EA provides protections for special witnesses and affected child witnesses. The court can declare a person a special witness by hearing evidence (if the witness does not automatically fall into the special category, such as where the witness is a child or the person has a mental impairment). When the court hears evidence from these special witnesses, there are a range of options to assist the witness. These include ensuring the victim has minimal contact with or exposure to the offender during court proceedings or in the court building. Where the witness is an affected child witness, there are further protections in place.

For further information refer to the Supreme Court Bench Book: <http://www.courts.qld.gov.au/information-for-lawyers/benchbooks-and-ucpr-bulletin/supreme-and-district-courts-benchbook>.

Department of Communities, Child Safety and Disability Services

The Department of Communities, Child Safety and Disability Services allocates funding to non-government organisations to assist people, predominantly women, who have experienced sexual assault, in accessing necessary services and support needed to rebuild their lives as quickly as possible. These sexual assault services offer flexible, holistic and ongoing personal support including advocacy and sexual assault counselling (including crisis counselling), in a culturally appropriate and safe environment.

The range of support provided by these services includes:

- provision of information, advice and referral
- needs assessment and development of case/service plans
- individual advocacy
- sexual assault counselling for victims and survivors of sexual assault
- community education.

For more information about access to sexual assault services in local areas, contact the Sexual Assault Helpline on 1800 010 120.

Child Safety Services is the Queensland Government agency for child protection and adoption services. The department is dedicated to protecting children and young people from harm or who are at risk of harm, and whose parents cannot provide adequate care or protection for them.

Non-government organisations

It is acknowledged that a number of government departments provide grant funding to non-government organisations to deliver a range of specialist sexual assault services. Local procedures and service agreements in relation to services provided by these organisations should be adhered to.

Section 4

Interagency approach

Given the often violent and complex nature of sexual assault, an interagency approach is essential. The Queensland Police Service (QPS), Queensland Health (QH), the Department of Justice and Attorney-General (DJAG) and the Department of Communities, Child Safety and Disability Services (DCCSDS), each have a different but fundamental role in responding to sexual assault. Each of these agencies should assist each other in understanding and supporting their role and be familiar with, and sensitive to, their differing and complementary roles. An interagency approach provides opportunities to discuss and address issues of mutual concern across departments.

Teamwork

Quality of care depends on partnership between these different agencies. Each agency should establish local procedures to facilitate improved liaison and coordination between services. These procedures should include systems for information sharing and conflict resolution.

Confidentiality

Confidentiality, privacy of information and security of records is imperative when working with people who have experienced sexual assault. It is a fundamental principle in treating victims with dignity and respect.

Access to and disclosure of personal information regarding the assault will conform to legal requirements and be limited to people directly involved in the case. Except where legal obligations exist, information will not be released without the prior consent of the person involved. This includes names and identifying information.

Training

Joint training can contribute to achieving interagency objectives and allow those working in the field to understand how best practice is achieved. Training and orientation should be ongoing and could include input from relevant local services.

Information provision

Police officers, doctors, social workers, health workers and legal officers, should provide people with relevant information which may include written material. This information should be offered in a way which is non-judgemental, appropriate, clear and sensitive to the victim in terms of language, culture, age, disability, gender, sexuality and location.

People should be made aware of, and be given an opportunity to discuss and consider the implications of proceeding with medical, investigative and legal processes so that they can make informed decisions. These decisions must be respected. It should be noted however that the decision whether or not an investigation should proceed rests primarily with the police.

Referrals

Relevant referral procedures and guidelines between police and health services should be observed.

Staff of government agencies should be familiar with local specialist services and actively support people who have experienced sexual assault to access appropriate supports available in their community. In addition, relevant health, welfare and legal services likely to be accessed by victims will need to develop local strategies and procedures to ensure that referral processes are appropriate and coordinated. These services should also be aware of the admission procedures and location of the nearest health facility and police station.

Feedback

Quality of care is essential in ensuring that people are referred to the appropriate service. QPS, QH, DJAG and DCCSDS should ensure that local interagency links and procedures operate in a coordinated manner. Mechanisms for giving feedback about service delivery should also be in place and observed.

Access, availability and promotion of services

People who have experienced a sexual assault may need encouragement to use medical, counselling, police and legal services. Local procedures should ensure that services are accessible and coordinated. This includes the use of written information and community education materials.

Gender of service providers

Following a sexual assault, the person may feel uncomfortable talking with personnel of the opposite sex. If a preference for female or male personnel is expressed, all reasonable steps to accommodate this preference should be taken.

Diverse needs

Procedures need to be flexible in order to respond to diverse needs; including culture, language, gender, disability, religion, sexuality and geographical location. Furthermore, it is important to understand how these needs impact access to and utilisation of appropriate services.

All agencies should ensure that procedures and facilities provide access to appropriate services for Aboriginal and Torres Strait Islander people, people of non-English speaking backgrounds, children and young people and people with disabilities, including physical disabilities.

Aboriginal and Torres Strait Islander people

Service provision should reflect the cultural needs of Aboriginal and Torres Strait Islander people. Agencies should have a referral mechanism to facilitate access to culturally appropriate information for Aboriginal and Torres Strait Islander people. Where there is consent and it is appropriate to do so, Aboriginal and Torres Strait Islander liaison workers may be offered to assist people during the process.

Communication

The Queensland Government recognises that a significant number of people may require interpreter services, as well as culturally appropriate support in order to adequately disclose and report a sexual assault, and make informed decisions about the support and options available to them.

People with a disability

Services and agencies should facilitate access to appropriate support workers and interpreters for people with a disability. Disability includes intellectual, physical, sensory, psychiatric or neurological impairment, or a combination of these, resulting in a substantial reduction in the person's capacity to make informed decisions or communicate. With the person's consent, and when it is safe and appropriate to do so, services should also consult with relevant people involved in that person's life such as carers, guardians and specialist agencies or departments.

People from culturally and linguistically diverse backgrounds

Service provision should be responsive to, and respect the cultural, religious and language needs of the person who has experienced sexual assault. Where communication in English is difficult or where requested, accredited interpreters and cultural support workers should be used to assist in both eliciting information from, and providing information to the person who has experienced sexual assault. This supports client safety and enables informed decision making about health care, investigative and legal processes for both the client and agency.

Translating and interpreter services

All reasonable steps will be taken by government agencies and funded non-government organisations providing sexual assault responses, to ensure fair and equitable access to interpreting and translating services that are responsive and high quality.

All reasonable steps should be taken to make an accredited interpreter available in all situations where an interpreter and/or translator is required, unless there are extenuating circumstances that genuinely prevent an interpreter from being used. This may include, for example, a medical emergency or where a language group or community is very small and confidentiality is a concern for the client, or where there is no interpreter available for that language group. All agencies will take into consideration the wishes of the person who have been impacted by the sexual assault in relation to the use of an interpreter.

Each government agency is required to observe its own policies and procedures in relation to the use of interpreters. These internal procedures should align with the [Queensland Government Language Services Policy](#).

Section 5

Interagency procedures

Regardless of where sexual assault is first reported, the first priority is to ensure the safety and welfare of the person reporting. Prompt referral to the designated specialist service should take place.

Crisis intervention

The purpose of intervention by a designated sexual assault response worker is to:

- provide immediate assistance, stabilisation and emotional support to assist the person to return to their level of functioning before the crisis
- assist the person to process their perception of the stressor
- provide information about the options available, as well as the procedures of the local health facility
- provide an opportunity for the person to express their concerns and feelings
- offer practical support, including contacting family members or support persons where appropriate
- talk to family members or support persons (if present) about how best to support the victim
- co-ordinate the interagency response and facilitate patient care and treatment along the sexual assault pathway
- provide information in relation to available community support resources.

The sexual assault worker will advise the victim of their right to access medical advice and treatment including sexual health treatment. If information or clarification about police procedures is requested, the sexual assault worker will, with the victim's consent, arrange for police to provide this information.

During any phase of this process, a support person can be present. The support person should not adversely influence the process.

Initial report to police

Police receiving a report of a sexual assault will act on the information received. The police should inform the victim of relevant decisions made and where necessary, obtain the victim's consent.

Initial report to a health facility

Health facilities, such as hospitals, are often the first place where a person will disclose a sexual assault. When this happens, nursing and medical staff will assess the general medical condition of the person and administer immediate medical treatment if required. Assessment of a person's need and urgent medical intervention will always be the first priority.

Medical examination and treatment

A general, non-forensic medical examination may be conducted by a medical professional with the aim to:

- reassure victims about their physical welfare, including giving information on, and providing treatments to reduce the risks of pregnancy and sexually transmitted infections
- assess, treat and document injuries
- provide advice and referral options for follow up medical care.

A medical examination should include sexual health intervention as described in *Queensland Sexual Health Clinical Management Guidelines of 2010 section 6: http://www.health.qld.gov.au/sexhealth/documents/cm_guidelines06.pdf*.

Unconscious patients who are admitted to hospital with a suspicion of sexual assault will be assessed and treated as medical emergencies.

Referral to the local sexual assault team

Health staff must follow local procedures in the management of sexual assault. All efforts should be made to contact the designated sexual assault team and where there is no specialist team, crisis intervention and support will be delivered by health staff present. A referral for follow-up support and care should be made as soon as possible.

Notifying the police

The sexual assault worker should discuss available reporting options with the person. If the victim requests to speak to police, it is the role of the sexual assault team or other designated staff member, to notify the police as soon as possible to ensure all evidence including the crime scene can be secured. Notification and initial reporting to police does not mean an investigation will automatically take place.

Where police are operating under time constraints, they should inform health staff. Working together to meet time constraints will directly impact the quality of the outcome for the victim.

Victim attending with police

Where victims arrive at the health facility with police, procedures outlined in referral to the local sexual assault team above should still be followed by health staff.

Initial contact

It is the sexual assault worker's role to coordinate an immediate response; offer practical and emotional support, assess the person's immediate physical and emotional safety and recognise the potentially traumatic nature of the assault.

Medical assessment will be conducted in accordance with local procedures.

Forensic medical examinations

Doctors or nurses conducting forensic examinations must follow local procedures in the management of sexual assault.

The forensic examination consists of obtaining a history as to the nature of the assault in order to guide the subsequent physical examination. It also includes interpretation of injuries and the collection of forensic evidence as it relates to the alleged sexual assault.

Forensic medical examinations and informed consent for people aged 14 years and above

Informed consent reflects a legal and moral principle whereby the victim has the right to decide what is appropriate for them. This includes the right to accept or to decline a forensic examination and to change that decision.

In order for a patient to exercise this right, they require access to information that is relevant to them. An explanation about the nature of the forensic examination must be given by the forensic medical officer (FMO) or forensic nurse examiner (FNE) and police also need to inform the victim about police investigation processes.

The victim should be made aware that they may withdraw their consent at any time to any particular procedure, or any aspect of the examination. However after the examination is complete, an investigation by police may continue to progress.

It should be noted that the decision to have a forensic examination is a health care matter and therefore legislation and policy around informed decision-making in health care applies in this circumstance. For more information on decision-making in health care settings, please refer to the Queensland Health guide to informed decision-making in healthcare: www.health.qld.gov.au/consent/documents/ic-guide.pdf.

It is the responsibility of the medical and forensic staff to assess capacity to consent. Where a person lacks capacity, it is appropriate to identify a capable adult to act on the patient's behalf. Please refer to section 2.2 of the Queensland Health guide to informed decision-making in healthcare: www.health.qld.gov.au/consent/documents/ic-guide.pdf.

If at any point there is a possibility that the capable adult identified is the offender, it is in the best interests of the patient for an Adult Guardian to be appointed in accordance with the *Powers of Attorney Act 1998* and the *Guardianship and Administration Act 2000*.

Where possible the examination will be carried out using the Sexual Assault Investigation Kit (SAIK).

Forensic medical examinations and informed consent for people under 14 years of age

Paediatric patients are generally those aged less than 14 years of age. It is usual practice for the child to be transferred to the hospital's child protection area for an examination, even if they have had initial treatment in an adult emergency setting. Emergency medical treatment for any child should be undertaken by the Department of Emergency Medicine prior to a forensic medical assessment.

Paediatric forensic medical assessments are undertaken by paediatricians. This will be done by the Child Protection Advisor on call (or similar) or the general paediatrician on call.

All examinations conducted on children should be consistent with Queensland Health's Hospital and Health Services Health Service Directive: Protocol for conducting child sexual assault examinations: <http://www.health.qld.gov.au/directives/docs/ptl/gh-hsdptl-029-11.pdf>. All paediatric FMEs should also adhere to legislation and policy around informed decision-making in health care. For more information on decision-making in health care settings, please refer to the Queensland Health guide to informed decision-making in healthcare: www.health.qld.gov.au/consent/documents/ic-guide.pdf

Chain of evidence

The chain of evidence and the need for 'contemporaneous recollection of facts' to aid an investigation is essential. The chain of evidence involves not only the examination of the victim, but also includes the geographic location where the assault occurred, the identification and interview of witnesses and identification of relevant additional evidence. Evidence collected needs to be stored and transported in approved and standardised ways as outlined in police procedures to ensure the utility in a court proceeding. This further emphasises the importance of police involvement prior to an examination being conducted.

Storage and transportation issues need to be considered when undertaking an examination as the inability to safely and correctly store and transport evidence may damage the evidence or make it inadmissible in court in the later stage of an investigation and prosecution.

The doctor or nurse conducting the forensic examination should discuss the case with the police before the forensic examination takes place. This is to ensure that:

- all necessary evidence is collected
- a re-examination is prevented
- unusual evidence is not overlooked.

Timing and nature of the forensic medical examination

In determining the timing and nature of the FME a number of factors will be considered. These include the time since the assault, the physical and emotional state of the victim and their account of the assault.

This process, particularly if it involves an internal gynaecological or anal examination, can be distressing and the examination may need to be delayed or discontinued on account of the victim's physical and emotional state.

Presence of police and support person at medical and forensic examinations

Regardless of age, a person is entitled to have a support person present during the medical and forensic examination. This may include a friend or family member, a nurse, health care worker or sexual assault worker, who is not a potential witness.

There is no legal requirement for a police officer to be present during the medical and FME. However, if a victim requests the presence of police, this police officer is to be the same gender as the victim.

A police officer must be present to receive all evidence collected during a forensic examination immediately after the procedure to maintain continuity of the evidence for any potential court proceeding.

Consent to release information and evidence

The doctor or nurse conducting the FME will not release the SAIK to police without the signed consent of the victim or the capable adult acting on their behalf.

Access to health records

Health records, including counselling notes, are confidential. However, patients should be notified that any records can be subject to a subpoena or other court-related mechanisms.

Drug facilitated sexual assault

Where the administration of drugs in the sexual assault is suspected, testing to maximise the chances of detecting these substances should be administered in a timely fashion. However, the decision to test remains a clinical one which is made by the FMO or FNE.

Victim DNA reference samples

DNA reference samples (usually a blood sample or mouth swab) should be taken routinely as part of the FME.

Support person during the police interview

Police should inform victims that they may be accompanied by a support person while their statement is being taken. However, the victim must be advised that:

- the support person may not participate in the interview
- the support person may not directly or indirectly influence the interview
- a potential witness may not act as a support person.

Discontinuance of police action before a proceeding has commenced

Where the victim does not wish to proceed with further police action, police should:

- make clear that following the withdrawal of the complaint no further police action will be taken
- attempt to obtain a signed withdrawal of complaint
- inform the adult victim (18 years and over, only) of the online *Adult Sexual Assault Resource* (<http://www.police.qld.gov.au/programs/adultassault/>) package that provides alternative reporting options

If a proceeding has commenced, the victim's wishes will be taken into account when deciding if the matter will continue.

Domestic Violence Protection Orders

Sexual assault is one form of domestic and family violence. Where the sexual assault has occurred within an intimate personal relationship (marriage, engagement, couple), family relationship or an informal care relationship, the victim should be informed of their option to seek protection under the *Domestic and Family Violence Protection Act 2012*. In situations where domestic violence has occurred and where protection is needed to prevent further violence, a domestic violence order can be applied for by the victim, by police on behalf of the victim or by another person authorised by the victim. This is done through the Magistrates Court.

Where appropriate, victims should also be referred to a specialist domestic violence service for support and assistance, for example DVConnect Womensline Ph. 1800 811 811 and DVConnect Mensline Ph. 1800 600 636.

Follow-up and registration on the Victims Register

After the trial and/or sentence, the victim will have the opportunity to talk to the case lawyer about the outcome of the case and the sentence imposed, if any. This opportunity may arise immediately after the trial and/or sentence concludes or at a later time by telephone.

If the offender is imprisoned or placed under the supervision of Queensland Corrective Services, the victim may register their details on the Victims Register which is administered by Queensland Corrective Services. A victim and/or their family or nominee can register to be kept informed about the offender's imprisonment, movement between locations and proposed parole dates. They will also be given the opportunity to make submissions to parole boards when offenders apply.

Where the offender is a young person, the Victim Information Register may be utilised. This register is administered by Youth Justice within the Department of Justice and Attorney-General. A victim and/or their family or nominee can register to be kept informed about the young person's detention, movement between locations and supervised release dates.

If the offender appeals against their conviction and/or sentence or the Attorney-General appeals against the leniency of the sentence, the victim will be kept informed about the progress and outcome of the appeal and any consequential matters arising from the appeal.

Key stakeholders at the local level should maintain current referral information on appropriate support and other community services available. Localised referral pathways and protocols should be developed between key service providers to ensure timely referral pathways for those in need of support.

Conclusion

The government agencies acknowledged in this document (QPS, QH, DJAG and DCCSDS) have committed to the principles, roles, approaches and procedures articulated in the guidelines. This commitment aims to ensure that individuals who have experienced sexual assault are provided with timely, high quality and coordinated service delivery responses appropriate to their needs and appropriate to the role played by departmental officers.

Key service providers are encouraged to use this document as a framework to develop local level arrangements and protocols to ensure best practice, quality service and support to people who have experienced sexual assault.

The government agencies responsible for the development of the guidelines would like to thank all key government and non-government stakeholders who kindly contributed their knowledge and expertise.



For information or comments please contact:

Queensland Government Interagency Working Group Responding to Sexual Assault

Tel: 1300 546 587 **Email:** victimslinkup@justice.qld.gov.au