Preface

Queensland Police Service (QPS) officers have had the power to issue a move-on direction since 1997. Before 2006, the use of these powers was restricted to certain geographical locations. Over time, there has been an incremental expansion of the areas in which police can apply the laws.

On 1 June 2006, new laws were introduced to expand the use of move-on powers to all public places in Queensland. These new laws also required the Crime and Misconduct Commission (CMC) to review the use of move-on powers as soon as practicable after 31 December 2007.

As part of the review process, the CMC released an issues paper in December 2008. The review was to consider the following topics in detail:

- use of move-on powers by Queensland police—including when and where they are used and who they are used against;
- how people who fail to obey a move-on direction are dealt with by police; and
- positive or negative consequences arising from the use of move-on powers in Queensland.

The CMC report, Police move-on powers, A CMC review of their use (the Review) was provided the Speaker of the Legislative Assembly in December 2010.

Based on the findings of the Review, the CMC made 11 recommendations which seek to:

- provide an effective legislative and operational framework that supports the use of move-on powers;
- provide an effective policing tool that enables police to maintain community safety and public order, as well as allowing police to divert people away from the criminal justice system; and
- change policing practices in the use of move-on powers.

The following paragraphs detail the recommendations and identify the Queensland Government position and response.

Recommendations

Recommendation One

That s. 47 of the Police Powers and Responsibilities Act 2000 (PPRA) where the move-on power can be exercised in relation to ‘presence’ be repealed.

Queensland Government position

Not Supported.

Government response

It is the Government position that omitting ‘presence’ will have a detrimental impact on the operational use of move-on powers, and will diminish it as an important crime prevention tool which the QPS may use as a rapid and effective early intervention tool (secondary level crime prevention) or as an alternative to commencing a prosecution against a person for minor offences, in an effort to prevent the person from re-offending (tertiary crime prevention).
The Government believes the current policy settings for the legislation which is to empower police to act in circumstances without having to wait for offences to be committed, are correct.

This intention has been clearly reflected in statements made by former Police Ministers’ Cooper (1997), Barton (2000) and Spence (2006) in the Queensland Legislative Assembly. As identified in the CMC Report (2010: 2) the intention of the legislation is to:

- respond to antisocial conduct in order to contribute towards improved feelings of community safety and maintain public order; and
- provide a means to divert people away from the criminal justice system, as an alternative to issuing an infringement notice for a public nuisance offence or placing a person before a court via arrest or a notice to appear.

The second important public policy principle of the move-on power is that by enabling police to give timely verbal move-on directions, situations are not allowed to escalate through the need to obtain identifying particulars of a person[s] to be moved-on. The outcome is that move-on people remain anonymous and are diverted away from the criminal justice system.

The QPS in its submission to the CMC provided that ‘in policing public disorder, members of the QPS issue move-on directions and/or commence prosecutions on the basis of behaviour, not on the basis of personal characteristics’. That is, in the absence of any anti-social behaviour or other person’s being caused anxiety, the use of move-on powers is not considered appropriate when police are faced with specific issues concerning the homeless, mentally impaired persons and other vulnerable groups.

**Government action**
There will be no change to the existing move-on power policy settings to remove the ability for police to exercise the move-on power in relation to ‘presence’.

**Recommendation Two**
That the ‘causing anxiety’ limb in s. 46 of the PPRA be amended to only allow police to take action against a person on the basis:

- that the person’s behaviour ‘is causing or is likely to cause fear to a reasonable person’ and
- that police have received a complaint about the person’s behaviour.

**Queensland Government position**
Not Supported.

**Government response**
Ensuring that the police are supported in the delivery of policing services is a priority of the Government. Part of this support is the provision of police powers which enable police to take action to prevent anxiety being caused to a reasonable person in a public place by another person’s presence or behaviour, or to proactively prevent unruly or objectionable behaviour.

It is important that all persons in the community feel safe and that public order is able to be maintained in circumstances where the presence and the mannerism or conduct of a person cause another member of the community anxiety. This is particularly important in a range of places that are open to the public including: shops and malls; around schools; licensed and gaming premises; railway stations and surrounding land; automatic teller machines; war memorials; and
places where large numbers of the community gather, such as Southbank or the Cairns Esplanade and major events such as Schoolies.

It is the position of the Government that the implementation of this recommendation may potentially unnecessarily expose members of the community to an immediate known or definite threat, and therefore possible injury or victimisation, and will significantly reduce the ability of police to intervene at an early stage where they see a problem arising. This will impact on the ability of the QPS to provide effective services which maintain safety and prevent the commission of offences against persons who live in and visit Queensland.

**Government action**

There will be no change to the existing move-on power policy settings.

**Recommendation Three**

That the ‘reasonable suspicion’ test in s. 46 of the PPRA be repealed and replaced with a ‘reasonable belief’ test.

**Queensland Government position**

Not Supported.

**Government response**

The Government is of the view that, in policing public order, the use of move-on powers and other de-escalation strategies is the preferred initial response with arrest as a last resort. Raising the threshold test for exercising move-on powers increases the likelihood of a person escalating anti-social behaviour to such an extent that the person would be arrested or issued with a notice to appear, instead of being subjected to ‘de-escalation action’ and directed to a move-on.

It is the view of Government that the current test for the application of move-on powers strikes a balance the rights and liberties of individuals and the community’s legitimate expectation that crime will be prevented, offenders discovered and appropriate enforcement or diversionary action taken.

**Government action**

There will be no change to the existing move-on power policy settings which provide that the test for the use of the move-on power be based on reasonable suspicion.

**Recommendation Four**

That new threshold requirements be inserted into s. 48 of the PPRA to guide the type of move-on direction that a police officer may issue. These requirements should include:

- that police must be satisfied that a move-on direction is reasonably necessary to maintain community safety and public order
- that police must issue a move-on direction that is proportional to the conduct which gave rise to the move-on direction.

The wording ‘that is reasonable in the circumstances’ should be repealed.

**Queensland Government position**

Supported in Principle.

**Government response**
The Government supports the amendment of s. 48 of the PPRA to re-affirm that a move-on direction should only be given by a police officer when the conditions of s. 48 of the PPRA are met and police are satisfied that the move-on direction is reasonably necessary to maintain community safety or public order.

**Government action**
The Minister for Police will progress necessary amendments to the PPRA to implement this response.

**Recommendation Five**
That the issuing of a move-on direction become a ‘prescribed circumstance’, pursuant to s. 41 of the PPRA, that requires a person to provide their name and address to police.

**Queensland Government position**
Not Supported.

**Government response**
While it is acknowledged that the recording of a person’s name and address in circumstances where the person has been moved-on will alleviate later identification and some prosecution difficulties, the proposal raises a fundamental policy question, about whether or not to provide greater formalisation of the move-on power or to retain it as a low level diversionary power which aims to avoid pushing persons into the criminal justice system.

It is the view of the Government that the original policy intention for move-on powers be retained. While this policy intention has been well articulated by previous Police Ministers and captured in the Review, the underpinning public policy is that police are able to contribute towards improved feelings of community safety and maintain public order, through being able to exercise a police power in situations where:

- a person is either caused anxiety by the presence of a person or group of persons before antisocial behaviour or an offence occurs; or
- where antisocial conduct occurs, which falls short of an offence.

The second important public policy principle is that by enabling police to give timely verbal move-on directions, situations are not allowed to escalate through the need to obtain identifying particulars of a person[s] to be moved-on. The outcome is that moved-on people remain anonymous and are diverted away from the criminal justice system.

The recording of a person’s identifying particulars immediately formalises the use of move-on powers. Because move-on directions are often given in confrontational circumstances, and these persons may be unco-operative in providing details required to complete the form, it is likely that there would be an increase in the arrest of persons who refuse to co-operate with police. This could result in ‘net-widening’, that is, a person committing further offences while talking to police (eg, public nuisance).

**Government action**
There will be no change to the existing police powers by including the giving of move-on direction as a prescribed circumstance that requires a person to provide their name and address to police.
**Recommendation Six**
That the QPS continue to improve data collection to better record the use of the move-on powers. For each move-on incident, the QPS should record:

- the limb of the move-on power that is relied upon for direction
- why a move-on direction is necessary to maintain community safety or public order (that is, the reason for the move-on)
- the time and place (including street address) of the move-on direction
- the specifics of the direction (the time period for which the move-on direction is in place and the geographic area to which it applies)
- the demographics of the person (gender, age, Indigenous status, residential status).

For each disobey move-on direction offence, the QPS should record all data mentioned above, and capture the following additional data:

- the particulars of the time and place (including street location) of the disobey offence
- what action was taken (caution, arrest, notice to appear, and so on).

**Queensland Government position**
Supported.

**Government response**
The Queensland Government supports the recording of essential information relating to the exercise of move-on powers, as important accountability and reporting safeguards associated with the use of police powers. The QPS is currently investigating procedures to improve the recording of this data and to alleviate the necessity for police to remove themselves from operational duties for the purpose of completing register entries.

In the Review, the CMC identified a number of details (listed under recommendation 6) that should be recorded in conjunction with the use of the move-on powers. The QPS is currently investigating procedures to improve the recording of this data and to alleviate the necessity for police to remove themselves from operational duties for the purpose of completing register entries.

A particular area of concern identified by the Review, however, was that these details for move-on directions issued were not typically entered onto QPRIME unless the move-on direction was breached.

The QPS, in subsequent discussions with officers, identified that neglecting to record move-on directions onto QPRIME unless they were breached was a product of the significant amount of time it takes officers to do so. In particular, officers were concerned by the need to remove themselves from operational duties for extended periods for the purpose of completing register entries.

It is important that police are encouraged to use move-on powers as a diversionary strategy and part of a graduated response to inappropriate behaviour (from informal de-escalation through to formal move-on, arrest and charge). Placing too much of a recording burden on police who use move-on powers may discourage them from responding in this way to behaviour and potentially circumventing its escalation to more serious offending—thereby defeating the purpose of the move-on power.
The QPS will take steps to improve recording of the use of move-on powers, including both issuing the direction and any subsequent breaches. For example, the QPS is currently investigating procedures to improve the efficiency of register entries onto QPRIME in an effort to address officers’ concerns regarding the time spent away from operational duties. The QPS will also explore the potential for QPRIME to more clearly indicate when the duration of a recorded move-on direction is complete (e.g. use of flags).

**Government action**
The action taken by the QPS to improve recording of both move-on directions and disobey move-on as well as the impact of these efforts on recording behaviours will be presented at the October 2011 Operational Performance Review (OPR) reviewing the policing of public order. Subsequently, data pertaining to those details listed by the CMC under recommendation 6 will be regularly reported at each annual OPR for policing public order.

**Recommendation Seven**
That QPS officers issue a written document to the person being moved on that contains the following information:

- the particulars of the ‘reasonable belief about the person’s behaviour with reference to the limbs under s. 46 of the PPRA 2000
- why a move-on direction is necessary to maintain community safety or public order (that is, the reason for the move-on)
- the time and place (including street address) of the move-on direction
- the specifics of the direction (the time period the move-on direction is in place and the geographic area to which it applies)
- the demographics of the person (gender, age, Indigenous status, residential status)
- a statement of the person’s rights, including court election and how to contest (this is consistent with the Griffith University suggestion for public nuisance ticketing)
- diversion programs available in their area (both front-end and back-end).

This document could ideally be combined with a new public nuisance ticket (like that recommended by the Griffith University evaluation report).

**Queensland Government position**
Not Supported.

**Government response**
Similar to recommendation 5, the proposal raises a fundamental policy question, about whether or not to provide greater formalisation of the move-on power or to retain it as a low level diversionary power which aims to avoid pushing persons into the criminal justice system. An important public policy principle of the move-on power is that by enabling police to give timely verbal move-on directions, situations are not allowed to escalate through the need to obtain identifying particulars of a person[s] to be moved-on.

**Government action**
There will be no change to move-on policy settings which require that police provide a written move-on direction.
Recommendation Eight
That the QPS explore options to implement a system whereby police take audio or audiovisual recordings of their interactions with the public.

Queensland Government position
Noted.

Government response
At present, only formal interviews that are conducted during the course of an investigation of indictable offences are statutorily required to be electronically recorded.

While the QPS will investigate costs and benefits of implementing the recommended systems, it is likely that the substantial costs will outweigh perceived benefits.

Government action
The QPS will continue to explore options to record the interaction of police officers with the public, where recording of such information is prudent to protect members of the public and police officers.

Recommendation Nine
That the QPS revise its approach to policing public order. In developing this new approach, the QPS should:

• consider move-on powers and corresponding policing options in the broader context of policing public order.
• promote an organisational culture that fosters quality leadership and on-the-job mentoring.
• establish strategic principles for the policing of public order that highlight the following:
  o that it is a key function of police to maintain community safety and public order
  o that, in doing so, the focus of police should be on ensuring that the least punitive policing options are selected to match the conduct and the perceived effects it has on community safety and public order
  o that arrest should be used as a ‘last resort’ option for public order policing
  o that police should always endeavour to de-escalate the situation through communication and conflict resolution strategies
  o that police should first consider the use of diversionary options, with an emphasis on front-end diversion
• incorporate these strategic principles in all relevant policies and procedures, including the Operational Procedures Manual (OPM) and the First Response Handbook.
• review recruit and officer training to incorporate the strategic principles and to make the training more relevant to operational policing, using case-based scenarios and decision-making strategies.
• include an OPR dedicated to public order policing, making specific provision for examining the use of move-on powers and public nuisance offences.

Queensland Government position
Supported in Principle.
Government response

The QPS is the primary law enforcement agency for the State of Queensland and is responsible for:

- preserving peace and good order in all areas of Queensland
- protecting the Queensland community
- preventing and detecting crime
- upholding the law
- administering the law fairly and efficiently
- bringing offenders to justice.

The QPS is committed to community safety and preserving public order and is continuing to respond to key challenges associated with a range of public order issues, including the rise in binge drinking, anti-social behaviour and violence by young people.

The QPS’s strategic priorities for 2001-12 and beyond will continue to capture priorities aimed at:

- Delivering high quality client service and encourage staff to own and display the Queensland Police Service Values;
- Working with Government, non-government, and private sector agencies, and the community, to prevent crime;
- Reducing anti-social behaviour and youth violence;
- Reduce the community impact of domestic and family violence; and
- Ensuring operational police time is used efficiently and effectively to service demand across the State.

The QPS will prioritise these objectives within an operational context in yearly planning documents and the four year strategic plan for the QPS. This plan is a forward looking document that sets direction and aligns the Service’s objectives to the achievement of the Government’s objectives for the community.

In response to the May 2008 CMC Report Policing Public Order, the QPS was requested to facilitate a themed OPR focussing on public order policing, including dealing with public nuisance behaviours. This themed OPR was subsequently held on 29 June 2009. Representatives from several external agencies attended this OPR, including the Department of Premier and Cabinet, the Crime and Misconduct Commission, Griffith University, Justice and Attorney General, Southbank Corporation and Liquor Licensing. Key discussion points during this themed OPR encompassed:

- the number, rate and type of good order offences, plus reported and cleared good order offences over a four year period;
- the number and rate of move-on directions over a 4 year period;
- a breakdown of ticketed versus non ticketed enforcement;
- time and motion analysis/extrapolation for ticket trial area versus non trial control area;
- characteristics of offenders, by age, gender and ethnicity;
- the number and rate of good order offences where alcohol was a factor;
- the effectiveness of the current legislation and impact on policing resources (including evidence-based discussion on potential issues for further reform consideration);
- aspects of emerging good practice with an emphasis on partnership approaches;
• the effectiveness of partnerships generally;
• issues of fairness generally (including use of diversion notices) and the exercise of police discretion relating to good order offences; and
• de-escalation tactics deployed in response to public order incidents.

The themed OPR aided the QPS in terms of informing its position on relevant issues and learnings prior to the State-wide rollout of infringement notices for public nuisance offences.

**Government action**
In 2011-12, the QPS has advised that it will undertake the following activities:

- a themed OPR on Public Order Policing/Ticketing in October 2011. Representatives from relevant Government and non-government agencies will be invited to attend and actively participate in this initiative.
- Work collaboratively with DEEDI and DPC to develop a funding model for a second year of the Drink Safe Precinct trial.

**Recommendation Ten**
That the Queensland Government appoint a Public Order Advisory Panel to monitor and report to the Police Minister on the use and impact of public order policing. This panel should have an independent Chair and aim to influence strategy initiatives, facilitate improvements in interagency and stakeholder cooperation, and facilitate improved information exchange.

**Queensland Government position**
Supported in principle.

**Government response**
It is the view of Government that the policing of public order should be subject to regular analysis to enhance the understanding that key stakeholders have of the complexities associated with public order policing. Rather than form a new Advisory Panel, the Government recognises that the problem-orientated policing approach adopted by the QPS OPR process effectively acts as an Advisory Panel. To enhance OPRs which review the policing of public order it is considered that there is opportunity to include Government and non-government representatives.

**Government action**
The QPS will conduct an annual state-wide OPR for policing public order, so as to: review strategy and initiatives; facilitate improvements in interagency and stakeholder cooperation; and facilitate improved information exchange. This will include inviting representatives from Government and non-government agencies to attend in the OPR.

**Recommendation Eleven**
That the Queensland Government continue to collaborate with other agencies, local governments, businesses and community groups to implement a greater number of front-end diversion programs that are relevant and accessible to disadvantaged groups who frequent public space.

**Queensland Government position**
Supported.
**Government response**

Government agencies agree that there is a continuing need for all service delivery agencies to work in partnership with other agencies, local governments, businesses and community groups to improve the type and level of diversionary programs available for marginalised groups who use public spaces. While ‘front-end’ diversion is not a core role of the QPS, the QPS had advised that building the capacity of organisations, which provide responses to vulnerable community groups, to more effectively support community initiatives is fundamental to improving law and order in most communities. Further, that it will support efforts made by other non-law enforcement organisations in providing essential services to vulnerable groups and wherever appropriate the QPS will work in partnership with those groups.

Within the Department of Communities, the Youth and Family Support Service (YFSS) currently provides a dedicated front end diversionary service in South East Queensland. The YFSS supports 'at risk' young people (aged 6 to 17 years) and their families on an extended hours basis. The service is free of charge and services young people and families living within Brisbane regional boundaries of the Department of Communities.

The aim of YFSS is to provide early intervention and diversion services to young people at risk of entering or re-entering the youth justice statutory system and to their families. The objectives of the YFSS are to:

- divert young people at risk of offending from further involvement in the statutory youth justice system;
- assist families and young people to appropriately respond to conflict or crisis; and
- ensure young people at risk of harm have an appropriate service response.

The YFSS accepts referrals from a number of sources, including Coordinated Response to Young People At Risk (CRYPAR). CRYPAR, operated by QPS, refers young people at risk of offending and other at risk behaviours to a range of services. CRYPAR has received funding from the Department of Communities to expand the program into Brisbane Central and Brisbane West Districts.

The Department of Communities is also actively involved in responding to homelessness by funding a range of new and existing specialist homelessness services. There are other initiatives funded by Queensland Government agencies that provide specialist responses to people experiencing homelessness such as the Special Circumstances Court Diversion Program funded by the Department of Justice and Attorney-General. Additionally, the Department is currently undertaking a body of work which aims to improve diversion services as a response to people experiencing public intoxication issues in public space. Many of these people also experience homelessness issues.

The QPS is actively involved with a range of Government and non-government organisation in responding to a broad range of public order issues. Public order issues include those related to public space enjoyment, street and nuisance offences, liquor licensing issues and environmental design to reduce crime including alcohol fuelled violence. Examples include:

**Responding to Alcohol-Related Violence**

The QPS has a lead role coordinating all elements of the place-based management plans in the three Drink Safe Precincts (DSP), including working with security staff, licensees, local government councils, community groups and other relevant organisations. The QPS is providing an increased police presence in each of the DSP. Additionally, from 8 November 2010, QPS
officers had the capacity to issue infringement notices to persons for prescribed public nuisance and associated offences. The statewide implementation followed on from the successful trial in the South Brisbane and Townsville police districts. Whenever practicable, officers will use their discretion when dealing with public nuisance offences and focus on the de-escalation of the incident.

**Responding to homelessness**
The QPS is committed to identifying strategies to assist interactions with socially vulnerable people. Under the Government's Responding to Homelessness Strategy 2005-09, six QPS Police Liaison Officer positions were funded in Cairns, Townsville and Mt Isa. An evaluation of the Strategy found these positions helped homeless people access a range of support services and helped address the causes of their homelessness. This in turn helped reduce the arrest rates for homeless people and increased feelings of public safety.

The Service has also formed the QPS Homelessness Reference Group which is a mechanism for peak homelessness organisations and QPS members to work together to address police-related homelessness issues and improve police training, policies and practices where necessary. As well, the Service is a signatory to the Early Intervention in Public Spaces Protocol. The Protocol operates in Brisbane Central and South Brisbane police districts and clarifies the role each organisation plays in protecting and managing public space.

**Special Circumstances Court Diversion Program**
The QPS collaborates with other Government and non-government agencies to implement this program. The Special Circumstances Court operates in central Brisbane and hears matters encompassing people with a mental illness, intellectual disability or cognitive impairment, in addition to people who are homeless or at risk of homelessness. This important initiative helps divert offenders from further contact with the justice system and addresses the underlying causes of their offending behaviour which reduces repeat offending. In 2009-10, 472 offenders participated in the SCP program. Since the inception of the HPCD and SCP, 1 330 offenders have participated in the program.

**Government action**
The Government will, in continuing to provide a range of services to vulnerable people, also explore and develop initiatives to extent front-end diversion programs that are relevant and accessible to disadvantaged groups, who frequent public space.