

Duty of disclosure – a fact sheet for carers

What is a 'duty of disclosure'?

This duty applies to the Director of Child Protection Litigation (DCPL), and means that there is a legal requirement to disclose, to each party to the proceeding (including the child's parents), all documents that may be relevant in a case before the Children's Court.

This ensures that all parties have an opportunity to see all the documents relevant to the proceedings.

Documents that may need to be disclosed

Any document that is in the possession or control of the DCPL that is relevant to the proceeding may need to be disclosed. A document in the possession or control of Child Safety is taken to be in the DCPL's possession or control. Relevant documents may include:

- application to be a carer or renew carer approval
- carer applicant health and well-being questionnaire
- household safety assessment
- carer applicant assessment
- suitability assessment for a long-term guardianship order or permanent care order.

Child Safety staff will notify the DCPL of any document that contains sensitive information that they recommend should not be disclosed. The DCPL is then responsible for deciding what documents will be disclosed to parties and what documents will not be disclosed, because they are either not relevant or because they fall within a ground that allows the DCPL to refuse to disclose. If DCPL refuses to disclose a document, a party may ask the court to make an order that the document be disclosed. The court if satisfied, may order the disclosure of a document on the conditions it considers appropriate, including the best interests of the child who is the subject of the case and the privacy and safety of any individual.

What does this mean for you?

This means that information you have provided to Child Safety, may be disclosed to each party in the proceeding (including the child's parents).

Where practical, Child Safety staff will let you know in advance when your information will be disclosed.

You have an opportunity to let Child Safety staff know if you would like any information to be withheld or redacted.

Disclosure after proceedings commence

The duty of disclosure is ongoing until the court proceeding is decided.

Who else might be able to obtain a copy of your carer assessment?

Queensland Civil and Administrative Tribunal

If an application is made to the Queensland Civil and Administrative Tribunal (QCAT) to review a decision made by Child Safety, then Child Safety must provide QCAT with a written statement of reasons for the decision and attach any document that may be relevant to the decision. The statement of reasons and attached documents will be provided to QCAT, the applicant seeking the review, any joined parties, and where relevant the Office of the Public Guardian.

Child Safety can make an application to QCAT for a confidentiality order to prevent a document, in whole or in part, from being released to the applicant and/or a joined party. It will be QCAT who makes the decision whether or not to make a confidentiality order.

For QCAT to make a confidentiality order, they must be satisfied that, if the order is not made, a child is likely to be harmed, the safety of another person is likely to be endangered, or there would be undue interference with the privacy of a child or another person.

Other Child Welfare Authorities

Child Safety may provide relevant information to a child welfare authority in another state or territory in Australia, or New Zealand, if it is believed that the information is required for the purposes of that other state/territory or New Zealand performing a function under their child welfare legislation.

Further information

For more information about the changes to court processes for child protection matters speak with your carer agency or see the [Disclosure for child protection proceedings information sheet for child protection partners](#).