

# Child Safety POLICY

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**Title:** Managing access to My Health Records of children in care

**Policy No:** 642-2

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## Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety) is committed to children in care having a My Health Record. Continuity of health care is a key issue for children in care, particularly when changes to their care arrangement may lead to changes in their health care provider.

The My Health Record system is an Australian government initiative, providing an online summary of an individual's key health information such as their allergies, medical conditions, medication details and pathology test results. It is a cumulative record of a person's health and pharmaceutical history that can be viewed and added to by health care providers, from anywhere in Australia at any time, enabling continuity of health care and improved information sharing between health care providers.

Child Safety staff are able to access the My Health Records of children under 14 years of age where the chief executive is their legal guardian, and in some circumstances, for children under 14 years in the chief executive's custody. This access occurs through a secure *Children in Care portal* (the portal). Child Safety staff will have access to the portal as professional representatives.

Child Safety staff will not rely on the information recorded in the child's My Health Record as the only source of information about a child's health history and health needs, particularly as not all health providers use the My Health Record system. Child Safety staff will continue to seek health information from the child, their parents, carers and health care providers.

Having access to a child's My Health Record will not change the way that information is currently exchanged about a child's health needs. Child Safety will continue to inform a child's carers of the child's health needs through existing processes, such as completion of the Child Information Form, Placement Agreements and the Child Health Passport process.

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country will be a key consideration when accessing, or removing or restricting parents' access to, the My Health Record of Aboriginal and Torres Strait Islander children.

Child Safety is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Child Safety has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision to access a child's My Health record, or restrict or remove a parent's access to their child's My Health Record, to give proper consideration to human rights.

### Principles:

- The safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount.
- Children in care will have their physical, developmental, dental, psychosocial and mental health needs assessed and attended to in a timely way.
- The five elements of the child placement principle (prevention, partnership, placement, participation and connection) under the *Child Protection Act 1999*, section 5C, apply to all processes, decisions and actions taken for an Aboriginal or Torres Strait Islander child.
- Children in care will be supported to be active participants in their health care. Engagement of children in the assessment process and wherever possible, their view of their own health and wellbeing is invited and taken into account.
- Child Safety staff will act and make decisions in a way that is compatible with human rights and obligations under the *Human Rights Act 2019*.
- Children in care will be given the opportunity to participate in decision making processes about their My Health Record, and have their views considered.

### Objectives:

This policy aims to ensure children in the custody or guardianship of the chief executive are afforded the benefits of having a My Health Record, while also providing for their safety and the safety of other people.

A My Health Record will increase health care providers' access to a child's health history and health information so they are better positioned to provide a holistic response to a child's health care. It will also allow the Child Safety staff to access information about the health care a child in care has received and use this information to better respond to their needs.

Over time, as new information is uploaded into a child's My Health Record, young people over 14 will have opportunity to read their health history, manage their own My Health Record, and be well positioned to self-manage their health care as they transition to adulthood.

### Scope:

This policy refers to the ability of Child Safety staff to access and manage the My Health Records of children in care using the portal, for children who are under 14 years and subject to a child protection order granting:

- guardianship to the chief executive or

- custody to the chief executive, including temporary custody orders, transition orders, interim or procedural orders, and
  - whose parent or parents pose a significant risk to their safety or the safety of the carer or the other parent, should they be able to access the child's My Health Record, or
  - the child has complex health needs, and access to their health information will assist Child Safety staff in managing and responding to their health needs.

Child Safety staff do **not** have the authority to access the portal for children subject to:

- an investigation and assessment
- an assessment order
- a care agreement
- a support service case
- intervention with parental agreement
- a non-custodial child protection order granting long-term guardianship to a family member or other suitable person
- a permanent care order.

In these circumstances, the child's legal guardian will be the child's My Health Record Authorised Representative.

When a child reaches the age of 14, regardless of whether they are subject to a child protection order, they become responsible for managing their own My Health Record in accordance with the *My Health Records Amendment (Strengthening Privacy) Act 2018*.

### **Roles and Responsibilities:**

- The Australian Digital Health Agency, as the System Operator for the Australian My Health Record System, has provided Queensland's Child Safety staff with access to the My Health Record of children under 14 years of age where the chief executive is their legal guardian, and in some circumstances, for children under 14 years in the chief executive's custody.
- The My Health Record system is governed by strict legislation, including privacy and security protections. The agreement with Australian Digital Health Agency requires Child Safety staff to understand the conditions of use and their obligations when interacting with the My Health Record system. In accordance with the agreement, Child Safety staff must:
  - have completed training available through iLearn, prior to accessing the portal
  - access the portal only for the purpose of managing a child's My Health Record, using the legal authority of a child protection order to do so
  - maintain the security of their access passphrase
  - remove themselves as a child's My Health Record Authorised Representative when they no longer have case management responsibilities for the child. This action can be undertaken by themselves, or another staff member on their behalf by the senior team leader, senior practitioner, Child Safety Service Centre (CSSC) manager, or by the child safety officer who is subsequently allocated case responsibility for the child

- notify the My Health Record System Operator as soon as possible to request corrective action when there are concerns about the content of a child's record, such as the inclusion of a document in someone else's name; incorrect content for the child; content is missing that is expected to be in the record; there are concerns in relation to who has been accessing a record, or concerns about unauthorised access to the My Health Record system
- cease accessing the portal when no longer working in a service delivery role in the CSSC.
- A Child Safety Officer will not be a Nominated Representative for a young person in care.
- When a Child Safety Officer is the Authorised Representative for a child subject to a child protection order granting either custody or guardianship to the chief executive, the Child Safety Officer can access the My Health Record, add personal details and health notes about the child, restrict access to particular health documents and monitor the access history of the record to ensure there hasn't been any unauthorised access.
- Child Safety staff will not cancel a child's My Health Record or remove clinical documents.

### **Child subject to a child protection order granting guardianship to the chief executive:**

The Child Safety Officer or Adoptions Officer with case responsibility for the child under 14 years **will** access the portal to perform the following functions:

- create a My Health Record for the child if one does not already exist, register as the child's Authorised Representative and select the option to include the child's Medicare information
- register as the child's Authorised Representative where there is an existing My Health Record for the child, and remove the child's parents as the child's Authorised Representatives
- invite or remove, as required, Nominated Representatives to assist in managing the child's My Health Record.

### **Child subject to a child protection order granting custody to the chief executive:**

The Child Safety Officer with case responsibility for the child under 14 years **may** access the portal to perform the following functions:

- restrict and remove a child's parents' access to their child's My Health Record **only** where they pose a significant risk of harm to the child, carer or another person, should they access the record and potentially determine the child's whereabouts; and register as the child's Authorised Representative
- review and remove a restriction to the child's My Health Record, where the parents are no longer a risk to the child or others should their access to their child's My Health Record be restored
- register as the child's Authorised Representative, together with the child's parents, where this access will assist Child Safety staff to meet the child's complex health needs
- invite or remove, as required, Nominated Representatives to assist in managing the child's My Health Record.

## Circumstances where an approved carer may be invited to be a Nominated Representative

Consideration may be given to providing approved carers with access to a child's My Health Record as a Nominated Representative for a child in their care. This action may be considered for a child in a long-term care arrangement, where the carer is active in co-ordinating health appointments, particularly for children with complex health needs. The carer will need to act in accordance with the views and best interests of the child.

The Child Safety Officer must remove the carer as a Nominated Representative if and when the child leaves the care arrangement. Access is automatically removed when a child turns 14 or when the Child Safety Officer who invited them to be a Nominated Representative, is removed as the child's Authorised Representative.

## Children subject to other Child Safety intervention

Child Safety staff will work with parents, health professionals and carers, where relevant, to ensure the safety of children subject to other intervention by Child Safety. This may require:

- making a request to medical professionals not to upload a health assessment to the child's My Health Record that could jeopardise the safety of the child, another parent or carer, or effect the integrity of the investigation and assessment or criminal investigation that is or may be occurring and/or
- working with the child's parent to take appropriate action to restrict access to the child's records.

## Children over 14 years of age

From 14 years of age young people automatically assume control of their My Health Record and all existing Authorised Representatives and Nominated Representatives access ceases.

The Child Safety Officer will ensure the young person has a myGov account and is aware of the actions they can take to manage their own My Health Record, and minimise any identified safety risks. This is to occur through ongoing case work and case planning, and is to be incorporated into transition planning, to support the young person effectively transition from care into adulthood.

## Authority:

*Child Protection Act 1999*

*My Health Records Act 2012*

*My Health Records Regulation 2012*

*My Health Records Amendment (Strengthening Privacy) Act 2018*

Deed of Agreement to facilitate access to the My Health Record System for Professional Representatives of a Care Agency

**Delegations:**

Refer to instruments of delegation for delegations relevant to children in care.

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**Date to be reviewed:** 23 October 2023

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**Office:** Office of the Chief Practitioner  
**Help Contact:** Child Protection Practice

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**Links:**

**Procedures**

Child Safety Practice Manual

**Related Legislation**

*Human Rights Act 2019*

**Related Policies**

Participation by children and young people in decision-making (369)

Case planning (263)

Information sharing for service delivery co-ordination (403)

Working with Aboriginal and Torres Strait Islander children (641)

**Rescinded Policies**

642-1 Managing access to My Health Records using the Children in Care portal

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