

# Child Safety POLICY

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**Title:** Support for children in the care of long-term and permanent guardians

**Policy No:** 607-4

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## Policy Statement:

The Department of Children, Youth and Multicultural Affairs (Child Safety) is committed to providing appropriate support to children subject to the guardianship of someone other than the chief executive, through a child protection order granting long-term guardianship to a suitable person or to a permanent care order.

Child Safety is committed to providing support, appropriate to the circumstances, to promote permanency for a child and ensure the long-term stability of these arrangements.

Actions taken by Child Safety will aim to ensure the child experiences or has:

- ongoing positive, trusting and nurturing relationships with persons of significance to the child, including their parents, siblings, extended family members and carers (relational permanency)
- stable living arrangements with connections to their community, that meet the child's developmental, education, emotional, health, intellectual and physical needs (physical permanency)
- legal arrangements for their care that provide a sense of permanence and long-term stability (legal permanency).

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country will be a key consideration when supporting children in the care of long-term or permanent guardians.

Child Safety is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Child Safety has an obligation to take action to ensure children in the care of long-term or permanent guardians supported in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

When proposing a child protection order granting long-term guardianship to a suitable person or a permanent care order, Child Safety assesses that the proposed guardian is able and willing to provide for the child's needs until the child reaches 18 years of age and to support the child into independent adulthood.

Child Safety recognises that following the making of the order, circumstances may at any time change significantly, resulting in further support being needed by the long-term or permanent guardian to meet the needs of the child.

**Principles:**

- The safety, wellbeing and best interests of the child, both now and throughout the child's life, are paramount.
- For a child who has been removed from their family and reunification is not appropriate, the preferred arrangement is for the child to be cared for by a guardian who is the child's kin, or by another suitable person. This is achieved through either a child protection order granting long-term guardianship to a suitable person or a permanent care order.
- Children have a right to be placed in a care environment that provides ongoing positive, trusting and nurturing relationships with persons of significance to them, including their parents, siblings, extended family and carers.
- 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*.
- The five elements of the child placement principle (prevention, partnership, placement, participation and connection) under the *Child Protection Act 1999*, section 5C (the Act) apply to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child. In addition, to achieve permanency for Aboriginal and Torres Strait Islander children:
  - Aboriginal and Torres Strait Islander people have the right to self-determination (section 5C of the Act).
  - The long-term effect of a decision on the child's identity and connection with the child's family and community must be taken into account (section 5C of the Act).

**Objectives:**

This policy aims to promote permanency for children in the care of a long-term or permanent guardian, by providing supports that will enhance the stability of the care arrangement.

**Scope:**

This policy refers to children subject to:

- a child protection order granting long-term guardianship to a suitable person nominated by the chief executive
- a permanent care order.

**Roles and Responsibilities:****Obligations to children in the care of a long-term or permanent guardian**

For a child in the care of a long-term or permanent guardian, Child Safety will, having regard to the child's age and ability to understand:

- tell the child about the Charter of Rights and what it means for them
- give the child written information about the Charter of Rights

- tell the child about the obligations of the child's guardian
- tell the child about the public guardian and other entities who can help them if they are worried that the guardian is not complying with their obligations
- tell the child about their right to contact Child Safety if they have questions or any concerns about their protection and care needs.

### **Case planning and ongoing contact for a child in the care of a long term guardian**

For a child in the care of a long-term guardian, Child Safety must contact the child at least once every 12 months to give the child an opportunity to make comments or queries about, or ask for a review of, their case plan. The long-term guardian must allow Child Safety to have this contact with the child. At any time, the child or long-term guardian may ask for a review of the case plan.

At any time, a parent of the child may ask for a review of the case plan, if the case plan has not been reviewed in the previous 12 months. Child Safety may decide to refuse this request if the child's circumstances have not changed significantly since the plan was finalised or if, for any other reason, it would not be appropriate in the circumstances.

A decision to not review the case plan is a reviewable decision.

### **Case planning and ongoing contact for a child in the care of a permanent guardian**

For a child in the care of a permanent guardian, there is no requirement for Child Safety to have ongoing contact with the child. There is also no obligation for permanent guardians to allow Child Safety to have contact with the child.

The child or guardian may at any time ask for a review of the case plan. Child Safety may decide to refuse this request if the child's circumstances have not changed significantly since the plan was finalised or if, for any other reason, it would not be appropriate in the circumstances.

A decision to not review the case plan is a reviewable decision.

### **Financial support**

The Act provides that the chief executive may pay an allowance to a long-term or permanent guardian for the child's care and maintenance (section 159).

Child Safety may pay an allowance to a long-term or permanent guardian when:

- the guardian was the child's approved foster or kinship carer at the time the long-term guardianship order or permanent care order was made
- the child continues to be cared for by the guardian.

Refer to the following policies for information about eligibility and requirements:

- Expenses - fortnightly caring allowance and interstate foster payments (365)
- High support needs allowance (296)
- Complex support needs allowance (612)
- Dual payment of carer allowances (289)

- Regional-remote loading for carers (379)
- Carer Debt policy and procedure (FMA024.2).

## Obligations of long-term and permanent guardians

A long-term or permanent guardian is responsible for:

- ensuring the Charter of Rights is complied with in relation to the child, as far as reasonably practicable
- ensuring the child is provided with appropriate help in their transition from being a child in care to adulthood
- preserving the child's identity and connection to their culture of origin, to the extent it is in their best interests
- helping to maintain the child's relationships with their parents, family members and other persons of significance, to the extent it is in their best interests
- complying with any modifications or limitations that the Childrens Court places on the abovementioned obligations.

The long-term or permanent guardian is also responsible for:

- keeping Child Safety informed about where the child is living
- notifying Child Safety if a child ceases to be in their care
- notifying Child Safety if they reasonably believe their care of the child will end in the near future, for example, because the guardian suffers serious health issues that impede their capacity to care for the child.

The guardian is also responsible for:

- telling the child's parents where the child is living
- giving the parents information about the child's care.

## Complaints about permanent guardians

A child or a member of the child's family may make a complaint to Child Safety if the person honestly and reasonably believes that the child's permanent guardian is not complying with their obligations under the Act. Child Safety may ask for more information to assist with responding to the complaint.

Child Safety will take all reasonable steps to resolve the complaint as soon as reasonably practicable.

Child Safety may refuse to deal with the complaint if it is reasonably believed that the complaint is trivial, unreasonable or without substance, was made vexatiously or if the complainant refuses to provide further information that is required.

The Complaints Unit is responsible for receiving complaints from a child or a member of the child's family about the care of the child subject to a permanent care order. The Complaints Unit will coordinate the appropriate response from the relevant Child Safety staff.

**Authority:**

*Child Protection Act 1999*, section 51VA, 51VB, 80D, 159  
*Adoption Act 2009*

**Delegations:**

Refer to instruments of delegation for details of delegations under the *Child Protection Act 1999*.  
Refer to the Financial delegations schedule for relevant financial delegations.

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**Records File No.:** Not applicable  
**Date of approval:** 06 July 2020  
**Date of operation:** 06 July 2020  
**Date to be reviewed:** 06 July 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**

*Childrens Court Rules 2016*

*Director of Child Protection Litigation Act 2016*

*Financial Accountability Act 2009*

*Human Rights Act 2019*

*Right to Information Act 2009*

**Related policies**

Carer learning and support (457)

Case planning (263)

Complaints management

Complex Support Needs Allowance (612)

Dual payment of carer allowances (289)

Expenses - Fortnightly caring allowance and inter-state foster payments (365)

High Support Needs Allowance (296)

Regional/Remote loading for carers (379)

Special payments (including Ex-gratia) (FSE009)

Transition to adulthood (349)

**Rescinded Policies**

607-3 Support for children in the care of long-term guardians and permanent guardians

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