

Implementation of the *Child Protection Reform Amendment Act 2017*

NGO Let’s Get Ready! Kit

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23 July 2018 Amendments

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| Change area | Summary of change to legislation |
| Temporary Custody Order  (TCO) | Clarification that a TCO can be applied for to provide for the immediate safety of a child, where a matter has already been referred to the Director of Child Protection Litigation.  A magistrate can only make a temporary custody order if they are satisfied that, within the period of the order, Child Safety or the Director of Child Protection Litigation will be able to decide the most appropriate action to meet the child’s ongoing protection and care needs. |
| Intervention with Parental Agreement (IPA) – Sections 51ZB, 51ZC and 59 | Child Safety is not required to consider an IPA if it is reasonably believed the child would be at immediate risk of harm if the parents withdraw their agreement to the intervention.  In an IPA case the department must include clear goals and actions in the case plan and detail what is expected of both the parents and the department to achieve the goals of the intervention.  When making a child protection order, a court can consider the department’s decision to end the IPA. |
| Vaccinations – Section 97 | Vaccinations are included in medical treatment that can be sought under section 97 when the CE has custody of a child or seeks an order for medical treatment on adjournment. A child who is in the custody the CE can be vaccinated by a health practitioner, in accordance with the Queensland Immunisation Schedule or in an emergency, such as a child’s exposure to a viral illness or an accident requiring a tetanus vaccination. Child Safety officers will continue to seek the consent of the guardian however when this cannot be obtained an authorised officer will be able to provide the consent. |
| Research – Section 189B | The chief executive can authorise access to information that could identify a person, as long as the chief executive is satisfied it is reasonably necessary for the research and the information will not be published in a way that could result in identification. The department will be able to participate in a greater range of research and analytic projects. |
| Publishing of information regarding child witnesses | If a child is likely to be called as a witness in criminal proceedings for a sexual or violent offence, any publication about the proceedings must not knowingly disclose identifying information about the child. These protections apply to all proceedings in the criminal prosecution process (such as extradition, bail and committal proceedings). If a report is produced about these proceedings it cannot disclose identifying information about a departmental officer or police officer. |
| Use of information by the Queensland Police Service | Queensland Police Service can use information they have obtained in their duties, without seeking approval from the department, provided that information does not identify the child or young person as being in care. E.g. to issue a child abduction or amber alert when a child or young person in care has been abducted. |

Proposed October Amendments Overview

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| --- | --- |
| Change area | Summary of change to legislation |
| Permanency | * The paramount principle has been amended to refer to safety, well-being and best interests of a child both **through childhood and for the rest of a child’s life.** * Case planning must include permanency goals – this means that concurrent planning will occur from the beginning of intervention. If there is a goal for reunification there must also be an alternative goal. * Relational, physical and legal aspects of permanency are to be considered in decision-making. * Limits the total duration of short-term child protection orders to **two** years (unless the court is satisfied it is in the child’s best interest and reunification of the child with their parent is reasonably achievable in the extended timeframe). * Provides a new permanent care order (PCO) which can only be varied or revoked on application by the Director of Child Protection Litigation, and a complaints framework for permanent care orders to allow the child/young person or a member of their family to make a complaint if they believe the guardian is not complying with their obligations. * Streamlines the process for changing the type of long term order, in that the court does not need to reconsider whether the child is in need of protection when:   + Varying or revoking a long-term guardianship order to the chief executive with a long-term guardianship order to another person   + Revoking a long-term guardianship order and making a permanent care order in its place. |
| Safe Care and Connection | * Includes principles that recognise the right of Aboriginal and Torres Strait Islander people to self-determination and requires a consideration of the long-term effect of a decision on identity and connection with family and culture. * Incorporates all five elements of the Child Placement Principle in the administration of the Act – **prevention, partnership, placement, participation and connection.** * Requires the chief executive, the Director of Child Protection Litigation or an authorised officer under the Act to comply with the Child Placement Principle when making a significant decision * Removes reference to recognised entities and introduces the new concept of Independent Aboriginal or Torres Strait Islander Entity (IE) to support the child and family in decision-making * Strengthens the requirement to place an Aboriginal and/or Torres Strait Islander child with their family group. * Enables the chief executive to delegate functions and powers in relation to Aboriginal and Torres Strait Islander children in need of protection to an Aboriginal and Torres Strait Islander organisation. * Recognises the importance of each child remaining connected to their family, community, culture and country |
| Information Sharing | * Simplifies the provisions around information sharing with a focus on the purpose of sharing the information and the best interests of the child or young person. * Enables the sharing of information between non-government organisations funded by either the Queensland or Commonwealth Government to provide services to child in need of protection or likely to become in need of protection. * Includes the principle that whenever safe, possible and practical, consent should be obtained before disclosing personal information. * Includes safeguards for the sharing of information. * Clarifies circumstances in which information can be shared about an unborn child or pregnant woman. * Requires the publication of an information sharing guideline by the department. |
| Transition to Adulthood | * Requires a case plan to include actions to help the child transition to adulthood from when they are 15 years old, other than when the child has a long-term guardian. * Provides that, as far as reasonably practicable, the chief executive must ensure help is available to assist a young person in their transition to adulthood until they turn 25 years of age. |

FACT SHEET: Safe Care and Connection – Self Determination and the Aboriginal and Torres Strait Islander Child Placement Principl

*Child Protection Act 1999*

The Child Protection Reform Amendments promote the safe care and connection of Aboriginal and Torres Strait Islander children and young people with family, community, culture and country.

**Section 5C** of the Act includes additional principles for administering the Act in relation to Aboriginal and Torres Strait Islander children including:

* Aboriginal and Torres Strait Islander people have the right to self-determination – s 5C(1)(a)
* The long term effect of a decision on identity and connection with the child’s family and community must be taken into account – s 5C(1)(b)
* The five elements of the *child placement principle* also apply in relation to Aboriginal and Torres Strait Islander children: prevention, partnership, participation, placement and connection – s 5C(2).

**Section 51B** - requires a case plan for an Aboriginal and Torres Strait Islander child to include details about how the child will be supported to develop and maintain connections with their family, community and culture.

**Section 83** has also been amended to strengthen the requirement to place children with family.

Child Safety Practice Manual

Changes are being made throughout the CSPM to reflect the Child Placement Principle. Key chapters include:

* Chapter 2 Investigation and Assessment
* Chapter 4 Case planning
* Chapter 5.1 outlines the steps for placing a child in out of home care
* Chapter 10.1 Decision making about Aboriginal and Torres Strait Islander children
* Practice Guide: The Child Placement Principle

Why have these amendments been made?

The amendments aim to improve child protection practice with Aboriginal and Torres Strait Islander children and families and reduce the over representation in the child protection system. The amendments embed the nationally recognised Aboriginal and Torres Strait Islander Child Placement Principle (CPP) and support the *Our Way* Strategy and Changing Tracks Action Plan.

All five elements of the CPP, prevention, partnership, participation, placement and connection are now made explicit in a single provision of the Child Protection Act and must be given consideration when applying the Act with respect to an Aboriginal and Torres Strait Islander child. They must also be applied in the broader administration of the Act such as in our program development and commissioning of services.

The CPP recognises the value of culture and the vital role of Aboriginal and Torres Strait Islander families’ and communities’ participation in decisions about the safety and wellbeing of their children. It is important to recognise that many of the different CPP elements intersect.

What does this mean in practice?

Anyone administering a function under the *Child Protection Act 1999* must make active effortstoimplement the five elementswhich means ensuring engagements are affirmative, active, thorough and timely.

1. **Prevention**

Protecting children’s rights to grow up in family, community and culture.

* Consider the generational impact and trauma experienced by Aboriginal and Torres Strait Islander peoples as a result of past policies, practices, programs and laws
* Consider the long term effect of decisions on the child’s identity and connections with their family, community and culture
* Ensure families have access to a full range of culturally appropriate early childhood, education, health and other supports and social services
* Be proactive in linking families to the right services as challenges arise and consider referrals to Aboriginal and Torres Strait Islander Family Wellbeing Services
* Work with families and their networks to build safety and seek solutions that keep children out of the tertiary child protection system where possible
* Where children are subject to departmental intervention, provide culturally appropriate services to care for or return children to their families, community, culture and country
* Make arrangements in partnership with children and families for an Independent Aboriginal or Torres Strait Islander Entity (independent person) to facilitate the child’s and family’s participation in decision-making when Child Safety is involved.

1. **Partnership**

Ensuring the participation of family members in decisions about children and community representatives in service design and delivery.

* Commit to genuine partnerships between Aboriginal and Torres Strait Islander children and families, as well as the community controlled sector from all staff
* Form genuine partnerships with Aboriginal and Torres Strait Islander community representatives and facilitate their participation in decision-making across the child protection continuum. Consultation is insufficient.
* Involve families in all decision making by engaging with them directly in a culturally appropriate way and with the assistance of an independent person
* Invite families to stakeholder meetings that meet their location and family needs.

1. **Placement**

Ensuring placement of children and young people in care is prioritised in accordance with section 83.

* Aboriginal and Torres Strait Islander child or young person must if practicable be placed with a member of the child’s family group
* If this is not practicable the child must be placed with:
  + Aboriginal and Torres Strait Islander members of the child’s community or language group; or if not practicable
  + Aboriginal and Torres Strait Islander people (for example foster carers)

NB: If the above options are not available, as a last resort the child may be placed with a non-Indigenous carer who lives near the child’s family, community or language group and has demonstrated capacity for ensuring the child’s continuity of connection to kin, country and culture.

* Make arrangements in partnership with children and families for an independent person to support the child and their family’s participation in decisions about where and with whom the child will live
* Make active efforts to identify kin for family arrangements or formal placements
* Complete a cultural support plan which outlines how Child Safety, family and carers will support children to maintain their connection to family, community and culture
* Review placement options if cultural support plans are not being implemented
* Where the child has not been placed with Aboriginal and Torres Strait Islander family or carers, regularly review appropriate placement options until permanency is achieved.

1. **Participation**

Ensuring the participation of children, parents and family members in decisions regarding the care and protection of their children.

* Acknowledge that Aboriginal and Torres Strait Islander families and young people are best placed to provide advice with respect to their culture, strengths and risks that exist in their own families and communities
* Enable children (when age appropriate) and families to participate in case planning and decision making processes. For example, utilise Aboriginal and Torres Strait Islander Family-led Decision Making processes (such as the Family Participation Program), and assist the child and family to identify and nominate an independent person
* Refer families to appropriate legal services if available or arrange for appropriate advocacy to support the participation of children in decision making.

1. **Connection**

Maintaining and supporting connections to family, community, culture, traditions and FACT SHEET: Safe Care and Connection – Family Led Decision Making

*Child Protection Act 1999*

The Child Protection Reform Amendments promote the safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country.

**Section 5C** of the Act includes additional principles for administering the Act in relation to Aboriginal and Torres Strait Islander children including:

* Aboriginal and Torres Strait Islander peoples have the right to self-determination – s 5C(1)(a)
* The long term effect of a decision on identity and connection with the child’s family and community must be taken into account – s 5C(1)(b)
* The five elements of the *child placement principle* also apply in relation to Aboriginal and Torres Strait Islander children: prevention, partnership, participation, placement and connection – s 5C(2).

**Section 51B** - requiring a case plan for an Aboriginal and Torres Strait Islander child to include details about how the child will be supported to develop and maintain connections with their family, community and culture.

**Section 6** provides for an independent Aboriginal or Torres Strait Islander entity (known as an independent person) to facilitate the family and child or young person’s involvement in decision making. (See fact sheet on *Independent Aboriginal and Torres Strait Islander Entity for a Child – Independent Person*).

Child Safety Practice Manual

Changes are being made throughout the CSPM to reflect the Child Placement Principle. Key chapters include:

* Chapter 2 Investigation and Assessment
* Chapter 4 Case planning
* Chapter 10.1 Decision making about Aboriginal and Torres Strait Islander children

Why have these amendments been made?

The amendments support the Our Way Strategy and Changing Tracks Action Plan by making changes to include:

* The right of Aboriginal and Torres Strait Islander peoples to self-determination
* The nationally recognised Aboriginal and Torres Strait Islander Child Placement Principle
* Enabling greater flexibility in facilitating the participation of an Aboriginal or Torres Strait Islander child or young person and their family in decision making under the Act.

What is Aboriginal and Torres Strait Islander family led decision making?

ATSIFLDM facilitates shared decision making involving children, young people, parents and families at different phases of the child protection system and aims to develop family based solutions that provide for the protection needs of children whether they are at home or in care.

Ideally ATSIFLDM is independently facilitated by an Aboriginal and Torres Strait Islander convenor, employed by a community controlled organisation (i.e. Family Participation Program or Aboriginal and Torres Strait Islander Family Wellbeing Services).

ATSIFLDM aims to create a culturally safe space that is inclusive and respectful of the family’s culture and which provides choice, privacy and time for decisions to be reached in the ‘Aboriginal and/or Torres Strait Islander way’.

Family led decision making processes may be facilitated by Child Safety staff, internal and external convenors from the Collaborative Family Decision Making regional teams, and a new service – the Family Participation Program will be funded to deliver FLDM for Aboriginal and Torres Strait Islander children and families.

What does this mean in practice?

Families will be offered family led decision making processes when:

* Deciding the outcome of an investigation and assessment, where an outcome of ‘child in need of protection’ is being considered or is likely, and, if appropriate, the type of ongoing intervention required to provide for the child or young person’s protection and care; and
* There is statutory child protection intervention, to participate in case planning, review of case plans and transition to adulthood planning.

Family led decision making processes can be used for a range of purposes, including to:

* Engage with families to collaboratively identify and address safety concerns, with the intent of arriving at alternatives to statutory protection, or identifying strategies to minimise the degree and length of any necessary intervention (prevention)
* Keep children connected with family, community and culture (connection)
* Map and identify kin (placement)
* Identify alternatives to a care placement and/or culturally appropriate placement options in line with the child placement principle (prevention and placement)
* Develop quality case plans, cultural support plans, and transition from care plans (participation and partnership).

Child Safety will work together with families and FLDM convenors to provide clear ‘non negotiables’ in relation to a child’s safety and make collaborative decisions wherever possible.

Child Safety’s decision-making responsibilities about the child’s protection and care under the *Child Protection Act 1999* will not change, however the approach is to be as collaborative and family led as possible.

The child or young person and their family will have the opportunity to identify an independent person to support their participation in ATSIFLDM processes. (See fact sheet on *Aboriginal and Torres Strait Islander Independent Entity for a Child – Independent Person*).

The Family Participation Program

The Family Participation Program (FPP), which will commence at the same time as the legislative amendments are proclaimed, will enable Aboriginal and Torres Strait Islander children, young people, parents and families to participate in significant decision making processes regarding child protection matters that affect them.

The FPP seeks to give effect to the principle that Aboriginal and Torres Strait Islander peoples have the right to self-determination, and to support the implementation of the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle.

The FPP will be funded by Child Safety to provide independent facilitation of ATSIFLDM. The FPP will work alongside the Aboriginal and Torres Strait Islander Family Wellbeing Services which will continue to provide support services to families. The FPP may also provide an independent person for children, young people and families where the family prefers to use this service, rather than nominate someone else.

The extent of the capacity of the FPP to provide services to Aboriginal and Torres Strait Islander families will become clearer as the services are implemented. It is recognised that they may not be able to assist all families and some families may prefer not to use the service.

Child Safety’s Collaborative Family Led Decision Making program with internal and external convenors will continue to be an option providing greater choice for Aboriginal and Torres Strait Islander families. A number of Indigenous internal and external convenors have been recruited across the state.

Child Safety Officers will continue to make referrals for FLDM processes dependent on family need, choice and the available services.

*This fact sheet should be read in conjunction with the relevant legislation and the Child Safety Practice Manual. These will be available online from the date of commencement.*

FACT SHEET: Independent Aboriginal or Torres Strait Islander Entity for a child (Independent Person)

*Child Protection Act 1999*

**Section 6** “Who is an independent Aboriginal or Torres Strait Islander entity?” outlines who can be an *independent Aboriginal or Torres Strait Islander entity for a child*.

**Section 6AA** requires the chief executive, authorised officers and the litigation director, to in consultation with the child or young person and their family, arrange for a person to facilitate the participation of the child or young person and family in the decision-making process when making a significant decision.

**Schedule 3** includes the definition of a significant decision.

**The legislation outlines who can be an independent person:**

* An individual, who is an Aboriginal or Torres Strait Islander person; or
* A group, whose members includes Aboriginal or Torres Strait Islander persons (i.e. Family Participation Program)

**And** must either:

* Provide services to Aboriginal and Torres Strait Islander persons (this could include an entity funded by Child Safety); or
* Be a representative of the child’s community; or
* Be a person who is:
* Of significance to the child or child’s family; and
* A suitable person for associating on a daily basis with the child; and
* A person with appropriate authority to speak about Aboriginal or Torres Strait Islander culture in relation to the child or the child’s family; and
* Not an officer or employee of Child Safety.

**And** be a suitable person to be an independent Aboriginal or Torres Strait Islander entity for the child. To be a suitable person to be an independent Aboriginal or Torres Strait Islander entity, the entity must not pose a risk to children’s safety or to the safety of the particular child.

In addition to information from the family and the nominated person, Child Safety will consider information kept in Child Safety records.

In accordance with the principle of self-determination a child or their family must agree to the involvement of the independent person.

Child Safety Practice Manual

Information on the involvement of an independent person, to help facilitate participation in significant decisions will be included in Chapter 10.1.

Information about when and how to engage an independent person will also be included in relevant chapters throughout the CSPM.

Why have these amendments been made?

The legislative amendments recognise the principle of Aboriginal and Torres Strait Islander self-determination. This requires us to work closely with Aboriginal and Torres Strait Islander children and families to enable their participation in significant decisions that affect them

The concept of an independent Aboriginal or Torres Strait Islander person recognises that Aboriginal and Torres Strait Islander children, young people and their families are best placed to identify a person who can support them and help facilitate their participation in decisions that affect their child.

Importantly, Child Safety can arrange an independent person only if the child, young person and family agree to them facilitating their participation in the decision making or planning process.

The independent Aboriginal or Torres Strait Islander entity provisions support the Child Placement Principle elements of partnership and participation.

What does this mean in practice?

When making a significant decision about an Aboriginal and Torres Strait Islander child, Child Safety will, in collaboration with the child or young person and their family, arrange an independent person.

A significant decision is a decision that is likely to have a significant impact on a child or young person’s life.

The following decisions are considered significant for all children:

* a decision about how to keep a child safe (immediate safety planning during an investigation and assessment and ongoing intervention)
* a decision about whether a child is in need of protection
* case planning decisions including the type of ongoing intervention that will be undertaken with a family and how the child’s needs will be met
* a decision to refer a matter about an application for a child protection order for the child to the Director of Child Protection Litigation (DCPL)
* a decision about where or with whom a child will live - for children subject to a child protection care agreement or child protection order granting custody or guardianship to the chief executive (Child Protection Act 1999, section 83(2))
* support service planning prior to the birth of an Aboriginal or Torres Strait islander child.

The primary role of the independent person is to help facilitate the child or young person and their family’s meaningful participation in the decision making process for significant decisions.

The independent person does not have a say in decision making. They help the child, or one or more members of the child’s family, to express everything they wish to say so their views are considered in decision making.

The primary source of cultural advice about an Aboriginal or Torres Strait Islander child, young person and family, for decision making by Child Safety, is provided by the child and the child’s family.

An independent person is able to help Child Safety understand the child and family’s culture and community and their motivations or actions as they relate to the decision being made.

There is an expectation that staff have the cultural capability to meaningfully engage with Aboriginal and Torres Strait Islander families.

It should be noted that intake decisions are not included in the significant decisions. There is an expectation that staff will apply a cultural lens at intake and if cultural advice is required this may be sought from a local Aboriginal or Torres Strait Islander community representative (sharing non-identifying information).

**Investigation and Assessment (I&A)**

When planning an I&A for an Aboriginal or Torres Strait Islander child, where cultural advice is required, Child Safety may consult with other child safety staff able to provide cultural advice or a local Aboriginal or Torres Strait Islander community representative (sharing non-identifying information).

During an I&A, Child Safety must arrange, in consultation with the child and the child’s family, subject to their agreement, for an independent person to facilitate their participation in decision making through the I&A process. This includes facilitating their participation in the development of an Immediate Safety Plan, if required.

The child and family may choose to have the independent person facilitate their participation in developing a plan to address risk factors for matters where a Child in Need of Protection (CINOP) outcome is likely.

A family led decision making process may be used to enable the child and family and Child Safety to identify the full range of strengths and supports available within the family to inform the decision about whether the child is in need of protection and the type of ongoing intervention required.

**Ongoing Intervention (OI)**

Child Safety must arrange, in consultation with the child and the child’s family, subject to their agreement, for an independent person to facilitate their participation in significant decisions made during OI.

This includes decisions such as the type of intervention, child protection orders, and where and with whom a child, subject to the guardianship or custody of the chief executive, will live.

The independent person will not facilitate family led decision making meetings but may help facilitate the child, young person or family’s participation in the meeting.

**Interface between the independent person and non-government organisations**

From November, NGOs working with Aboriginal and Torres Strait Islander families may participate in meetings involving Child Safety where the child and family are supported by an independent person. For example:

* when assessment and service connect staff meet families during an I&A or
* when family support services, licensed care services or foster and kinship care services are contributing to the development of a child’s case plan.

Families may also approach staff from an NGO to consider being their independent person where the agency meets the criteria as outlined in the legislation. This may occur when the agency has an existing relationship with the child or family, for instance a family wellbeing service, or when the child or family cannot or do not want to nominate an independent person from their family and kin networks. One of the roles of the new family participation program may undertake is the role of independent person for families who wish to choose this option.

**Are there circumstances in which an independent person does not have to be involved?**

Child Safety cannot arrange an independent person if the child, young person or family does not agree to having an independent person facilitate their participation in a decision making process.

In addition, Child Safety is not required to arrange for an independent person to facilitate participation in a significant decision if doing so:

* is not practicable because an independent person for the child is not available or urgent action is required to protect the child; or
* is likely to have a significant adverse effect on the safety or psychological or emotional wellbeing of the child or young person or any other person; or
* is otherwise not in the child or young person’s best interests.

The CSPM will provide further guidance about the circumstances in which Child Safety is not required to arrange an independent person.

*This fact sheet should be read in conjunction with the relevant legislation and the Child Safety Practice Manual. These will be available online from the date of commencement.*

FACT SHEET: Permanency

*Child Protection Act 1999*

A number of amendments have been made to the *Child Protection Act 1999* to assist children and young people to achieve stability and permanency in a timely manner. These legislative changes are outlined in detail in Appendix to Fact Sheet: Permanency.

The key changes are as follows:

* The paramount principle has been amended to refer to safety, wellbeing and best interests of a child both **throughout childhood and for the rest of a child’s life**
* New permanency principles are introduced that require consideration to be given to the child’s **relational, physical and legal permanency**, when making decisions in the best interests of the child
* The child placement principles of **prevention, partnership, placement, participation, and connection** have been included in the Act and are to be applied when working with Aboriginal and Torres Strait Islander children, young people and their families
* A requirement for **Concurrent planning** has now been included in the Act through case planning processes. A case plan must include a primary goal for best achieving permanency and the actions to be taken to achieve this goal. In most cases, reunification will be identified as the primary goal for achieving permanency. Where reunification is the primary goal, an alternative permanency goal must also be developed, in the event the timely return of the child to care of a parent is not possible.
* For Aboriginal and Torres Strait Islander children, case plans must include details of how the goals are consistent with the **connection principle**, which states a child has a right to be supported to develop and maintain a connection with the child’s family, community, culture, traditions and language.
* Limitations have been placed on the **duration of short-term child protection orders** to a total of two years, after the first order is made, unless a court is satisfied that it is in the child’s best interests and reunification of the child with their parents is reasonably achievable in the extended timeframe.
* A new child protection order has been introduced, the **Permanent Care Order (PCO)**.
* A PCO grants guardianship of a child to a suitable person (other than the parent of a child or the Chief Executive), nominated by the Chief Executive.
* Only the Director of Child Protection Litigation can apply to vary or revoke a PCO and before making a PCO the child needs to have been in the proposed guardian’s care under a CPO granting custody or guardianship to the Chief Executive or the proposed guardian for a period of at least 12 months immediately prior.
* A complaints framework has been introduced for PCOs, to allow the child or a member of their family to make a complaint if they believe the guardian is not complying with their obligations.
* When deciding to make a permanent care order the Childrens Court must have regard to:
  + Aboriginal tradition and Island customs relating to the child and
  + The child placement principle
* When deciding permanency options the first preference is for the child to be cared for by the child’s family; the second preference is for the child to be cared for under the guardianship of a family member; and the third preference is guardianship of the Chief Executive.
* The process for changing the types of long- term orders has been streamlined, as the court does not need to reconsider whether the child is in need of protection when:
* Varying or revoking a long-term guardianship order to the chief executive with a long-term guardianship order to another person.
* Revoking a long-term guardianship order and making a permanent care order in its place.

Child Safety Practice Manual

Further information in relation to permanency and concurrent planning, will be included in the Child Safety Practice Manual (Chapters 3 and 4).

Why have these amendments been made?

Research shows that achieving permanency is one of the most important aspects contributing to positive outcomes for children and young people and it is critically important for a child’s development and long-term wellbeing.

Improving stability and permanency outcomes for children and young people are also identified as a priority under the National Standards for out-of-home care, National Framework for Protecting Australia’s children 2009-2020.

What does this mean in practice?

When engaging with families Child Safety will clearly communicate from the initial intervention the commitment to achieving permanency for children and the first priority is for children to be cared for by their families, whenever this is safe and possible. Child Safety will also support families to understand that if permanency with the family cannot be achieved in a timely manner, other care options will need to be actively pursued.

Concurrent planning commences from the initial case plan, until permanency is achieved.

From the initial involvement with a family, active efforts need to be undertaken to locate possible kin that may be able to care for the child or young person on a short-term basis or on a longer term basis, if required.

Whilst subject to a short-term custodial or guardianship order, case planning processes will be undertaken on at least a six monthly basis, to ensure active efforts are being made by both the parents and Child Safety to meet the case planning goals to best achieve permanency.

As well as achieving timely decisions for a child’s permanency, this is also important given the new limits on short term CPOs, to two years, unless a court is satisfied that it is in the child’s best interests **and** reunification of the child with their parents is reasonably achievable in the extended timeframe.

When making permanency decisions for a child, Child Safety will take into account who can best achieve relational, physical and legal permanency for the child:

* Relational permanency refers to the experience of having positive loving, trusting, and nurturing relationships with significant others (parents, friends, siblings, family and carers)
* Physical permanency is stable living arrangements and connections within a community
* Legal permanency refers to the legal arrangements associated with permanency, such as who has guardianship (Stott & Gustavsson, 2010).

Child Safety will continue to assess what the best long term option is for a child who is unable to return to their parents within a reasonable timeframe (usually two years). In addition to long term guardianship to the Chief Executive (LTGCE) or to an ‘other suitable person’, (LTGO) permanent care orders (PCO) will be an option.

Child Safety will also assess whether it would be in the best interests of children on long-term guardianship orders to transition to a PCO and make recommendations to the Director of Child Protection Litigation.

New assessment guidelines will be introduced to assist in assessing permanent guardians and guidelines for assessing long term guardians are being updated.

Permanent care orders differ to LTGO as only the Director of Child Protection Litigation can apply to vary or revoke a PCO.

Child Safety will not have any contact with a child and their permanent guardian, unless they seek assistance from Child Safety or make a complaint.

A complaints framework has been introduced to allow the child or a member of their family to make a complaint if they believe the guardian is not complying with their obligations.

If child protection concerns are received by Child Safety they will be assessed through the Regional Intake Service as for any child and family in the community.

Child Safety is currently exploring what supports a child and their permanent guardians could access in the event that challenges arise. This could include universal programs such as Triple P, secondary services as referred to by FACC, or more specialist services like post-adoption type services.

When carers are recruited, trained and supported they will receive information to ensure they understand what the legislative amendments mean for them and the role they play in achieving permanency for children.

Role of Non-Government Organisations

Non-government organisations delivering services for children will have an important role in promoting permanency, depending on the type of services provided.

For example, residential care services contribute to achieving relational and physical permanency for a child. This may include working in partnership with Child Safety to support young people to maintain positive relationship with their parents, siblings and other family members and develop trusting relationships with other significant people and by providing stable placements and opportunities for young people to stay connected with their communities.

Family support services and Family Wellbeing Services contribute to achieving relational permanency by providing services and supports to help families safely care for their children at home. As a result, children and young are able to have a stable, permanent home within their own family.

Appendix to FACT SHEET: Permanency

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Section 5A | Paramount Principle | The paramount principle has been amended to refer to safety, wellbeing and best interests of a child both throughout childhood and for the rest of the child’s life. |
| Section 5BA | Principles for achieving permanency for a child | A new section has been inserted that outlines when ensuring the wellbeing and best interests of a child, consideration should be given to the relational, physical and legal aspects of permanency, when making decisions. |
| Section 51B | What is a case plan? | This section has been amended to outline that a case plan must include the following:   * The goal for best achieving permanency and the actions to be taken to achieve the goal. * If reunification is assessed to be the best goal to achieve permanency an alternative goal is required in the event that the timely return of the child to the care of the parents is not possible. * For Aboriginal and Torres Strait Islander children the case plan must include details that are consistent with the connection principle, which states that a child has a right to be supported to develop and maintain a connection with the child’s family, community, culture, traditions and language. |
| Section 51VB | Review of a plan – permanent guardian | A new section has been inserted to allow a permanent guardian or a child to, at any time, request a review of the child’s case plan. |

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Section 51X | Report about the review | This section has been amended to outline that the report about the review must focus on whether the goal for permanency has been achieved and whether there is any need to change the goals, including the goal for achieving permanency. Also if the case plan includes actions for helping the child transition to adulthood, the extent to which the actions continue to meet the child’s needs.  The review report must also address how the revised case plan gives priority to permanency for the child.  A new section has also been inserted that outlines if a child is placed in care under a child protection order granting long-term guardianship to the chief executive, the review report must state the progress made in planning for alternative long-term arrangements for the child including:   * Arrangements for the child to live with a member of the child’s family or another suitable person under a child protection order granting long-term guardianship of the child. * Arrangements for the child to live with a member of a child’s family or other suitable person under a permanent care order. * Arrangements for the child’s adoption under the *Adoption Act 2009*. |

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Section 59 | Making of a child protection order | This section inserts the following provisions that the Childrens Court needs to be satisfied of in order to make a child protection order:   * The case plan for a long term guardianship order or a permanent care order includes the living arrangements and contact arrangements for the child.   Before making a permanent care order the court must also be satisfied:   * The person to whom guardianship of the child is granted under the order is a suitable person to have guardianship on a permanent basis. * Is committed to preserving:  1. The child’s identity 2. The child’s connection to the child’s culture of origin; and 3. The child’s relationships with member of the child’s family in accordance with the case plan for the child; and  * The child has been in the care of the proposed guardian under a child protection order granting custody or guardianship of the child to the chief executive or the proposed guardian for a period of at least 12 months immediately before making the application. Note: there is an exceptional circumstances provision to this that can be used if it is considered to be in in the best interests of the child, to justify making the order. |

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Section 59A | Additional matters about making permanent care orders for Aboriginal and Torres Strait Islander children | When deciding whether to make a permanent care order, the Childrens Court must have proper regard to:   1. Aboriginal tradition and Island custom relating to the child; and 2. The child placement principles   The court can may only make the order if it is satisfied that the case plan for the child includes appropriate details about how the child’s connection with his or her culture, and community or language group will be developed and maintained. |
| Section 61 | Types of child protection orders | The inclusion of a new permanent care order, which grants guardianship of the child to a suitable person, other than a parent of the child or the chief executive, nominated by the chief executive. |
| Section 62 | Duration of child protection orders | The duration of a short term child protection order, granting custody or guardianship, must not go beyond a total continuous period of two years from the time the first order was made, unless it is considered to be in the best interest of the child and reunification of the child with the child’s family is likely to be achieved within the longer stated time. |
| Section 64 | Extension of a certain child protection order | If an application is made to extend a child protection order granting custody or short-term guardianship of a child, the court must not extend the order for a period of time that would result in the child being in continuous care for a period of 2 years or more. However, this does not apply if the court is satisfied that it is in the best interest of the child for the order to be extended for a longer period of time than the 2 years and reunification of the child with the child’s family is likely to be achieved within the longer stated time. |

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Section 65AA | Variation and revocation of permanent care orders | Insertion of a new section that outlines that the litigation director may apply to the Childrens Court to vary or revoke a permanent care order for a child or revoke a permanent care order and make another child protection order in its place. |
| Section 74A | Chief executive’s obligations to children under particular child protection orders. | Insertion of a new section that applies if the child is subject to an order granting long-term guardianship to a person other than the chief executive and to a permanent care order.  It outlines that the chief executive must ensure that the child is:   * Told about the charter of rights for a child in care in schedule 1 and its effect * Given written information about the charter of rights, unless, having regard to the child’s age or ability to understand the child would not be able to understand the information * Told about the obligations of the child’s long-term guardian or permanent guardian under section 79A * Told about the public guardian and other entities known to the chief executive who can help the child if the child considers that the child’s long-term guardian or permanent carer is not complying with their obligations * Told about the child’s right to contact the chief executive if the child has any questions or concerns about the child’s protection and care needs. |
| Section 79 | Obligations of family members or other persons granted custody or guardianship, to Child Safety under orders. | Insertion of the requirement of a permanent guardian of a child to keep the chief executive informed about where the child is living. |

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Section 79A | Obligations of long-term guardians and permanent guardians to children under orders. | Insertion of a new section that outlines that a long term guardian or permanent guardian of a child must ensure that:   1. The charter of rights for a child in care in schedule 1 is complied with in relation to the child as if the guardian and the child was a child in need of protection in the custody or care of the chief executive 2. The child is provided with appropriate help in the transition from being a child in care to independence 3. To the extent it is in the best interests of the child, the child’s identity and connection to the child’s culture of origin 4. To the extent it is in the best interest of the child, maintain the child’s relationship with the child’s parents, family members, and other persons of significance to the child. |
| Section 80A | Obligations if child is no longer cared for by long-term guardian or permanent guardian | Inclusion of the obligations of the permanent guardian to immediately notify the chief executive in writing if the guardian reasonably believes that their care of the child will end in the near future or if their care of the child has ended and where the child is living. Once the chief executive has received this information the chief executive must review the child’s protection and care needs and wellbeing and take any action that the chief executive considers is appropriate. |

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| **Section of the *CPA 1999*** | **Heading** | **Changes** |
| Sections 80B–E | Complaints about permanent guardians | Inclusion of a new section outlining the process for how complaints can be made about permanent guardians, if a child or a member of the child’s family honestly and reasonably believes a permanent guardian is not complying with the guardian’s obligations under s 79A of the *Child Protection Act 1999.*  Non-compliance complaints need to be made directly to the Chief Executive who may seek further information. The Chief Executive may refuse to deal with the complaint if it is considered to be trivial, unreasonable or without substance. If the Chief Executive refused to deal with the complaint, they must provide written notice of this to the complainant and outline their rights of review, through QCAT. |

**Comparison of Long-Term Orders from a Legal Perspective**

This paper explores the differences between the three long-term orders that can be applied for pursuant to the *Child Protection Act 1999* – a permanent care order (PCO), a long-term guardianship order to a suitable person other than the parents (LTG-O) and a long-term guardianship order to the Chief Executive (LTG-CE).

This document does not constitute legal advice. and, as every case is different, Child Safety will seek legal advice in relation to a particular case to determine an appropriate course of action.

All three types of orders still require evidence that:

* The child is in need of protection and the order is appropriate and desirable for the child’s protection
* There is a case plan that is appropriate to meet the child’s protection and care needs and includes living and contact arrangements
* A court ordered conference has occurred if contested
* The child’s views and wishes are known to the court
* The protection cannot be achieved through a less intrusive order
* There is no parent able and willing to protect the child within the foreseeable future or the child’s need for emotional security will be best met in the long-term through an order.[[1]](#footnote-1)

**Permanent care orders**

A PCO is an order which creates a permanent and independent relationship with the permanent guardian, less independent than adoption (which severs the relationship with birth parents permanently) but more independent than long-term guardianship to ‘a suitable person’ (which maintains ongoing contact with the department) and until the child is 18 years old. It offers ‘a more permanent arrangement than a long-term guardianship order, without permanently severing a child’s legal relationship with their birth family’.[[2]](#footnote-2) An application for a PCO may be more desirable than a LTG application given the “principles for achieving permanency” but each case depends on its facts.[[3]](#footnote-3)

In addition to the evidence outlined in the above dot points, together with the Director of Child Protection Litigation (DCPL), Child Safety also has to satisfy the court that the permanent guardian is a suitable person to have the child on a permanent basis and is willing to meet their protection needs on a permanent basis and they are committed to preserving the child’s identity, connection to culture of origin and relationships with family members and the supporting affidavit will need to address these factors.[[4]](#footnote-4)

If the permanent guardian is not a family member, the supporting affidavit will have to evidence the options explored in terms of placement and why this was considered the most appropriate.[[5]](#footnote-5)

The child will have to be placed, subject to a child protection order granting custody or guardianship to the Chief Executive or the proposed guardian, for a period of 12 months with the permanent guardian immediately before an application is made.[[6]](#footnote-6)

A PCO requires the permanent guardian to maintain contact with the child’s parents, family and persons of significance to the child in order to preserve the child’s identity and connection to culture.

Only the DCPL can apply to vary or revoke the order, that is, parents cannot apply to vary or revoke a PCO. This strengthens the legal permanency for a child subject to these orders.

The obligations on the guardians for a PCO and LTG-O are almost identical. However the mechanism to raise issues regarding their care is different, with complaints about a permanent guardian being managed by the departmental complaints process as opposed to the service centre directly responding to worries and perhaps managing a case plan review regarding an LTG-O. According to the Act while a child or permanent guardian can request a review of a PCO case plan, a parent cannot, hence their need to use the complaints process. Under an LTG-O a parent can request a review of the case plan.

Whether a child is subject to an LTG-O or a PCO, if issues regarding their safety are raised they will be managed by the Regional Intake Service as for any child in the community and a decision made regarding the level of intervention required, that is, Intake, Child Concern Report or Child Protection Notification.

**Long-term guardianship to a suitable person**

An LTG-O order provides a permanent arrangement until the child transitions to adulthood. The order provides the guardian with the ability to make day-to-day and long-term parental responsibility decisions about the child.

A court cannot make an LTG order to a non-family member unless the child is already on a child protection order and the proposed guardian is nominated by the CE.[[7]](#footnote-7)

Before making an LTG-O order a court must consider any report by the CE about the suitable person.[[8]](#footnote-8)

An LTG–O application is appropriate if:

* A decision has been made that the child’s protective needs are to be met by the child remaining in care long-term
* There is an appropriate suitable person able and willing to assume long-term guardianship of the child
* There is no significant conflict between the parents and the suitable person such that it would impact on the effectiveness of the order
* The suitable person will facilitate appropriate contact between the child and the child’s parents[[9]](#footnote-9)
* The suitable person will deal appropriately with identity issues for the child and meet the child’s cultural needs[[10]](#footnote-10)
* The suitable person is assessed as suitable and likely to remain so in the long-term
* The suitable person understands and is willing/able to meet their obligations under the Act
* If the child is old enough to provide their views and wishes – the child agrees with the ‘suitable other’ assuming guardianship.

**Long-term guardianship to the chief executive**

A court cannot grant long-term guardianship to the Chief Executive (CE) if the court can grant guardianship to another suitable person[[11]](#footnote-11) (consideration given to the least intrusive order).

An LTG–CE application is appropriate if:

* A decision is made that the child’s protective needs are to be met by the child remaining in care long-term
* It is not possible, or not appropriate to make a LTG order in favour of a relative or another suitable person
* There are significant ongoing safety concerns which are best managed with the child in the CEs guardianship
* It has not yet been possible to establish a suitable long-term placement for the child
* There is significant conflict between the parents and any relative who could otherwise assume guardianship
* The child is in the care of a carer from whom it is not appropriate to move the child, but the carer is unable to meet the criteria for assuming long-term guardianship.

If, with ongoing assessment it becomes apparent that circumstances have changed and the long-term guardianship order could now be made in favour of a suitable other, an application to vary should be referred to the DCPL so that the appropriate order can be obtained, if this is in the child’s best interests.

When a child is to be in care long-term and does not have a stable placement, this order may be made pending the location of a suitable person to assume long-term guardianship of the child after an appropriate settling period.

**Other considerations**

Below are some of the other obligations and considerations Child Safety will use when deciding which order best suits the family’s circumstances given the assessment of the harm or risk of harm.

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| **PCO** | **LTG-O** | **LTG-CE** |
| **Applicable time periods** | | |
| The child has to be in permanent guardian’s care for 12 months *immediately* prior to making the application (except where there are exceptional circumstances).[[12]](#footnote-12) | An LTG application can be filed at any stage during ongoing intervention. | An LTG application can be filed at any stage during ongoing intervention. |
| **Contact with the department during course of the order** | | |
| Minimal or no contact with the department. | Yearly contact with the child by the department in accordance with s 51VA. | The child is still subject to regular contact and case planning cycles. |
| **Case planning required by the Act** | | |
| A case plan is required.  CE must ensure that a case plan is developed for each child who the CE is satisfied is a child in need of protection; and needs ongoing help under the Act.[[13]](#footnote-13)  An order cannot be made by a court unless it is satisfied that a case plan has been developed and is appropriate to meet the child’s care and protection needs.[[14]](#footnote-14)  At any time the child or permanent guardian may request CE to review the case plan.[[15]](#footnote-15) | CE must ensure that a case plan is developed for each child who the CE is satisfied is a child in need of protection; and needs ongoing help under the Act.[[16]](#footnote-16)  An order cannot be made by a court unless it is satisfied that a case plan has been developed and is appropriate to meet the child’s care and protection needs.  CE required to contact the child yearly to allow child to comment or ask queries or seek a review of the case plan.[[17]](#footnote-17)  At any time the child, the child’s parents or the LTG-O may request CE to review the case plan.[[18]](#footnote-18) | The child is still subject to the regular case planning cycle. |
| **PCO** | **LTG-O** | **LTG-CE** |
| **Information sharing and privacy** | | |
| Permanent guardian has specific obligations to tell the parents where the child is living; provide information about the child’s care; and provide an opportunity for contact between the child and the child’s parents and appropriate members of the child’s family as often as it is appropriate in the circumstances.[[19]](#footnote-19)  Note - the Court may order an exemption from this in certain circumstances.[[20]](#footnote-20) | LTG-O has specific obligations to tell the parents where the child is living; provide information about the child’s care; and provide an opportunity for contact between the child and the child’s parents and appropriate members of the child’s family as often as it is appropriate in the circumstances.[[21]](#footnote-21)  Note - the Court may order an exemption from this in certain circumstances.[[22]](#footnote-22) | The child will still be in contact with the department in accordance with the regular case planning cycle. |
| **Revocation** | | |
| Only DCPL may apply to vary or revoke.[[23]](#footnote-23)  If satisfied that the child has suffered significant harm, or is at unacceptable risk of suffering significant harm; and the child’s permanent guardian is not able and willing to protect the child from harm; or if the permanent guardian is not complying, in a significant way, with the obligations under s 79A(1).[[24]](#footnote-24) | The DCPL, a child’s parent or the child may apply to vary, revoke or revoke and make another child protection order in its place.[[25]](#footnote-25) | The DCPL, a child’s parent or the child may apply to vary, revoke or revoke and make another child protection order in its place.[[26]](#footnote-26) |
| **PCO** | **LTG-O** | **LTG-CE** |
| **Aboriginal and/or Torres Strait Islander families** | | |
| For an Aboriginal or Torres Strait Islander child it must be considered: “Is the permanent guardian a member of their family or community and can this situation satisfy the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle?”[[27]](#footnote-27)  The Childrens Court must regard Aboriginal tradition and Island custom with respect to the child’s family as well as the elements of the Aboriginal and Torres Strait Islander Child Placement Principle.  The Childrens Court can only make a PCO if the child’s case plan includes detail about the child’s connection to community and culture and language group and consultation with the child (if appropriate) has occurred.[[28]](#footnote-28) | For an Aboriginal or Torres Strait Islander child it must be considered: “Does the placement satisfy the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle and address the emphasis on permanency?” | For an Aboriginal or Torres Strait Islander child it must be considered: “Does the placement satisfy the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle and address the emphasis on permanency?” |
| **Obligations on the department** | | |
| The child must be told about:   * The *Charter of Rights for a Child in Care* and given written information about these rights;[[29]](#footnote-29) * The public guardian and other entities;[[30]](#footnote-30) * The obligations of the child’s permanent guardian under s 79A; * Their right to contact the CE if the child has any questions or concerns about their protection and care needs; and * Their right to ask for a review of their case plan.[[31]](#footnote-31) | The child must be told about:   * The *Charter of Rights for a Child in Care* and given written information about these rights;[[32]](#footnote-32) * The public guardian and other entities;[[33]](#footnote-33) * The obligations of the child’s permanent guardian under s 79A; * Their right to contact the CE if the child has any questions or concerns about their protection and care needs; * Their right to ask for a review of their case plan.[[34]](#footnote-34) | The child must be told about:   * The *Charter of Rights for a Child in Care* and given written information about these rights;[[35]](#footnote-35) * The public guardian and other entities;[[36]](#footnote-36) * Assistance to be provided to the child to transition from care to adulthood.[[37]](#footnote-37) |
| **PCO** | **LTG-O** | **LTG-CE** |
| **Obligations on guardians** | | |
| The PCO guardian must:   * Comply with the *Charter of Rights for a Child in Care*; * Help the child transition from care to adulthood; * Preserve the child’s identity and connection to the child’s culture of origin and help maintain the child’s relationships with the child’s parents, family members and other persons of significance to the child - note – some exceptions;[[38]](#footnote-38) * If the permanent guardian believes the arrangement is likely to end or has ended they mustimmediately give the CE notice that the care has ended and, if the permanent guardian knows, where the child is living;[[39]](#footnote-39) * Keep the CE informed about where the child is living;[[40]](#footnote-40) * Tell the parents where the child is living, give them information about the child’s care and provide opportunity for contact between the child and the child’s parents and family members.[[41]](#footnote-41) | TheLTG-O guardian must:   * Comply with the *Charter of Rights for a Child in Care*; * Help the child transition from care to adulthood; * If the LTG-O believes the arrangement is likely to end or has ended they mustimmediately give the CE notice that the care has ended and, if the permanent guardian knows, where the child is living;[[42]](#footnote-42) * Keep the CE informed about where the child is living;[[43]](#footnote-43) * Tell the parents where the child is living, give them information about the child’s care and provide opportunity for contact between the child and the child’s parents and family members;[[44]](#footnote-44) * Allow the CE to have contact with the child at least once every 12 months.[[45]](#footnote-45) | The CE must:   * Ensure that the child is provided with help in the transition from care to adulthood, and ensure the help is available to the child/young person for the period starting when the person turns 15 and ending when the person turns 25;[[46]](#footnote-46) * This includes help to access entitlements (including social security allowances and payments), accommodation, education and training, employment, legal advice, health and community services, support in maintaining family relationships, in accessing information in the CE’s possession or control about the person, counselling and any other assistance based on the person’s needs, provided by the CE.[[47]](#footnote-47) |

FACT SHEET: Information Sharing

*Child Protection Act 1999*

Chapter 5A key sections include:

* Section 159B: principles
* Section 159C: Chief Executive must publish guidelines
* Section 159M: defines prescribed entities, specialist service providers and service providers
* Section 159MA–159ME: who can share information and for what purpose
* Section 159MF: facts or opinions may be shared
* Section 159N: requirement of prescribed entities to share information when requested
* Section 159NA: what cannot be shared
* Section 187: confidentiality obligations
* Section 188: maintaining confidentiality.

Child Safety Practice Manual

Further information in relation to information sharing will be included in the CSPM Chapter 10, Section 3.

Why have these amendments been made?

Chapter 5A of the *Child Protection Act 1999* (“the Act”) provides the legislative framework for agencies to coordinate services and share information. It does this by:

* Prioritising children’s safety over an individual’s privacy
* Defining organisations that can share information
* Identifying the particular purpose for sharing information, such as to provide timely, coordinated services to support families, assess and respond to the care and protection needs of children.

The new laws support information sharing between agencies working with children at risk of entering and in the child protection system and their families.

By removing barriers to information sharing, the laws enable collaboration and coordination of service delivery to children and their families. They support agencies working together to protect and promote the wellbeing of children.

Agencies who can share information include prescribed entities, service providers and the Department of Child Safety, Youth and Women.

What does this mean in practice?

The legislation and guidelines provide clearer information about information sharing. Key elements include:

**Who can share information?**

* Chief Executive or an authorised officer
* Prescribed Entity
* Specialist Service Provider
* Service Provider.

**Prescribed Entities include:**

* Adult corrective services
* Community services
* Disability services
* Education
* Housing
* Public health (including Mater Misericordiae Hospital)
* Police
* Specialist Service Provider
* Another entity that is prescribed by regulation to provide a service to children or families.

A **Specialist Service Provider**is a non-government entity funded by the state or commonwealth to provide services to a child in need of protection or who may become a child in need of protection, if preventative support is not provided to the child or family. This definition includes:

* Family and Child Connect services (FaCC)
* Intensive Family Support services (IFS)
* Family Wellbeing Services
* Family Participation Program
* Assessment and Service Connect services
* Tertiary Family Support services
* Child Protection Support Services.

A **Service Provider** includes:

* A person providing a service to children or families (e.g. GP, private counsellor)
* A licensee – a placement service licensed under the Act to provide out-of-home care
* An independent Aboriginal or Torres Strait Islander entity for a child – an individual or entity who facilitates the participation of an Aboriginal or Torres Strait Islander child or child’s family in decision making.

**When can information be shared?**

* Reporting suspicion of harm or risk of harm to the Chief Executive
* Assessing or investigating harm or risk of harm or taking other action by the Chief Executive
* Assessing care needs and planning services
* Decreasing likelihood of child becoming a child in need of protection
* Helping an independent Aboriginal -or Torres Strait Islander entity for a child to facilitate the child or family’s participation in decision making.

**When must information be shared with Child Safety?**

Particular entities must comply with a request for information under section 159N in relation to children, an unborn child or another person. Entities include:

* The public guardian
* A prescribed entity
* A licensee
* The person in charge of a student hostel.

The changes to section 159N make it clear that stated information requested by the Chief Executive must be relevant to the performance of a function or exercise of a power under the Act.

**Consent**

To share information, workers should seek consent from parents, children and pregnant women unless it is not safe, possible or practical.

Consent may be verbal or in writing.

Information can be shared without consent in circumstances where obtaining consent could jeopardise the safety or wellbeing of a person such as when:

* There is a threat a family may go into hiding or abduct a child
* There are assaults or threats to assault others
* There are attempts or threatened suicide
* There are concerns a child may be coerced or coached
* Doing so may place a person at risk
* An urgent response is required and obtaining consent may create delays
* A person is unable to provide consent because of, for example, a mental health condition or the influence of alcohol or drugs.

**Unborn child**

Consent from a pregnant women should be obtained prior to sharing information when safe, practical and possible.

It would be appropriate to share information, without a pregnant woman’s consent where there are concerns for an unborn child after it is born, and there is a reasonable suspicion the woman may relocate to avoid departmental intervention.

The department may share information with an independent Aboriginal and Torres Strait Islander entity, if the unborn child is an Aboriginal and/or Torres Strait Islander child and the pregnant woman agrees to have the independent entity facilitate her participation and her family’s participation.

If the pregnant woman does not agree to the involvement of an independent entity, this will not prevent the department from making a decision or taking action in relation to the unborn child.

**FaCC and IFS**

The amendments now provide for information to be shared between specialist service providers, such as FaCC services and between a FaCC service and an Intensive Family Support service, for example, if a family moves to another area.

*This fact sheet should be read in conjunction with the relevant legislation and the Child Safety Practice Manual. These will be available online from the date of commencement.*

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| When information may be shared by and with Specialist Service Providers | |
| Information sharing between specialist service providers and service providers | |
| Specialist service providers may give information to other specialist service providers and to service providers if they believe it will help them:  1. decide whether to report concerns about a child or unborn child to Child Safety 2. participate in case planning, assess or respond to the needs of a child in need of protection, or make plans or decisions about services to a child in need of protection or their family 3. help Child Safety offer support to a pregnant woman 4. assess or respond to the needs of a child, make plans or decisions, or provide services to a child or child’s family to decrease the likelihood of the child becoming a child in need of protection. | Service providers may give information to a specialist service providers if they believe it will help the specialist service provider:  1. decide whether to report concerns about a child or unborn child to Child Safety 2. participate in case planning, assess or respond to the needs of a child in need of protection, or make plans or decisions about services to a child in need of protection or their family 3. help Child Safety offer support to a pregnant woman 4. assess or respond to the needs of a child, make plans or decisions, or provide services to a child or child’s family to decrease the likelihood of the child becoming a child in need of protection. |
| Information sharing between specialist service providers and Child Safety | |
| Specialist service providers may give information to Child Safety if they believe it will help Child Safety:  1. investigate or assess harm or risk of harm about a child or unborn child 2. make plans, decisions or provide services to a relevant child or their family 3. offer help to a pregnant woman. | Child Safety may give information to a specialist service provider if they believe it will help the specialist service provider:  1. decide whether to give Child Safety information to help Child Safety investigate or assess harm or risk of harm 2. participate in case planning, assess or respond to the needs of a child in need of protection, or make plans or decisions about services to a child in need of protection or their family 3. help Child Safety offer support to a pregnant woman 4. assess or respond to the needs of a child, make plans or decisions, or provide services to a child or child’s family to decrease the likelihood of the child becoming a child in need of protection. |

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| --- | --- |
| Information sharing provision for service providers | |
| Information sharing between service providers and prescribed entities | |
| Service providers may give information to a prescribed entity if they believe it will help them:  1. decide whether to report concerns about a child or unborn child to Child Safety 2. participate in case planning, assess or respond to the needs of a child in need of protection, or make plans or decisions about services to a child in need of protection or their family 3. help Child Safety offer support to a pregnant woman 4. assess or respond to the needs of a child, make plans or decisions, or provide services to a child or child’s family to decrease the likelihood of the child becoming in need of protection. | Prescribed entities may give information to a service provider if they believe it will help the service provider:  1. decide whether to report concerns about a child or unborn child to Child Safety 2. participate in case planning, assess or respond to the needs of a child in need of protection, or make plans or decisions about services to a child in need of protection or their family 3. help Child Safety offer support to a pregnant woman 4. assess or respond to the needs of a child, make plans or decisions, or provide services to a child or child’s family to decrease the likelihood of the child becoming in need of protection. |
| Information sharing between service providers and Child Safety | |
| Service providers may give information to Child Safety if they believe it will help Child Safety:  1. investigate or assess harm or risk of harm about a child or an unborn child 2. develop or assess a child’s case plan 3. make plans, decisions or provide services to a relevant child or their family 4. offer help to a pregnant woman. | Child Safety may give information to a service provider if they believe it will help the service provider:  1. decide whether to give Child Safety information to help Child Safety investigate or assess harm or risk of harm 2. participate in case planning, assess or respond to the needs of a child in need of protection, or make plans or decisions about services to a child in need of protection or their family 3. help Child Safety offer support to a pregnant woman 4. assess or respond to the needs of a child, make plans or decisions, or provide services to a child or child’s family to decrease the likelihood of the child becoming in need of protection. |
| A service provider may only share information with another service provider if they believe it will help them decide whether to report concerns about a child or unborn child to Child Safety. | |

FACT SHEET: Transition to Adulthood

*Child Protection Act 1999*

Section 75 refines the Chief Executive’s responsibility to plan for and to make available support and assistance, to assist a young person to transition from care to adulthood.

Amendments to **s 75(2)(b)** include increasing the period which the Chief Executive remains responsible for supporting a young person in care, beginning at 15 years of age, and until the young person turns 25 years of age.

**Section 75(3)(a)–(i)** clearly defines areas of support which the Chief Executive must assist a young person to acquire as they transition to adulthood: Help to access to entitlements (including social security allowances and payments)

1. Help to access appropriate accommodation
2. Help to access education and training
3. Help to obtain employment
4. Help to obtain legal advice
5. Help to access health and community services (including specialist disability services)
6. Support in establishing and maintaining relationships with the person’s family or carer
7. Help in accessing information (including information in the Chief Executives control, about the person and his or her time in care)
8. Other assistance, based upon an assessment of the person’s needs, provided by the Chief Executive.

Further amendments under **s 51(1B)** set forth specific changes to case planning requiring that when developing a case plan for a young person 15 years of age or over, and where a child does not have a long term guardian, the Chief Executive **must** include actions for helping the young person transition to adulthood.

Why have these amendments been made?

All young people need support as they move to adulthood. Research tells us that young people in and exiting care are at greater risk of being homeless, and have a higher likelihood of negative life, education and employment outcomes compared to other young people.

Upon leaving care, many enter early adulthood without the ‘safety nets’ of other young people, such as family supports, education, appropriate housing and financial support. The amendments ensure the young person and their Safety and Support network are focused on establishing the building blocks required for successful adult functioning.

Who is eligible for assistance?

A person who is or has been a child in the custody or under the guardianship of the Chief Executive is eligible for support. Child Safety may open a Support Service case for young people who are no longer subject to a child protection intervention including those who have turned 18 years of age and up to 25 years of age. In most cases those over 18 will be supported by services funded by the department rather than the CSSC.

What does this mean in practice?

Building a Safety and Support Network (network) with the young person is critical to ensuring they have access to a number of supportive people now and into the future.

Child Safety remains responsible for guiding the young person and network to plan, and to access, support and assistance to help with the transition to adulthood and independence. This will be achieved through working in partnership with informal support people for ongoing safety, belonging and wellbeing and government and non-government agencies, supports and services, to ensure young people leaving care have priority access (depending on need) to housing, health services and education and training opportunities.

Case plans will include goals and actions which are related to the key areas listed under **s 75(3)**. Additional consideration is given to young people transitioning from care to adulthood, who may experience barriers to participating fully in opportunities, including young people who:

* Are Aboriginal and/ or Torres Strait Islander
* Are from culturally diverse communities
* Are women
* Are lesbian, gay, bisexual, transgender or intersex
* Have a disability
* Have been a victim of a crime or act of violence
* Live in rural and remote areas.

Transition planning must commence from the **next case plan** after the young person turns 15 years. Eligible young people, their families, carers, and other members of the Safety and Support network, will be invited to participate in decision making and planning as the young person transitions to adulthood.

These conversations and actions will be captured formally when reviewing a young person’s case plan at least 6 monthly, as per **s51A–51Y.**

Support service plans will be created for young people subject to a Support Service post 18 years of age where it is assessed as a suitable and required intervention. The young person’s consent and willingness to actively participate is required for Child Safety to support a young person post 18 years of age.

CSOs, NGOs and supports will actively collaborate and implement the transitional goals and actions in partnership with the young person, with the view to gradually increasing the young person’s preparedness for adulthood.

Consideration will be given to the young person’s ongoing therapeutic needs, which will include making an application to Victim Assist Queensland in consultation with Legal Services unit, where this is relevant.

CSOs and NGOs can also assist young people to access the [Time in Care Information Access Service (TICIAS)](https://www.csyw.qld.gov.au/resources/dcsyw/about-us/right-to-information/ticias-information-sheet.pdf) 1800 809 078 which provides a ‘Time in Care Report’ for young people including: reasons for coming into care, placement history, milestones, educational and medical information, and other relevant information.

CSOs and NGOs must take into account **s5C(2),** which enshrines the five elements of the Child Placement Principle, when planning for adulthood with Aboriginal and/or Torres Strait Islander young people:

* **Prevention**: Recognises a young person’s right to enjoy culture with community
* **Partnership**: Recognises and promotes self-determination as a principle for working with the young person
* **Placement:** Recognises planning for living arrangements that meet individual and cultural needs
* **Participation:** Ensuring the participation of young people, and their parents and family members in decisions
* **Connection:** Maintaining and supporting connections to family, community, culture and country for young people.

CSOs and NGOs must offer an opportunity for an Aboriginal or Torres Strait Islander young person to identify and include an Independent Aboriginal or Torres Strait Islander Person to support them in decision making about transition to adulthood planning as per **s 6**.

Transition resources are listed on the attached appendix.

*This fact sheet should be read in conjunction with the relevant legislation and the Child Safety Practice Manual. These will be available online from the date of proclamation.*

SERVICES and RESOURCES for young people

[**Next Step After Care (NSAC)**](http://www.nextstepaftercare.com.au) [**1800 639 878**](tel:1800%20639%20878)

Seek to assist young people with access to practical advice, support and referral related to issues such as housing, money management, relationships, education and training, legal advice and health.

[**kicbox**](https://www.qld.gov.au/youth/family-social-support/kicbox)

kicbox is a private, digital memory box designed for young people in care and their care teams. CSO’s create a kicbox account via the intranet and young people download the app from the App Store.

[**Sortli**](http://createyourfuture.org.au/about-me/leaving-care/sortli/)

Sortli is a pocket guide companion to services and support. It provides a step-by-step guide for all the important areas of a young person’s life, such as finding a place to live, looking after their health, managing their budget, finding a job, doing training or education and general life skills. It can be downloaded from the App Store.

[**CREATE Foundation**](http://create.org.au) **(07) 3317 6020**

CREATE Foundation is the national body representing the voices of children and young people with an out-of-home care experience.

[**Youth Housing and Reintegration Services (YHARS)**](https://www.qld.gov.au/youth/family-social-support/yhars-youth-housing) **(07) 3151 6666**

Assistance to young people (12 to 21 years of age) who are transitioning from care and who are homeless or at risk of becoming homeless. They provide support, financial help, and access to different accommodation options.

[**Care2Achieve scholarship for young women leaving care**](https://www.thesmithfamily.com.au/campaigns/care2achieve-scholarship-for-young-women-leaving-care-qld)

Support for young women (15 to 21 years of age) transitioning out of care in Queensland and planning to undertake higher education studies (Certificate 3 or above at TAFE or University) is a payment of up to $1500.

[**Transition to Independent Living Allowance (TILA)**](https://www.dss.gov.au/our-responsibilities/families-and-children/benefits-payments/transition-to-independent-living-allowance-tila) **1300 653 227**

Young people (15 to 25 years of age) who are leaving or have already left care may be eligible for TILA. The payment can be used to buy such items as a fridge or couch, pay for counselling, education and training courses, medical expenses, a driver’s license.

**Other useful resources include:**

[**Youth Support Services**](https://www.qld.gov.au/youth/family-social-support/youth-support-services)

[**https://www.qld.gov.au/youth/family-social-support/youth-support-services**](https://www.qld.gov.au/youth/family-social-support/youth-support-services)

[**QLD Youth Hub**](https://e-hub.engagementhub.com.au/) **13 74 68**

**https://e-hub.engagementhub.com.au/**

[**Domestic and Family Violence**](https://www.qld.gov.au/community/getting-support-health-social-issue/domestic-family-violence-getting-help)

**https://www.qld.gov.au/community/getting-support-health-social-issue/domestic-family-violence-getting-help**

[**Victim Assist Queensland**](https://www.qld.gov.au/law/crime-and-police/victim-assist-queensland)

**https://www.qld.gov.au/law/crime-and-police/victim-assist-queensland**

[**TAFE QLD**](https://tafeqld.edu.au/) **1300 308 233**

**https://tafeqld.edu.au/**

[**Driver’s licence**](https://www.qld.gov.au/transport/licensing/driver-licensing) **13 23 80**

[**https://www.qld.gov.au/transport/licensing/driver-licensing**](https://www.qld.gov.au/transport/licensing/driver-licensing)

[**Open Doors Youth Service**](https://www.opendoors.net.au/) **3257 7660 (counselling and support for LGBTI young people aged 12 to 24)**

[**https://www.opendoors.net.au/**](https://www.opendoors.net.au/)

[**QLD Health**](https://www.health.qld.gov.au/) **13 43 25 84**

[**https://www.health.qld.gov.au/**](https://www.health.qld.gov.au/)

[**eHeadspace**](https://www.headspace.org.au) **1800 650 890**

**https://www.headspace.org.au**

[**NDIS**](https://www.ndis.gov.au/about-us/contact-us) **1800 800 110**

[**https://www.ndis.gov.au/about-us/contact-us**](https://www.ndis.gov.au/about-us/contact-us)

[**Sexual Health Service**](https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/sex-health/services) **13 43 25 84**

[**https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/sex-health/services**](https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/sex-health/services)

[**Department of Housing**](http://www.hpw.qld.gov.au/Pages/home.aspx) **13 74 68**

**http://www.hpw.qld.gov.au/Pages/home.aspx**

[**Medicare**](https://www.humanservices.gov.au/individuals/medicare) **132 011**

**https://www.humanservices.gov.au/individuals/medicare**

[**Centrelink Youth Allowance**](https://www.humanservices.gov.au/individuals/centrelink)  **132 490**

[**https://www.humanservices.gov.au/individuals/centrelink**](https://www.humanservices.gov.au/individuals/centrelink)

[**Australian Taxation Office**](https://www.ato.gov.au/) **13 28 61**

[**https://www.ato.gov.au/**](https://www.ato.gov.au/)

[**Under 25s Money Smart**](https://www.moneysmart.gov.au/life-events-and-you/under-25s) **1300 300 630**

**https://www.moneysmart.gov.au/life-events-and-you/under-25s**

[**Australian Electoral Commission**](https://www.aec.gov.au/enrol/) **13 23 26**

**https://www.aec.gov.au/**

[**Time In Care Information Access Service**](https://www.csyw.qld.gov.au/resources/dcsyw/about-us/right-to-information/ticias-information-sheet.pdf) **1800 809 078**

**Email: rti@csyw.qld.gov.au**

Contacts and Support

**Have questions or need assistance?**

If you have any questions or concerns, please talk to your local regional contract manager in the first instance.

Should you require further information or advice, please contact the Child Protection Reform Amendment Act Implementation Team at:

✉: [CPAreform@csyw.qld.gov.au](mailto:CPAreform@csyw.qld.gov.au).

**Quick Links to more information and resources:**

* Internet site: <https://www.csyw.qld.gov.au/child-safety-legislation-reform>

1. Section 59 *Child Protection Act, 1999 (CPA).* [↑](#footnote-ref-1)
2. Explanatory Notes – *Child Protection Reform Amendment Bill 2017,* p 6. [↑](#footnote-ref-2)
3. Section 5BA *CPA.* [↑](#footnote-ref-3)
4. Section 59(7A) *CPA.* [↑](#footnote-ref-4)
5. Section 59(7)(a) *CPA.* [↑](#footnote-ref-5)
6. Section 59(7A)(b) *CPA.* [↑](#footnote-ref-6)
7. Section 59(7)(a) *CPA.* [↑](#footnote-ref-7)
8. Section 59(5) *CPA.* [↑](#footnote-ref-8)
9. Section 80 *CPA.* [↑](#footnote-ref-9)
10. Section 79A *CPA.* [↑](#footnote-ref-10)
11. Section 80 *CPA.* [↑](#footnote-ref-11)
12. Sections 59(7A)–(7B) *CPA.* [↑](#footnote-ref-12)
13. Sections 51C(a)–(b) *CPA.* [↑](#footnote-ref-13)
14. Section 59 *CPA.* [↑](#footnote-ref-14)
15. Section 51VB(2) *CPA.* [↑](#footnote-ref-15)
16. Sections 51C(a)–(b) *CPA.* [↑](#footnote-ref-16)
17. Section 51VA *CPA.* [↑](#footnote-ref-17)
18. Section 51VB(2) *CPA.* [↑](#footnote-ref-18)
19. Section 80(1) *CPA.* [↑](#footnote-ref-19)
20. Section 80(2) *CPA.* [↑](#footnote-ref-20)
21. Section 80A *CPA.* [↑](#footnote-ref-21)
22. Section 80(2) *CPA.* [↑](#footnote-ref-22)
23. Sections 65AA(1)(a)–(b) *CPA.* [↑](#footnote-ref-23)
24. Sections 65AA(2)(a)(i)–(ii) *CPA.* [↑](#footnote-ref-24)
25. Sections 65(1)(a)–(b) *CPA.* [↑](#footnote-ref-25)
26. Sections 65(1)(a)–(b) *CPA.* [↑](#footnote-ref-26)
27. Section 5C(2) *CPA.* [↑](#footnote-ref-27)
28. Section 59A(3) *CPA.* [↑](#footnote-ref-28)
29. Sections 74(4)(a)–(b) *CPA.* [↑](#footnote-ref-29)
30. Section 74(4)(c) *CPA.* [↑](#footnote-ref-30)
31. Section 51VB(2) *CPA.* [↑](#footnote-ref-31)
32. Sections 74(4)(a)–(b) *CPA.* [↑](#footnote-ref-32)
33. Section 74(4)(c) *CPA.* [↑](#footnote-ref-33)
34. Section 51VA *CPA.* [↑](#footnote-ref-34)
35. Sections 74(4)(a)–(b) *CPA.* [↑](#footnote-ref-35)
36. Section 74(4)(c) *CPA.* [↑](#footnote-ref-36)
37. Section 75 *CPA.* [↑](#footnote-ref-37)
38. Section 79A(1)–(2) *CPA.* [↑](#footnote-ref-38)
39. Section 80A(2) *CPA.* [↑](#footnote-ref-39)
40. Section 79 *CPA.* [↑](#footnote-ref-40)
41. Sections 79, 80(1) *CPA.* [↑](#footnote-ref-41)
42. Section 80A(2) *CPA.* [↑](#footnote-ref-42)
43. Section 51VA(3) *CPA.* [↑](#footnote-ref-43)
44. Sections 79, 80(1) *CPA.* [↑](#footnote-ref-44)
45. Section 51VA(3) *CPA.* [↑](#footnote-ref-45)
46. Section 75(1)–(2) *CPA.* [↑](#footnote-ref-46)
47. Sections 75(1),(2),(3)(a)–(i) *CPA.* [↑](#footnote-ref-47)