

Child Safety POLICY

Title: Permanency planning

Policy No: 594-5

Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety) is committed to promoting permanency for children across all phases of the child protection continuum.

Permanency is defined in the *Child Protection Act 1999* (the Act), section 5BA(3) as a child having:

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

Child Safety recognises that children need lasting connection to family, community and culture and an opportunity to develop a positive attachment to a safe and caring adult who will ensure the child's safety, belonging and wellbeing needs are met. Children need consistent, predictable and loving relationships, a sense of connectedness and belonging to families and communities, and stable care arrangements.

Permanency planning is a systematic, goal-directed and timely approach to case planning for all children subject to ongoing intervention under the Act, aimed at promoting relational, physical and legal permanency. All aspects of Child Safety's planning with children and families will be aimed at promoting the three dimensions of permanency (section 5B(1) of the Act).

Child Safety is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Child Safety has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country is integral to promoting permanency for Aboriginal and Torres Strait Islander children and will be a key consideration when undertaking permanency planning with Aboriginal or Torres Strait Islander children and families.

Principles:

- The safety, wellbeing and best interests of the child, both through childhood and for the rest of the child's life, are paramount.
- Decisions and actions made under section 5BA of the Act for a child will promote their relational, physical and legal permanency.
- Child Safety staff will undertake concurrent planning for children in care to proactively seek permanency options within legislated timeframes.
- Families have the primary responsibility for the upbringing, protection and development of their children and the preferred way of ensuring a child's wellbeing is through supporting the child's family (section 5B(b-c) of the Act).
- Children in care and their families will be provided support for the purpose of allowing the child to return to the child's family if it is in the child's best interests (section 5B(f) of the Act).
- If a child is removed from the child's family, consideration will be given to placing the child, as a first option, in the care of kin (section 5(h) of the Act).
- Children have a right to participate in decision-making about their own lives and be provided with the opportunity to access a support person or advocate throughout the process.
- Child Safety staff will act and make decisions in a way that is compatible with human rights and obligations under the *Human Rights Act 2019*.
- Aboriginal or Torres Strait Islander children and families will be supported to access an independent person to help facilitate their participation in any significant decisions.
- Consideration is to be given to the needs of children and families from culturally and linguistically diverse backgrounds, to ensure that their safety, wellbeing and best interests are prioritised.
- Child Safety staff will make active efforts to achieve permanency for Aboriginal and Torres Strait Islander children (section 5C of the Act), in accordance with the following principles:
 - Aboriginal and Torres Strait Islander people have the right to self-determination.
 - The long-term effect of a decision on the child's identity and connection with the child's family and community must be taken into account.
 - A child has the right to be brought up within the child's own family and community (the prevention principle).
 - Aboriginal or Torres Strait Islander persons have the right to participate in significant decisions about their children (the partnership principle).
 - If a child is to be placed in care, the child has a right to be placed with a member of the child's family group (the placement principle).
 - A child and the child's parents and family members have a right to participate, and be enabled to participate, in an administrative or judicial process for making a significant decision about the child (the participation principle).
 - A child has a right to be supported to develop and maintain a connection with the child's family, community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person (the connection principle).

Objectives:

This policy aims to promote and assist permanency planning for to all children subject to statutory intervention under the Act.

Scope:

This policy refers to all planning activities for ongoing intervention cases under the Act.

Legal permanency

Timely decision-making is required to achieve legal permanency for children. Child Safety will work proactively with families to keep their children safely at home through collaborative case planning processes, wherever possible. Where reunification with family is not possible, the child's safety, belonging and wellbeing will be met through an alternative permanency option.

When deciding whether an action or order best achieves permanency for a child, the *first preference* is for the child to be cared for by the child's family (section 5BA(4)(a) of the Act). This recognises that:

- the preferred way of ensuring a child's safety is through supporting the child's family (s5B(c)) and
- if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests (section 5B(f) of the Act).

The *second preference* is for the child to be cared for under the guardianship of a person who is a member of the child's family, other than a parent of the child, or another suitable person (section 5BA(4)(b) of the Act).

The *third preference* is for the child to be cared for under the guardianship of the chief executive (section 5BA(4)(c) of the Act).

For some children, adoption under the *Adoption Act 2009* may also be an appropriate option, subject to consent requirements in the *Adoption Act 2009*, part 2.

When providing ongoing intervention under the Act, the case plan must include the goal for best achieving permanency for the child (primary goal) and the actions to be taken to achieve the goal. If the permanency goal is reunification, the case plan must also include an alternative goal in the event that the timely reunification is not possible (section 51B of the Act). Simultaneously planning for a primary goal and an alternative goal is called concurrent planning.

Concurrent planning is an essential way of ensuring timely decision-making for a child. Section 62(2) of the Act provides that short term custody and/or guardianship orders may only be made for two years after the day the order is made (unless a court is satisfied that reunification is reasonably achievable). This two year time limit also applies when more than one short term order is made and the orders are continuous. Concurrent planning allows for an alternative goal to be implemented in a planned and timely manner, where the primary goal of reunification is not possible.

Relational permanency

When providing ongoing intervention under the Act, planning must actively promote relational permanency for the child. Relational permanency requires a child to have permanent and supportive relationships and connections and supports the child's sense of belonging and wellbeing. It is sometimes referred to as 'emotional permanency' in that it provides a sense of belonging for the child, which is usually provided by significant family attachments, but could also include friendships and relationships within their community.

To better promote long-term wellbeing, attention needs to be given to identifying and strengthening the range of connections that children have with family and other persons of significance in all care arrangements, particularly where there may be no primary caregiver, for example young people in residential care settings.

For children in care, this will include plans for ensuring, wherever possible:

- that the child is placed with kin (section 5B(h) of the Act)
- that the child is placed with siblings (s5B(i) of the Act)
- ongoing relationships with family and kin (s5B(k) of the Act)
- that the child can know, explore and maintain their own identity and values, including their cultural, ethnic and religious identity and values (section 5B(l) of the Act)
- continuity and strengthening of relationships with other persons of significance, such as friends, community networks, a school teacher, school friends or a medical professional
- ongoing involvement in clubs, associations, religious institutions and other activities.

Physical permanency

Children form their sense of themselves, their identity and self-worth through the experience of, and perception of their experience with, primary attachment caregivers. Children who have secure attachments are more likely to develop into socially competent adults and experience a range of positive life outcomes. Physical permanency supports continuity of relationships with family, friends and community and enhances the child's safety, belonging and wellbeing. Placement stability prevents further damage being caused to a child's social, emotional and cognitive development.

Case planning processes must ensure that supports are planned and provided to maintain placement stability and reduce the risk of placement disruption or placement changes for the child.

Physical permanency also includes, for example:

- continuity of schooling, including child care arrangements and additional supports that best achieve this
- continuity of health care providers, particularly where children are regularly accessing specialist or culturally appropriate health care providers for ongoing health needs
- the child remaining within or connected to their local community.

Safe care and connection of Aboriginal and Torres Strait islander children with family, community and culture

When placing an Aboriginal or Torres Strait Islander child in care, additional requirements apply, which promote permanency for Aboriginal and Torres Strait Islander children:

- in making a decision about the person in whose care the child should be placed, the chief executive must, if practicable, place the child with a member of the child's family group
- however, if it is not practicable to place the child with a member of the child's family group, the chief executive must place the child with a member of the child's community or language group
- if it is not practicable to place the child in the care of a person mentioned above, the chief executive must place the child with an Aboriginal or Torres Strait Islander person who is compatible with the child's community or language group
- if it is not practicable to place the child in the care of a person mentioned above, the chief executive must place the child with another Aboriginal or Torres Strait Islander person
- if it is not practicable to place the child in the care of a person mentioned above, the chief executive must place the child with a person who lives near the child's family, community or language group; and has a demonstrated capacity for ensuring the child's continuity of connection to kin, country and culture.

When considering the making of a permanent care order for an Aboriginal or Torres Strait Island child, the court must consider Aboriginal or Torres Strait Island custom and the child placement principles in relation to the child. The Court must also be satisfied that:

- the case plan includes details about the child's connection to their culture and community or language group and that the decision has been made in consultation with the child
- the proposed guardian of the child committed to preserving the child's identity, connection to culture and their relationship with members of their family as outlined in the case plan for the child.

Practice panels

Practice panels, including a critical friend, will review all decisions relating to permanency (reunification or the pursuit of an alternative permanency goal) to provide rigour and objectivity to the decision-making process around permanency for children subject to statutory intervention, as well as supporting the evidence base for referrals to the Director of Child Protection Litigation recommending an order.

Roles and Responsibilities:

Roles and responsibilities in relation to permanency planning are in the Child Safety Practice Manual.

Authority:

Adoption Act 2009

Child Protection Act 1999

Human Rights Act 2019

Delegations:

Refer to instruments of delegation for delegations relevant to permanency planning decision-making.

Records File No.: Not applicable
Date of approval: 28 January 2020
Date of operation: 31 January 2020
Date to be reviewed: 31 January 2023

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

Links:

Procedures

Child Safety Practice Manual

Related policies

Case planning (263)

Decisions about Aboriginal and Torres Strait Islander children (641)

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

Related Legislation

Adoption Act 2009

Childrens Court Rules 2016

Director of Child Protection Litigation Act 2016

Human Rights Act 2019

Right to Information Act 2009

Rescinded Policies

594-4 Permanency planning

Michael Hogan

Director-General