Chapter 3. Ongoing intervention

Purpose

Ongoing intervention refers to intervention by Child Safety that occurs with a child and their family following the completion of an investigation and assessment, when it is assessed that a child is in need of protection, or an unborn child is assessed as being in need of protection following their birth or it is assessed that a child is not in need of protection, but the level of risk in the family is ‘high’. Ongoing intervention may also occur in certain circumstances for a young person who has previously been a child in need of protection, following their eighteenth birthday.

Ongoing intervention may occur with either the authority of a child protection order, or with the consent of the parents, pregnant woman or young person. The purpose of ongoing intervention is to ensure the child's safety, belonging and wellbeing, reduce the likelihood of future harm to the child or unborn child or provide ongoing support and assistance to a young person, following their eighteenth birthday, if required.

Key steps

1. Decide the type of ongoing intervention
2. Consult with OCFOS and make a referral to DCPL
3. Undertake ongoing intervention activities
4. Close an ongoing intervention case

What ifs - responding to specific ongoing intervention matters

Standards

1. Ongoing intervention is provided for any child who has been assessed as being in need of protection.
2. Ongoing intervention is offered for any child who has been assessed as not being in need of protection where there is a ‘high’ outcome on the family risk evaluation.
3. Ongoing intervention is offered to a pregnant woman, and where applicable her partner, when it is assessed that an unborn child will be in need of protection after their birth.
4. When deciding the type of ongoing intervention and other significant decisions about an Aboriginal or Torres Strait Islander child, arrange for an independent person to help facilitate their participation in the decision-making processes.
5. The support needs of a child subject to a long-term guardianship order to a suitable person, and their long-term guardian, are responded to in a timely manner.
Practice skills (Key areas for reflection)

- Do the parents have sufficient information and understanding of what the proposed intervention entails to agree to consent-based interventions?
- If the parents withdraw their consent to Child Safety intervention would I be concerned for the immediate safety and wellbeing of the child?
- Have I provided the child and parents with information about the matters affecting them, to inform their involvement in decision-making?
- Have I genuinely engaged and actively listened to the child and parents in the decision-making processes?
- Have I considered the long-term effects of my decisions on the child’s identity and connection with the child’s family and community?
- Have I considered what the child needs to achieve relational, physical and legal permanency?
- Have I selected the most appropriate type of ongoing intervention, and if a child protection order is required, am I confident it does not exceed the level of intervention needed to secure the child’s safety?
- Have I ensured that the type of child protection order reflects the needs of the child and their family, and is consistent with the case plan goals?

Authority

- Child Protection Act 1999
- Director of Child Protection Litigation Act 2016
- Public Guardian Act 2014
- Youth Justice Act 1992
- Special Payments (including Ex-gratia) Policy
- Policy No. 641: Decisions about Aboriginal and Torres Strait Islander children
- Policy No. 395: Administrative access to child safety records
- Policy No. 608: Child related costs - Long-term guardian support
- Procedure No. 608: Child related costs - Long-term guardian support
- Policy No. 391: Critical incident reporting
- Policy No. 289: Dual payment of carer allowances
- Policy No. 296: High Support Needs Allowance
- Procedure No. 296: High Support Needs Allowance
- Policy No. 408: Information privacy
- Policy No. 403: Information sharing for service delivery coordination
- Policy No. 401: Interstate transfers of child protection orders and proceedings
- Policy No. 343: Intervention with Parental Agreement
- Policy No. 369: Participation by children and young people in decision-making
- Policy and procedure: Recordkeeping
• Policy No. 607: Support for children in the care of long-term guardians and permanent guardians
• Policy No. 406: Support service case
• Policy No. 347: Transferring matters between CSSCs
Key steps - Ongoing intervention

1. Decide the type of ongoing intervention
   1.1 Decide the type of intervention required
   1.2 Decide the type of intervention - child not in need of protection
   1.3 Decide the type of intervention - child in need of protection
   1.4 Engage and support the child and parents in decision-making
   1.5 Implement case management responsibilities
   1.6 Record case management information in ICMS

2. Consult with OCFOS and make a referral to DCPL
   2.1 General factors informing a recommendation about the type of order
   2.2 Recommend an application for a directive order
   2.3 Recommend an application for a supervision order
   2.4 Recommend an application for a short-term custody order
   2.5 Recommend an application for a short-term guardianship order
   2.6 Recommend an application for a long-term guardianship order
   2.7 Recommend an application for a permanent care order
   2.8 Draft an affidavit for a child protection order
   2.9 Recommend an application to extend, vary, revoke or revoke and make a new child protection order
   2.10 Recommend an application for a transition order

3. Undertake ongoing intervention activities
   3.1 Undertake case planning and review processes
   3.2 Undertake support planning and review processes

4. Close an ongoing intervention case
   4.1 Prepare for case closure
   4.2 Complete actions to close a case

What ifs - responding to specific ongoing intervention matters

1. What if a child has a long-term guardian?
2. What if a child has a permanent guardian?
3. What if new child protection concerns are received?
4. What if an ongoing intervention case needs to be transferred to another CSSC?
5. What if assistance is required with social housing?
6. What if a child is subject to ongoing intervention and youth justice intervention?
7. What if you require another jurisdiction to provide case work assistance to a child placed interstate?
8. What if a child protection order or proceedings are to be transferred to another
jurisdiction?

9. What if a matter needs to be referred to the SCAN team system?
10. What if immediate custody is required for a child in need of protection - use of a TCO?
11. What if there is a change in the individuals residing in the family home?
12. What if obvious or blatant breaches of pool fencing requirements are noticed?
1. Decide the type of ongoing intervention

1.1 Decide the type of intervention required

Following an investigation and assessment, a decision is made about whether to provide ongoing intervention. Ongoing intervention is required for any child in need of protection. For a child not in need of protection, or an unborn child assessed to be in need of protection after birth, ongoing intervention is offered to the family or pregnant woman.

For a young person in care who is engaged in transition to adulthood planning, ongoing intervention may be offered following their eighteenth birthday.

There are three types of ongoing intervention cases:

- a support service case
- intervention with parental agreement
- intervention with a child protection order.

The senior team leader is responsible for deciding the type of ongoing intervention required based on the above factors. The senior team leader makes this decision, in consultation with the CSO. For an Aboriginal or Torres Strait Islander child, this is a significant decision. Ensure the child and family is given the opportunity to participate in the decision through a family-led decision-making process and the family’s plan will inform the decision about the type of ongoing intervention.

Consider the following factors when deciding the type of ongoing intervention that will occur with, or be offered to, the child and family:

- whether the child is assessed as being in need of protection
- the assessed level of risk for the child, including the outcome of the most recent safety assessment and family risk evaluation refer to the risk and protective factors outlined in the Practice guide: The assessment of harm and risk of harm
- what is required to meet the child’s need for safety, belonging and wellbeing
- what is required to reduce the likelihood of future harm to the child
- whether the parents are able and willing to work with Child Safety to meet the child’s need for safety, belonging and wellbeing
- the views of, and information provided by, the child and family, including where applicable, the family’s plan developed at a family-led decision-making process for an Aboriginal or Torres Strait Islander child
- the type of ongoing intervention that will best meet the child’s need for physical, relational and legal permanency.

In addition to the above factors:

- ensure that the child’s safety needs are met whilst the decision is being made about the type of ongoing intervention, and if applicable, the type of child protection order required
- give preference to working with families without the use of a child protection order, where this will not jeopardise the child’s safety and wellbeing.
Principles for working with Aboriginal and Torres Strait Islander children

When making decisions for an Aboriginal or Torres Strait Islander child, consider the five elements of the Child Placement Principle as outlined in the Child Protection Act 1999, section 5C(2), as part of all decision-making processes:

- the **prevention principle** that a child has the right to be brought up within the child’s own family and community
- the **partnership principle** that Aboriginal or Torres Strait Islander persons have the right to participate in significant decisions under this Act about Aboriginal or Torres Strait Islander children
- the **placement principle** that, 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 **participation principle**, that 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 **connection principle**, 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, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person.

In circumstances where the child is an unaccompanied humanitarian minor (UHM), contact the UHM officer, Adoption Services prior to deciding the type of ongoing intervention for the child. For further information, refer to Chapter 1, 7. What if the child is an unaccompanied humanitarian minor? and the Practice guide: Unaccompanied humanitarian minor wards.

Support may continue to be provided to a child and their long-term guardian. For further information, refer to What if the child has a long-term guardian?

For further information on decision-making in relation to an Aboriginal or Torres Strait Islander child, refer to Chapter 10.1 Decision-making about Aboriginal and Torres Strait Islander people.

### 1.2 Decide the type of intervention - child not in need of protection

The only type of ongoing intervention that can occur when a child is not in need of protection is a support service case.

The purpose of a support service case is to reduce the likelihood of future harm to a child, or an unborn child, or to provide ongoing support to a young person following their eighteenth birthday, where applicable.

For more information on undertaking a support service cases, refer to Chapter 7. Support service cases. For more information about decision-making for an Aboriginal or Torres Strait Islander unborn child, refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children.

### 1.3 Decide the type of intervention - child in need of protection

If a child is assessed as being in need of protection, Child Safety must provide ongoing intervention to the child and family to ensure the child’s safety, belonging and wellbeing needs are met, regardless of the outcome of the family risk evaluation. This intervention will occur as either:

- intervention with parental agreement
- intervention with a child protection order.

For **both of these types of ongoing intervention**, Child Safety is responsible for addressing the child's need for safety, belonging and wellbeing, and must develop a case plan with the family that clearly details what is expected of the parents and of Child Safety to address these needs. For further information, refer to Chapter 4. Case planning.

A child may be subject to both intervention with parental agreement and a child protection order at the same time, for example, both intervention with parental agreement and a directive order. Consider convening a Practice Panel to support decision-making in determining the most appropriate type of intervention.

**Decide whether to provide intervention with parental agreement**

Intervention with parental agreement enables Child Safety to provide support and assistance to a child in need of protection and their family, without the use of a court order. The parents must agree to work with Child Safety and they must be assessed as both **able and willing** to do so.

Intervention with parental agreement is generally of a short-term and intensive nature, and it **must** be safe for the child to remain at home. While the child will usually remain in the home for all, or most of, the intervention period, they may be placed in care with the use of a child protection care agreement, if required. For further information, refer to Chapter 6. 3.1 Place a child under a child protection care agreement. A recommendation will be required to OCFOS for a referral to the DCPL for a child protection order if the parents do not consent to ongoing intervention.

To assess the appropriateness of intervention with parental agreement, consider the following factors:

- the immediate safety of the child - the outcome of the safety assessment must be safe or ‘safe with immediate safety plan’ in order for an IPA to be considered. If identified immediate harm indicators cannot be addressed in a robust safety plan, the outcome of the safety assessment is unsafe, a placement intervention is provided and a child protection order to secure the child’s safety must be considered.

- the level of risk - future risk to the child must also be a consideration. Take into account the risk level from the family risk evaluation, the vulnerability of the child, any unresolved immediate harm indicators identified in the safety assessment for the household and the child protection history for the child and family.

- the child’s view and wishes - these will be obtained depending on the child’s age and ability to understand - for an Aboriginal or Torres Strait Islander child, arrange for an independent person to help them participate in decision making (refer to Chapter 10.1 Decision-making about Aboriginal and Torres Strait Islander children).

- the parents’ acknowledgment of the concerns - the parents’ capacity to understand and acknowledge the child protection concerns must be considered. If the concerns are not understood or acknowledged and this poses a significant threat to the child’s safety and wellbeing, it is un less likely that the parents will comply with the case plan and a child protection order may be a more appropriate response.

- parental ability and willingness - at least one parent must:
- be both able and willing to work cooperatively with Child Safety to meet the safety, belonging and wellbeing needs of the child.
- agree to participate in the development and implementation of a case plan to meet the
protection and care needs of the child

- be assessed as likely to be able to meet the child’s needs for safety, belonging and wellbeing when the intervention is completed.

Do not assume the parents’ agreement to this type of intervention will guarantee the child’s safety. The parents may articulate a willingness to cooperate that is not evidenced in their actions or behaviour. The parents’ agreement may also be indicative of a desire to avoid more formal and intrusive court-based intervention, and can also be an indicator of increased risk. Treat any compliance or acceptance of intervention in the context of serious harm or risk of harm to a child, with caution.

For an Aboriginal or Torres Strait Islander child, consult with the parents and other family members to gather information about the family’s ability and willingness to work with Child Safety and to identify other Aboriginal or Torres Strait Islander supports available within their community.

Child Safety is not required to consider intervening with parental agreement if it is reasonably believed that, if the parents withdraw their agreement to the intervention for the child, the child will be at immediate risk of harm.

Intervention with parental agreement is not appropriate when one or more of the following applies:

- there are serious risk factors associated with the parents’ ability to consent, such as current alcohol or substance misuse, intellectual disability or current psychiatric illness
- there are serious risk factors associated with the parents’ ability to adhere to any safety plan or the case plan, such as a high degree of mobility, an inability or unwillingness to work with Child Safety or a community organisation, or a demonstrated lack of engagement during previous intervention
- the parents’ failure to adhere to the case plan would place the child at unacceptable risk of harm.

For more information about providing intervention with parental agreement, refer to Chapter 6, Intervention with parental agreement and Chapter 4, Case planning.

**Decide whether a child protection order is needed**

An application for a child protection order can only be made if the child’s need for safety is unlikely to be met by a less intrusive intervention and the use of statutory authority is required to enable intervention by Child Safety. Use of intervention with a child protection order is appropriate when both of the following apply:

- the child is assessed as being in need of protection
- the safety, belonging and wellbeing needs of the child cannot be met by the use of intervention with parental agreement.

The type of child protection order sought will depend on the level of intervention required, as outlined in 2. Recommend a referral to DCPL for a child protection order.

The decision about referring a matter to DCPL for a child protection order for an Aboriginal or Torres Strait Islander child is a significant decision. This requires Child Safety to arrange for an independent person to help facilitate their participation in the decision. Complete the ‘Independent entity’ form in ICMS. For further information regarding decision-making for an Aboriginal or Torres
Strait Islander child refer to 10.1. Decision-making about Aboriginal and Torres Strait Islander children.

When a care placement is not required to secure the child’s safety, consider the appropriateness of a directive or supervision child protection order. These orders do not affect the child’s custody or guardianship and allow the child to remain in the home. If required, the court can make one or more child protection orders concurrently, for example, a directive order may be granted at the same time as a supervision order to enable Child Safety to ensure that the directive order conditions are met (Child Protection Act 1999, section 61).

A recommendation to refer to DCPL for a child protection order granting custody or guardianship will be required when any of the following apply:

- the safety assessment for the child has an outcome of ‘unsafe’
- the child's need for safety cannot adequately be met by the sole use of a safety and support network and services external to Child Safety, or intervention with parental agreement
- removal from home is necessary to protect the child
- the use of a planned placement under a child protection care agreement is inappropriate
- the family is uncooperative and will not participate in any case plan that offers protection to the child
- a parent responsible for harm to the child has access to the child and is unwilling to participate in the case plan.

Once an assessment is made that an order is needed to meet the child’s safety, belonging and wellbeing needs:

- consider the most appropriate child protection order - refer to 2. Recommend a referral to DCPL for a child protection order
- consult with OCFOS – refer to Working with OCFOS and the DCPL
- where there is agreement to proceed with a referral to the DCPL, map out the tasks required and the timeframe for completion
- obtain additional information from other agencies or professionals that will support the application for a child protection order – refer to Chapter 10.3 Information sharing for service delivery coordination
- draft an affidavit (form 25) to support the application for a child protection order - refer to 2.8 Draft an affidavit for a child protection order
- draft a Rule 13 affidavit and collate relevant documents to meet disclosure obligations.

1.4 Engage and support the child and parents in decision-making

Whenever a child is subject to ongoing intervention, to the extent possible:

- encourage the child to participate in decision-making relating to their own safety, belonging and wellbeing, based on their age and ability to understand
- identify opportunities for the child to participate in formal or informal family-led decision-making processes relevant to their age and ability to understand – for example collaborative family decision-making processes, and processes that support planning for safety, contact, reunification and permanency decisions, and transition to adulthood'
- keep the child informed about matters affecting them
• encourage the child, where age and developmentally appropriate, and their family to participate in every stage of decision-making concerning the-child, including collaborative family decision-making processes
• provide Aboriginal and Torres Strait Islander people with the opportunity to meaningfully participate in decision-making, including by arranging for an independent person to help facilitate their participation in making significant decisions – for further information refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children.

Exceptions
In the following circumstances, it may not be possible for parents to actively participate in decision-making:
• when the parents’ involvement in decision-making poses a high-level risk to the child's emotional or physical safety
• when the parents may be unable to contribute to the decision-making process for the child, for example, due to intoxication or psychiatric illness.

In these situations, provide parents with full information about the matter being decided and the decision-making process and consider other ways of engaging parents in decision-making processes.

1.5 Implement case management responsibilities

Case management refers to the overall responsibilities of Child Safety when intervening with a child and family. Case management is a way of working with the child, family and other agencies to ensure that the services provided are coordinated, integrated and targeted to meet the goals of the case plan or ‘support plan’.

When ongoing intervention is required, the case is allocated to an authorised officer, who becomes the CSO with case responsibility. It is the responsibility of this CSO to:
• provide a planned response to the child and family, the pregnant woman or young person
• meet all statutory requirements relevant to the intervention type
• provide an Aboriginal or Torres Strait Islander child and their family with the opportunity to meaningfully participate in all significant decisions about them and, with their consent, arrange for an independent person to help facilitate their participation in decision-making an Aboriginal or Torres Strait Islander child
• ensure that there is a safety and support plan, and a case plan or ‘support plan’ developed for the child, which outlines strategies to meet their safety, belonging and well-being needs (including developmental needs) and assists the child to gain the skills and sense of well-being that will allow them to realise their potential and positively participate in the wider community
• ensure implementation of a cultural support plan collaboratively is developed with the child and their family and implemented for an Aboriginal or Torres Strait Islander child, and support and monitor the quality of care provided to the child, if applicable
• support a the child in care and monitor the quality of care provided to the child, if applicable
• proactively implement the case plan or ‘support plan’, focussing on achieving the goal and outcomes of the plans

Chapter 3 Ongoing intervention
October 2018
Page 11
• provide the child and family with information about matters affecting them and opportunities to participate in decision-making
• undertake the ongoing assessment and review of the case plan or ‘support plan’
• close an ongoing intervention case when the child’s safety needs have been resolved, or ongoing support is no longer required.

1.6 Record case management information in ICMS

Each time an ongoing intervention case is opened, or the case status of the child changes to another type of ongoing intervention, updated information is required in the case management tab, located on the person record in ICMS.

The senior team leader is responsible for completing the **case management tab** for each child with the following information:

- details of the allocated case worker for the child and the CSSC where they are located
- the start date of the case
- the start and end date of each new ongoing intervention type, if appropriate
- the start and end dates of the officer undertaking case management or case work tasks for the subject child.

To avoid opening duplicate events in ICMS, when case management information is being recorded, a conditional message is displayed in the ongoing intervention section of the tab to advise whether one of the following applies:

- an open ongoing intervention event currently exists
- multiple open ongoing intervention events currently exist
- no open ongoing intervention event currently exists for the subject child.

The tab also includes information about case work tasks requested via the case transfer process if applicable refer to 3. What if an ongoing intervention case needs to be transferred to another CSSC?

2 Consult with OCFOS and make a referral to DCPL

Whenever an assessment is made that a child protection order is required to ensure the child’s safety, belonging and wellbeing, a recommendation about the appropriate order must reflect the needs of the child and family and the case plan goal, either:

- the child is to remain safely in the home
- reunification
- long-term stable living arrangements.

The types of child protection orders available for ongoing intervention are:

- a directive order
- a supervision order
- short-term custody order - to a member of the child’s family or the chief executive
- short-term guardianship order - to the chief executive
- long-term guardianship order - to a suitable member of the child's family or to a suitable person or to the chief executive.

A directive or supervision order may be appropriate where the child is able to safely remain in
the home. Under these orders, parents retain all custody and guardianship decision-making responsibilities for the child.

Short-term orders may be appropriate when the case plan goal is reunification of a child with their family.

Long-term orders may be appropriate when it has been assessed in the course of working with the child and family that the child is not able to be safely reunified with the parents within a timeframe appropriate to the child’s age and circumstances, and that the child’s need for safety, belonging and wellbeing will be met through long-term care - refer to 2.6 Recommend an application for a long-term guardianship order and 2.7 Recommend an application for a permanent care order.

The Childrens Court may make any one or more of these orders concurrently, for example, both a short-term custody order and a directive order (Child Protection Act 1999, section 61).

A new assessment about what type of child protection order will best respond to the child’s safety, belonging and wellbeing needs will also be required when:

- an existing order is due to expire
- the review of the case plan indicates that the existing order:
  - is now a more intrusive level of intervention than is required
  - has failed to keep the child safe from harm or risk of harm and a new order is required
- an existing order has been extended more than once or the child's longer-term need for permanency and stability must be considered
- a suitable person granted the long-term guardianship of a child is no longer able or willing to meet guardianship responsibilities for the child - for further information, refer to 1. What if the child has a long-term guardian?

In all cases, ensure the duration of a child protection order being recommended is warranted in the circumstances, based on an assessment of the time required to resolve the child's safety, belonging and well-being needs. The senior team leader is delegated to make the decision about the type and duration of the child protection order, in consultation with OCFOS. OCFOS will then complete a referral to the DCPL. The DCPL will then decide whether to apply for a child protection order, including the type and duration of the order. For further information, refer to Working with OCFOS and the DCPL.

In circumstances where an application has been made for a child protection order, and there is an existing order granting custody of the child to the chief executive or a member of the child’s family, or guardianship of the child to the chief executive, the existing order continues until the application is decided, unless the Childrens Court orders an earlier end to the order (Child Protection Act 1999, section 99). The Childrens Court also has the power to make interim orders on adjournment (Child Protection Act 1999, section 67). Other interim orders can be made such as directing a parent’s contact with their child, while the existing order continues.

A change to the type of order recommended or applied for may be required when an assessment indicates the child’s safety needs have changed. Discuss with OCFOS and negotiate with the DCPL in these circumstances.
2.1 General factors informing a recommendation about the type of order

When considering the most appropriate child protection order, consider:

- the views of the child and the child’s family
- for an Aboriginal or Torres Strait Islander child:
  - the long-term effect of the decision on the child’s identity and connection with their family and community
  - the five elements of the child placement principle - for further information regarding the child placement principle refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children
- whether an independent person has helped facilitate the child and family’s participation in the decision
- the outcomes of previous intervention including the family’s engagement with Child Safety and other service providers
- the level of intervention required to ensure the child’s safety, belonging and well-being
- the principles for achieving permanency for a child, including whether the order promotes relational, physical and legal permanency
- whether the child can safely remain in the home or requires care
- the goal of ongoing intervention - whether to support the child in the home, reunify the child and family prepare for an alternative permanency option for the child
- the length of time reasonably needed for the family and Child Safety to work towards meeting the child’s case plan goals.

Individual and family circumstances relating to each child will also inform the decision-making process, including:

- whether the child needs protection from one or both parents
- whether the child’s contact with one or both parents needs to be restricted for safety reasons
- whether one parent, with support from relatives and other safety and support network members, may be able to assume a protective role with the child
- the relationship between the parents, their level of involvement with the child and their ability and willingness to be involved with case planning and when relevant, implementation of the case plan actions
- who will require custody and guardianship of the child for the duration of ongoing intervention - for further information, refer to Chapter 5, 3.1 Determine who may decide a custody or guardianship matter.

Given the significance of this decision, consider referring the matter to a practice panel to ensure an objective, balanced assessment is applied. For further information, refer to the practice resource: Practice panel guide.

Having considered the general factors above about the goal of intervention by Child Safety and whether a care placement is required, refer to the considerations unique to each order type, as follows:

- the child is to remain safely in the home and a care placement is not required - refer to
2.2 Recommend a directive order, or 2.3 Recommend a supervision order

- a placement is required, however, the goal of intervention is reunification - refer to 2.4 Recommend a short-term custody order, or 2.5 Recommend a short-term guardianship order
- the child’s safety, belonging and well-being needs will be met through long-term care - refer to 2.6 Recommend a long-term guardianship order.

Following the assessment about the most appropriate child protection order, provide ongoing intervention in accordance with Chapter 4, Case planning and, where applicable, Chapter 5, Children in care.

2.2 **Recommend an application for a directive order**

There are **two** types of directive orders:

- an order directing a parent of a child to do, or refrain from doing, something directly related to the child’s protection - *Child Protection Act 1999*, section 61(a)
- an order directing a parent not to have contact, direct or indirect, either:
  - with the child
  - with the child, other than when a stated person or a person of a stated category is present - *Child Protection Act 1999*, section 61(b).

A directive order may also be recommended in conjunction with a supervision order or another child protection order, if required. In limited circumstances, a child may be subject to both a directive order and intervention with parental agreement.

**Directive order about parental actions - section 61(a)**

Recommend a directive order about parental actions when **all** of the following circumstances apply:

- the parents will not take the action, or cease the action, on a voluntary basis
- the child can safely remain at home, as long as the parents take certain actions or cease certain actions - where applicable, this consideration will be informed by the most recent safety assessment
- the action is able to be clearly defined, and what is required of parents is easily understood by the parents
- a specific order is able to be made by the court
- failure on the parents part to keep to the directives of the order, will not place the child at unacceptable risk of harm
- the parents are likely to adhere to the recommended order.

Ensure that the recommended directive is specific, not general - for example, ‘ensure the child attends school every school day’, rather than ‘ensure proper schooling’, or ‘take the child to the hospital clinic for treatment every Thursday’, rather than ‘provide adequate medical care’. If the order needs to be general, a supervision order is more appropriate - refer to 2.3 Recommend a supervision order.

**Directive order about parental contact - section 61(b)**

Recommend a directive order which directs the parent not to have contact, direct or indirect, with
the child, or to only have contact, when a stated person or a person of a stated category is present, when any one of the following circumstances apply:

- the child could remain at home with a protective parent if the parent to whom the child protection concerns apply was prevented, or restricted, from contact
- a protective parent consents to the child being cared for by another person, for example, with relatives, and the parent to whom the child protection concerns apply was prevented, or restricted, from contact
- there is a Family Court of Australia parenting order which needs to be overridden for child protection reasons, allowing the protective parent to apply for variation of the Family Court of Australia order
- there is a need to prevent a parent from harassing the child in a significantly harmful way, for example, telephone threats, and prosecution may be required to enforce the contact order - in this case, the order may be made in conjunction with any other child protection order
- the child's safety could be secured through the supervision of the parent to whom the child protection concerns apply, and there is a person assessed as able and willing to provide the supervision.

It is not appropriate to use a directive order about parental contact:

- to effectively deny both parents contact - when this is required, a custody order is more appropriate, as someone still has to exercise custody or guardianship over the child
- when the child is living with their only parent - the order should not be used in a way which would leave the child 'at home alone'
- in a way which would effectively deny someone entry to their own home, except on a very temporary basis.

Supervision of parental contact could range from contact visits to someone moving into the home temporarily, to ensure the child is not left alone with the parent to whom the child protection concerns apply. The supervising person must, however, be aware of the proposed order and voluntarily agree to their role in supervising the parent.

Where a directive order is sought and granted, ensure that the child's case plan clearly specifies how the directive order will be implemented and monitored.

Note: A court may impose penalties on a child's parent who knowingly contravenes a directive order regarding contact.

**Advice to parents**

Once the order has been made, in accordance with the *Child Protection Act 1999*, section 63, DCPL will provide the parents with a copy of the order and a written notice explaining the terms of the order and their right to appeal against the decision to make the order.

**Duration of the order**

A directive order must not be for more than one year (*Child Protection Act 1999*, section 62(2)).

### 2.3 Recommend an application for a supervision order

A supervision order requires the chief executive to supervise the child’s protection, with respect
to the matters stated in the order (Child Protection Act 1999, section 61(c)). A supervision order may be applied for in conjunction with a directive order (Child Protection Act 1999, section 61(a)).

Recommend a supervision order when all of the following circumstances apply:
- the child is in need of protection but supervision and direction by Child Safety will enable:
  - the child to safely remain at home
  - Child Safety to monitor the situation to ensure the matters specified in the order are addressed by the parents
- it is possible to specify the areas relating to the child's care which are to be supervised by Child Safety
- failure on the parents part to comply with Child Safety requirements will not place the child at immediate risk of harm
- the intervention needed, with the child residing in the home, will not be accepted by the parents on a voluntary basis
- it is appropriate for the parents to retain their custody and guardianship rights and responsibilities.

Ensure that the child's case plan clearly specifies how the supervision order will be implemented and monitored.

**Advice to parents**

Once the order has been made, in accordance with the Child Protection Act 1999, section 63, DCPL will provide the parents with a copy of the order and a written notice explaining the terms of the order and their right to appeal against the decision to make the order.

In accordance with the Child Protection Act 1999, section 78, Child Safety may provide written notice to parents, using Letter to parent regarding a supervision order (section 78), directing them to do, or refrain from doing something, specific to the order. Where the parents believe that the written directions given by Child Safety do not specifically relate to the supervision matters in the order, the parent is able to seek external review by QCAT.

**Duration of the order**

A supervision order must not be for more than one year (Child Protection Act 1999, section 62(2)).

### 2.4 Recommend an application for a short-term custody order

A short-term custody order grants custody to either:
- a suitable person, other than a parent of the child, who is a member of the child’s family
- the chief executive.

**Short-term custody to a member of the child's family - section 61(d)(i)**

Recommend an order granting short-term custody to a suitable member of the child's family, when all of the following circumstances apply:
the child cannot be safely left at home using a lesser order - where applicable, this consideration will be informed by the most recent safety assessment

- Child Safety is working towards the reunification of the child and family
- there is an appropriate relative able and willing to assume short-term custody for the purpose of protecting the child and work with Child Safety in planning for the child to return to the care of the parents
- there is no significant conflict between the parents and the relatives, and the relatives will facilitate appropriate family contact between the child and parents
- it is not necessary to impose a 'no contact' decision on a parent
- the member of the child’s family is able and willing to assume full financial responsibility for the care of the child.

If there is uncertainty about one of the above factors, for example, the ability of the relatives to ensure positive family contact between the child and parents, it may be appropriate to recommend an order granting custody to the chief executive but still place the child with the relatives.

A child subject to an order granting short-term custody to a member of a child’s family is not placed under the Child Protection Act 1999, section 82(1), therefore Child Safety does not provide financial support for the child’s care. If the member of the child's family cannot assume full financial responsibility, an order granting short-term custody to the chief executive may be more appropriate.

It is a key responsibility of the relative to whom this order is made to work closely with Child Safety. This includes allowing the CSO to have contact with the child and actively working towards the outcomes developed in the child’s case plan. If there are concerns about the safety of the child in the relative’s care, after the order granting short-term custody to a member of the child’s family is made, Child Safety will need to consider a new recommendation to OCFOS for a variation or revocation of the order.

If it is necessary to restrict a parent from all contact with the child, or to actively remove guardianship from a parent due to the very serious nature of the harm, recommend an order granting short-term guardianship to the chief executive - refer to 2.5 Recommend a short-term guardianship order.

Short-term custody to the chief executive - section 61(d)(ii)

Recommend an order granting short-term custody to the chief executive, when all of the following circumstances apply:

- the child cannot remain safely in the home using a lesser order or intervention - where applicable, this consideration will be informed by the most recent safety assessment
- Child Safety is working towards the reunification of the child and family
- it is not necessary to impose a complete 'no contact' decision on a parent
- it is not possible or appropriate to make the short-term custody order in favour of a relative.

If it is necessary to restrict a parent from all contact with the child or to actively remove guardianship from a parent due to the very serious nature of the harm, recommend an order granting short-term guardianship to chief executive - refer to 2.5 Recommend a short-term guardianship order.
2.5 **Recommend an application for a short-term guardianship order**

Under the *Child Protection Act 1999*, section 62(2)(b), a short-term guardianship order can **only** be made in favour of the chief executive. It is always preferable for parents to retain guardianship **unless** there are reasons, as outlined below, why this is not considered to be in the child’s best interests.

Recommend an order granting short-term guardianship to the chief executive, when:
- the child cannot remain safely in the home using a lesser order or intervention - where applicable, this consideration will be informed by the most recent safety assessment, and
- Child Safety is working towards the reunification of the child with the family, and one of the following circumstances apply:
  - there is no available parent to exercise guardianship and be involved in case planning, or the parents availability is erratic
  - it is necessary to actively remove guardianship from the parents, due to the very serious nature of the harm, or because the parents current incapacity to exercise guardianship is causing harm to the child
  - it is assessed that the parent will fail to make appropriate guardianship decisions, such as schooling and health care, and therefore it is in the child's interests for guardianship to be vested in the chief executive.

**Advice to parents**

Once the order has been made, in accordance with the *Child Protection Act 1999*, section 63, DCPL will provide the parents with a copy of the order and a written notice explaining the terms of the order and their right to appeal against the decision to make the order.

**Duration of the order**

A short-term guardianship order **cannot** be for more than two years (*Child Protection Act 1999*, section 62(2)).

**Limitation on timeframes for short term custody or guardianship orders**

Short-term child protection orders (granting custody or guardianship to the chief executive) cannot extend beyond a total period of two years from when the first order was made. However, in exceptional circumstances, the court may make a further short-term order where it is satisfied that it is in the best interests of the child and reunification with the parents is reasonably
achievable in a stated timeframe.

The two year timeframe may include one or more consecutive child protection orders. For example, if a child has been subject to a short-term order for 12 months, a further order can only be made for a maximum of 12 months (two years in total). The two year period does not include interim orders that were in place before the first order was finalised, but does include interim orders that were in place before the second order was finalised. These time frames include orders made under the *Child Protection Act 1999*, section 99.

### 2.6 Recommend an application for a long-term guardianship order

In most circumstances, a recommendation about seeking a long-term guardianship order will occur after a period of case planning and active intervention with the family, to resolve the child's safety, belonging and wellbeing needs. The outcome of the family reunification assessment, and the assessment and recommendation made by a practice panel will guide this decision. - refer to Chapter 4, 5.3 Assess whether reunification can occur.

Once an assessment is made to prepare for an alternative permanency option it is **not appropriate** for a child to remain on a short-term custody or short-term guardianship order.

When it is assessed that a child protection order is required to facilitate the most appropriate long-term stable living arrangement, consult with OCFOS and where there is agreement, make a recommendation to OCFOS for a child protection order granting long-term guardianship. An assessment will be undertaken, **prior to** the application to the Childrens Court, to determine the most appropriate guardianship order for the child.

A long-term guardianship order grants guardianship to either:

- a suitable family member, other than a parent of the child (*Child Protection Act 1999*, section 61(f)(i))
- another suitable person nominated by Child Safety, for example, a foster carer or a kinship carer who is not a family member (*Child Protection Act 1999*, section 61(f)(ii))
- the chief executive (*Child Protection Act 1999*, section 61(f)(iii)).

The Childrens Court can **only** grant a long-term guardianship order to a suitable person, who is **not** a member of the child's family, if **both** of the following apply:

- the child is already in the custody or guardianship of the chief executive under a child protection order
- the proposed long-term guardian is nominated by the chief executive.

The Childrens Court must **not** grant long-term guardianship of a child to the chief executive if the court can properly grant guardianship to another suitable person (*Child Protection Act 1999*, section 59(7)(b)).

For the purpose of this procedure, unless otherwise specified, the term suitable person includes a family member, a kinship carer who is not a family member or a foster carer.

**Guardianship to a suitable family member or another suitable person**

The granting of a long-term guardianship order to a suitable person is a means of providing a child with a permanent care arrangement, where the long-term guardian provides direct care for
the child for the **duration** of the order or until the child leaves the long-term guardian’s direct care to live as an independent adult. Further, the child continues to be part of the long-term guardian’s family for the rest of their life.

The granting of the order in favour of the suitable person provides the long-term guardian with:

- the right to care for the child on a daily basis
- the right and responsibility to make decisions about the child’s daily care
- all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, welfare and development of the child.

In addition to the above rights and responsibilities, the granting of the order in favour of the suitable person places certain **legal obligations** on the long-term guardian for the **duration** of the order, including:

- telling the child’s parents where the child is living, giving them information about the child’s care and providing opportunity for contact between the child and the child’s parents and appropriate members of the child’s family as often as is appropriate in the circumstances, **unless** an exception to some or all of these requirements has been ordered by the Childrens Court (*Child Protection Act 1999*, section 80(1) and (2))
- allowing Child Safety to have contact with the child at least once every **twelve months**, to enable Child Safety to give the child an opportunity to make comments or queries about, or ask for a review of, their case plan (*Child Protection Act 1999*, section 51VA)
- immediately notifying Child Safety **in writing**, should the child no longer reside in the long-term guardians **direct care** - written advice is also to include the child’s current whereabouts, if known to the long-term guardian (*Child Protection Act 1999*, section 80A).

### Guardianship to the chief executive

If long-term guardianship is being considered, and there is no suitable person able and willing to accept guardianship of the child, a long-term order granting guardianship to the chief executive will be recommended as the appropriate order.

Following the making of an order granting long-term guardianship to the chief executive, the child continues to be:

- subject to the cycle of assessment, planning, implementation and review - refer to Chapter 4. Case planning
- supported and monitored in their care placement - refer to Chapter 5. Children in care and Chapter 9, 2. Monitor the standards of care.

### Complete an assessment to decide the appropriate long-term guardianship order

Following a decision to cease reunification and to recommend a long-term child protection order, an assessment is **required** to decide the most appropriate long-term guardianship order for the child. Undertake the assessment as part of the process for reviewing and revising the case plan, or alternatively, include the assessment as a required action in the revised case plan.

The revised case plan will be submitted to the DCPL upon an application for an order granting long-term guardianship to a suitable person. The revised case plan **must** incorporate key items specific to the proposed order - refer to Chapter 4, 3.3 Develop key items in the case plan -
application for long-term guardianship to a suitable person.

Consult the family of an Aboriginal or Torres Strait Islander child
When the child is Aboriginal or Torres Strait Islander, and a suitable long-term care arrangement has been recommended, consult the child and family about potential, suitable family or community members who may be able to assume guardianship of the child.

The child and family must be provided, during the assessment process, with an opportunity to:

- meaningfully participate in the assessment and decision-making process about the most appropriate long-term guardianship order, for example, by participating in a family-led decision-making process
- have an independent person help facilitate the child’s and family’s participation.

Complete the Independent entity’s form in ICMS. For further information about responsibilities relating to decision-making for an Aboriginal or Torres Strait Islander child, refer to Chapter 10.1 -Decision-making about Aboriginal and Torres Strait islander children.

Obtain the views of the child wherever possible
Where a child is of an age and has the ability to understand the long-term guardianship assessment and decision-making process, the child must be provided with an opportunity to participate in the decision-making process and to contribute their views, regarding both:

- which order should be recommended
- how the child’s carers have responded to the child’s needs to date, and if the child has any concerns about their carers continuing to meet these needs should the carers be granted guardianship, particularly in relation to their carers:
  - providing opportunities for ongoing family contact with parents and family or community members
  - keeping the child’s parents informed about the child’s care and where the child is living.

For information about engaging children in the decisions that affect their lives, refer to the practice resource Participation of children and young people in decision-making, and the Children and young people’s participation strategy, and 10.1 Decision-making about Aboriginal and Torres Strait islander children.

Undertake the assessment
To undertake the assessment, refer to the practice resources Long-term guardianship - assessment factors and Responsibilities - long-term guardians, and take into account:

- the information gathered through interviews with the child, parents and carers
- the views of Child Safety officers (for example, PSU staff), or the staff of foster and kinship care services, including Indigenous foster and kinship care services (where applicable), whose role (to date) has included:
  - monitoring, support or renewal of approval responsibilities associated with the proposed suitable persons
  - facilitating actions to implement the case plan, and providing support and monitoring progress towards the case plan goal and outcomes
- all relevant information from Child Safety’s records
• whether the application requires submissions to restrict the provision of information to, or contact with, parents and other family members (Child Protection Act 1999, section 80)
• any supports that may be required to maintain the stability of the proposed long-term guardianship care arrangement - refer to the practice resource Program of supports - long-term guardians.

Where the assessment identifies or is likely to identify complex or sensitive issues, always consult the senior team leader, senior practitioner or CSSC manager. This is necessary to ensure that any potential complexities associated with the assessment, or the final recommendation about the most appropriate order, are evaluated.

Assess the appropriateness of long-term guardianship to a suitable person

If long-term guardianship is being considered, and a suitable person is able and willing to assume guardianship of the child, the Childrens Court can only grant guardianship to that person and not the chief executive (Child Protection Act 1999, section 59(7)(b)).

If there is any uncertainty about the potential suitable persons’ ability and willingness to fulfil their guardianship obligations, it may be more appropriate to recommend an order granting long-term guardianship to the chief executive (with the child remaining in a placement with the carers). For further information, refer to the practice resource Long-term guardianship - assessment factors.

Undertake assessment interviews

When considering long-term guardianship to a suitable person:
• organise separate meetings with the child (having regard to their age, ability to understand and level of maturity), their parents and the potential suitable persons
• as part of these meetings, provide:
  • the child with the Long-term guardianship to a suitable person: Information for children and young people brochure
  • the parents with the Long-term guardianship to a suitable person: Information for parents brochure
  • the potential suitable persons with the Long-term guardianship to a suitable person: Information for carers brochure
• discuss the information contained in the above resources with the child, their parents and the potential suitable persons and:
  • clarify their understanding of the full implications of the making of a long-term guardianship order to a suitable person
  • respond to any concerns or questions raised about an order granting long-term guardianship to a suitable person
  • direct the discussions to enable full consideration of the child, family and carer factors underpinning the assessment as to the most appropriate guardianship order for the child - refer to the practice resource Long-term guardianship - assessment factors
• if applicable, discuss any matters or considerations which suggest that an order granting long-term guardianship to the chief executive may be the more appropriate long-term guardianship order for the child - for further information, refer to the practice
resources *Long-term guardianship - assessment factors* and *Long-term guardianship orders - a comparison*

- negotiate with the potential suitable persons, if eligible, what financial supports will continue to be provided (pending approval by the CSSC manager) following the making of the long-term guardianship order - refer to the *Supporting children in the care of long-term guardians policy* and the practice resource *Program of supports - long-term guardians*
- clarify (prior to completing the assessment and recommending the most appropriate order) the CSSC managers likely approval of any proposed ongoing financial supports, and inform the potential suitable person of the outcome
- in legal consultation with OCFOS, determine whether to include in the referral to DCPL a recommendation that the application should require provisions that restrict the provision of information to, or contact with, parents and other family members - refer below to ‘Other assessment considerations’
- assess the likelihood that the potential suitable persons will fulfil all of their guardianship obligations, for the duration of the order or until the child leaves home to live as an independent adult
- include discussions about the information and likely recommendation to be included in the *Assessment report - long-term guardianship to a suitable person.*

**Other assessment considerations**

In circumstances where the potential suitable person’s compliance with their obligations under the *Child Protection Act 1999*, section 80(1), as outlined above in ‘Guardianship to a suitable person’, would constitute a **significant risk** to the safety of the child or anyone else with whom the child is living, either:

- recommend to OCFOS that the referral to DCPL should recommend, upon applying for the child protection order, the Childrens Court make an order (*Child Protection Act 1999*, section 80(2)), that all or part of the requirements, either:
  - do not apply
  - apply with stated modifications
  - apply to a stated extent
  - recommend an order granting long-term guardianship to the chief executive.

For further information, refer to the practice resource *Long-term guardianship - assessment factors*.

If a child in custody or guardianship of the chief executive will require ‘planned’ respite following the making of a long-term guardianship order, and the potential long-term guardians have no-one within their existing support network to provide respite as a private arrangement, it **may** be appropriate to recommend an order granting long-term guardianship to the chief executive. A child subject to long-term guardianship to a suitable person is only eligible for ‘emergent’ respite through Child Safety, **not** planned respite.

If a child has a disability, and will require planned respite following the making of a long-term guardianship order, the child may be able to access this support through the National Disability Insurance Scheme (NDIS) (refer to *NDIS information for Child Safety staff*).
For further information, refer to the Dual payment of carer allowances policy and the practice resource Long-term guardianship - assessment factors.

Long-term guardianship to a suitable family member will not be appropriate if a family member who has short-term custody of a child under a child protection order is unable to assume full financial responsibility for the child on a long-term basis. In this circumstance, recommend an order granting long-term guardianship to the chief executive. For further information, refer to the practice resource Long-term guardianship - assessment factors.

Consider whether the potential suitable persons are likely to move interstate at any stage following the making of the long-term guardianship order, as an order granting long-term guardianship to a suitable person is unable to be transferred interstate. In this circumstance, the order would need to be registered with the Family Court of Australia, if it is to be enforceable. Should this issue arise during the assessment of the potential suitable persons, consult the Queensland Interstate Liaison Officer (ILO), at Court Services.

**Recommend long-term guardianship to the chief executive**

The Childrens Court will only grant long-term guardianship to the chief executive if the court cannot properly grant guardianship to another suitable person (Child Protection Act 1999, section 59(7)(b)).

A long-term order granting guardianship to the chief executive will be recommended as the appropriate order, where:

- the child’s carers indicate they are not able or willing to assume long-term guardianship of the child
- the child’s carers indicate a preparedness to assume long-term guardianship, however, Child Safety’s assessment indicates that the carers are not, or may not be, able and willing to assume all guardianship responsibilities for the duration of the order
- it is assessed that while the carers may be considered willing to assume guardianship, an order granting long-term guardianship to suitable persons is not considered to be in the best interests of the child - for further information, refer to the practice resource Long-term guardianship - assessment factors.

If guardianship to the chief executive is being considered, discuss with the child, parents and carers the implications of making this order, for example, Child Safety will no longer work towards reunification and the child will continue to be subject to the cycle of assessment, planning, implementation and review - for further information, refer to the practice resource Long-term guardianship orders - a comparison.

When a recommendation is made to OCFOS to make a referral to apply for an order granting long-term guardianship to the chief executive, it may still be appropriate to include, in the revised case plan for the child, continued actions to locate a suitable person.

A subsequent assessment about whether to recommend to OCFOS to make a referral to vary the existing order granting long-term guardianship to the chief executive, and seek an order granting long-term guardianship to the suitable persons, would not occur until such time that the child has established secure attachments with the proposed suitable persons and the placement with the proposed suitable persons appears to be stable.
Discuss the assessment outcome and inform all parties
Following the completion of assessment activities, and prior to finalising the Assessment report - long-term guardianship to a suitable person discuss the outcome of the assessment and proposed recommended long-term guardianship order with the child and family, senior team leader and OCFOS lawyer, and where relevant, the senior practitioner, to confirm the most appropriate order to be recommended.

When the decision is reached regarding the recommended order:

- discuss with and give feedback to the child, parents and where applicable, the potential suitable persons, about the conclusions reached, including the rationale for the recommended order
- incorporate relevant comments and feedback from the child, parents and where applicable, the potential suitable persons, in the assessment report.

Document the assessment
Where there is no potential suitable person able and willing to assume guardianship of the child, key information supporting the assessment and recommendation, including the rationale for not recommending long-term guardianship to a suitable person, is documented in both:

- the review report, in ICMS
- the affidavit - refer to 2.8 Draft an affidavit for a child protection order.

Where there is a potential suitable person able and willing to assume guardianship of the child, record the assessment and recommendation about whether long-term guardianship to that person is the most appropriate order in the Assessment report - long-term guardianship to a suitable person, which may be attached to the affidavit when applying to the Childrens Court for the order.

In circumstances where long-term guardianship to that person is not recommended, the completed assessment report will recommend that long-term guardianship to the chief executive is the most appropriate order.

The assessment report is intended to be a brief summary of the analysis of all the information gathered and assessed, with a particular focus on the rationale for the decision about:

- the most appropriate guardianship order for the child
- the potential suitable person’s ability and willingness to fulfil all guardianship responsibilities for the duration of the order.

Obtain approval to recommend a referral to DCPL for the long-term guardianship order
Submit the ‘Assessment report - long-term guardianship to a suitable person’ or the review report and the draft affidavit (where there is no potential suitable person able and willing to assume guardianship) to the CSSC manager, along with the following attachments:

- the most recent family reunification assessment
- the current case plan
- the most recent child strengths and needs assessment and parental strengths and needs assessment
- the ‘Independent entity’- form, outlining whether an independent person helped
facilitate an Aboriginal or Torres Strait Islander child’s and their family's participation in the decision

- where a long-term guardianship order is being recommended due to expiry of a previous CPO or, if the child is under five years of age, the Practice panel record of discussion.

The CSSC manager will consider all the information provided and complete the Decision-making checklist - long-term guardianship to a suitable person, to decide whether the recommended order is the most appropriate long-term guardianship order for ensuring the child’s current and ongoing safety, well-being and belonging.

If there is any conflict between the child’s safety, well-being and best interests, and the interests of an adult caring for the child, the conflict must be resolved in favour of the child’s safety, well-being and best interests (Child Protection Act 1999, section 5A).

Inform all parties of the decision

Following the recommendation by the CSSC manager:

- make a recommendation to OCFOS for an application to the Childrens Court for a child protection order granting long-term guardianship
- discuss the recommendation and reasons with the child, parents, family and carers
- where applicable, ensure all parties are informed of available review mechanisms, including the:
  - Child Safety’s complaints system - for further information refer to Child Safety’s Compliments and Complaints feedback website
  - Office of the Public Guardian - where requested, direct parties to the Office of the Public Guardian website for Information.
- provide written advice of the recommendation and rationale, if requested, to parties who disagree, including a brief summary of how to access the above-mentioned review mechanisms
- where applicable, consider and implement necessary supports for the child, their family and carers, to minimise any negative impact of the recommendation.

Prepare the revised case plan to be submitted to the Childrens Court

The revised case plan, to be submitted to the Childrens Court upon the application for an order granting long-term guardianship, must incorporate the decision about the most appropriate long-term guardianship order and where applicable, what supports will continue to be made available to the child and the long-term guardian following the making of the order.

For further information about the key items required in the revised case plan, refer to Chapter 4, 3.3 Develop key items in the case plan - application for long-term guardianship to a suitable person.

Apply for the long-term guardianship order

Once the DCPL has decided to apply for the recommended long-term guardianship order, they will proceed with the application - refer to 2.8 Draft an affidavit for a child protection order.

Note: The OCFOS lawyer is available to provide legal advice, and act as a consultant, to Child Safety staff with regard to the preparation of court documentation, including the affidavit.
If the Childrens Court does not grant long-term guardianship to the proposed suitable person, and instead grants another short-term order, or an order granting long-term guardianship to the chief executive, the case plan will need to be reviewed accordingly - refer to Chapter 4, 3.2 Develop key items in the case plan.

**Implement actions following the making of a long-term guardianship order**

**Actions required - both long-term guardianship orders**

As soon as possible after an order granting long-term guardianship is made by the Childrens Court:

- meet with the child subject to the order, where age and developmentally appropriate to provide:
  - verbal information about the terms and effect of the order and the timeframe and process for lodging an appeal
  - a certified copy of the order - the original remains on the file
  - written notice of the making of the order, including the details outlined in the *Child Protection Act 1999*, section 63(b) - develop the letter on a case-by-case basis, in accordance with the child’s age, level of maturity and ability to understand
  - the name and contact details of the CSO with case responsibility
- give the parents:
  - verbal information about the terms and effect of the order and the timeframe and process for lodging an appeal
  - a certified copy of the order - the original remains on the file
  - written notice of the making of the order - complete the *Letter advising parents of long-term guardianship order*, which explains the terms and effect of the order, states that a party may appeal against the decision to make the order within 28 days after the order is made and states how to appeal
  - the name and contact details of the CSO with case responsibility for the child.

**Additional actions required - long-term guardianship to a suitable person**

Where the order grants long-term guardianship to a **suitable person**, implement the following additional actions:

- give the child subject to the order (where age and developmentally appropriate), otherwise, the long-term guardian:
  - the child health passport folder, where applicable
  - a certified copy of the child’s birth certificate - the original remains on the file
  - the child’s Tax File number, where applicable
  - a certified copy of the child’s Aboriginality Certificate, if applicable - the original remains on the file
  - the name and contact details of the CSO with case responsibility for the child
  - the child’s NDIS documentation including copy of current plan and contact details of the support coordinator or Local Area Coordinator (LAC), where applicable
  - information about the Australian Government’s Transition to Independent Living Allowance (TILA) funding, if the child is fifteen years or older - refer to the *Long-term guardianship to a suitable person: Information for children and young people*, or the
Long-term guardianship to a suitable person: Information for carers

- give the long-term guardian:
  - written information about the order, including their ongoing legal obligations to the child, the child’s parents and Child Safety - complete the Letter advising suitable persons of long-term guardianship order
  - a certified copy of the order - the original remains on the file
  - the name and contact details of the CSO with case responsibility for the child
  - contact details for, and information about, the Foster and Kinship Carer Support line - refer to Chapter 9, 1. Provide support to carers
- conclude payments from the date of the making of the order, where financial supports were not approved by the CSSC manager
- create the ‘Long-term guardianship to a suitable person - Case plan’ in ICMS as soon as practicable by:
  - closing the current ongoing intervention event in ICMS by completing the review report - this does not require completion of any structured decision making assessments
  - adding the long-term guardians role in the ongoing intervention event
  - completing the ‘Long-term guardianship to a suitable person - Case plan’ form in the new ongoing intervention event in ICMS, from the information contained in the child’s current case plan
  - submitting the plan to the senior team leader or senior practitioner for approval
- undertake ongoing intervention, including twelve monthly contact with the child - refer to 1. What if the child has a long-term guardian?

Note: Approved carers who are granted long-term guardianship of a child continue to receive the fortnightly caring allowance and any other financial supports approved by the CSSC manager, as recorded in the ‘Assessment report - long-term guardianship to a suitable person’.

Additional actions required - long-term guardianship to the chief executive
Where the chief executive is granted long-term guardianship, continue ongoing intervention in accordance with Chapter 4. Case planning, Chapter 5. Children in care and Chapter 9, 2. Monitor the standards of care.

Record carer details in ICMS
Where a carer is granted long-term guardianship of a child and is not intending, or continuing, to provide placements for other children as a foster or kinship carer:

- end the current approval
- add a new carer entity approval type of ‘Long-term guardian’ for the child for whom the carer entity is now guardian
- Add the guardian to the Ongoing Intervention event with the role of “Long term guardian”.
- Update the existing ICMS Placement event to amend the ‘Placement details’ – select for the ‘Carer type’, "Long term guardian – (name of Subject child)".

Where the carer remains, or becomes, a foster or kinship carer for other children:

- record an additional carer entity approval type of “Long term guardian” for the child for whom the carer entity is now guardian
• Add the guardian to the Ongoing Intervention event with the role of “Long term guardian”.
• Update the existing ICMS Placement event to amend the ‘Placement details’ – select for the ‘Carer type’, "Long term guardian – (name of Subject child)".

2.7 **Recommend an application for a permanent care order**

A permanent care order grants permanent guardianship of a child to a suitable person, who has been assessed as being able to meet the obligations of a permanent guardian under the *Child Protection Act 1999*, section 61(g). A proposed guardian must be nominated by the chief executive, and the Childrens Court can only grant a permanent care order if it is satisfied that:

- the proposed permanent guardian is a suitable person for having guardianship of the child on a permanent basis
- the proposed permanent guardian is willing and able to meet the child’s ongoing protection and care needs on a permanent basis
- the proposed permanent guardian is committed to preserving the child’s identity, the child’s connection to their culture of origin; and their relationships with members of their child’s family in accordance with the case plan, and
- the child is already in the custody or guardianship of the chief executive, or long term guardianship to a suitable person and has been living with the proposed permanent guardian for 12 months prior to the making of the order.

A permanent care order can only be considered where it has been assessed as being in the child’s best interests and there is a suitable person who has been assessed as being able and willing to accept permanent guardianship of the child, and meet all of the obligations of a permanent guardian.

It may be more appropriate to recommend an order granting long-term guardianship to the chief executive or a suitable person (with the child remaining in a placement with the carers) in the following circumstances:

- where there is uncertainty about the ability and willingness of the potential suitable person to fulfil the obligations of a permanent guardian
- where a high level of support by Child Safety is required by the carer to meet the child’s needs
- where the child is in receipt of high or complex support needs allowance, which require regular and ongoing review
- where the proposed guardian has indicated that they will need ‘planned’ respite following the making of the permanent care order, as they have no-one within their existing support network to provide respite as a private arrangement.

A recommendation to seek a permanent care order will **only** occur either:

- after efforts to achieve permanency for the child through reunification with family have not been successful within the required timeframes
- for a child who is subject to a long-term guardianship order, where it is assessed that a permanent care order would better achieve permanency for the child.

The outcome of the family reunification assessment and the recommendations from a practice panel will guide the decision as to when it is appropriate to cease working towards reunification and
to pursue an alternative permanency option for the child - refer to Chapter 4, 5.3 Assess whether reunification can occur.

Permanent guardian roles and responsibilities
A permanent care order is one option for providing a child with legal permanency. The permanent guardian will provide direct care for the child for the duration of the order or until the child leaves the permanent guardian’s direct care to live as an independent adult.

A permanent care order provides the permanent guardian with:
- the rights and responsibility to care for the child on a daily basis and make decisions about the child’s daily care
- all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, well-being and development of the child.

In addition to the above rights and responsibilities, following the making of a permanent care order and for the duration of the order, the permanent guardian has a legal obligation to:
- tell the child’s 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 appropriate members of the child’s family as often as is appropriate in the circumstances, unless an exception to some or all of these requirements has been ordered by the Childrens Court (Child Protection Act 1999, section 80(1) and (2))
- immediately notify Child Safety in writing, or via email, should the child leave their care prior to turning 18 years of age should the child no longer reside in the permanent guardian’s direct care - the written advice is also to include the child’s current whereabouts, if known to the permanent guardian (Child Protection Act 1999, section 80A).
- immediately inform Child Safety, in writing or via email, should the child be leaving their care in the near future (Child Protection Act 1999, section S80A (2)(a))
- help maintain the relationship between the child and the child’s family and persons of significance and provide opportunities for ongoing family contact with them (Child Protection Act 1999, section 79A (1)(d))
- ensure the charter of rights for a child in care is complied with (Child Protection Act 1999, section 79A)
- preserve the child’s identity and connection to their culture of origin (Child Protection Act 1999, section 79A(1)(c))
- help the child transition to adulthood (Child Protection Act 1999, section 79A(1)(b)).

Seek the views of the carer
When considering a permanent care order, the child’s carer must have been assessed as being suitable to be the proposed guardian for the child, based on:
- how the carer has responded to the child’s needs to date and whether there are any concerns about their ability to continue to meet the child’s needs should they be granted permanent guardianship
- how the carer has provided opportunities for ongoing family contact with parents, family and community members and other people of significance to the child
how the carer has managed with providing the child’s parents with relevant and required information to date.

Where there are doubts or concerns about the proposed guardian’s ability to meet their obligations in relation to the child, these concerns need to be dealt with prior to proceeding with a permanent guardian assessment.

Consult with the child’s carer and seek their views regarding:

- the recommended order and becoming a permanent guardian
- their response to the legal obligations of a permanent guardian
- any concerns they have had in meeting the child’s needs to date, or in the future without case management or ongoing support from Child Safety
- any concerns around providing opportunities for ongoing family contact with parents, family and community members and other people of significance to the child.

This information will also inform the permanent guardian assessment. In addition, give the proposed guardian with a copy of:

- Permanent care order: Information for proposed guardians brochure and the Charter of Rights for a child in care.

Make the decision to pursue a permanent care order

The decision to consider a permanent care order will follow a period of case work aimed at reunifying the child with their parents or a family member or working with carers or guardians of a child subject to another long-term order. Once the family reunification assessment outcome indicates that Child Safety is to prepare for an alternative permanency option and a decision is made to consider a permanent care order OR where the child is already subject to a long term guardianship order and Child Safety decides that a permanent care order would better meet the child’s needs for permanency:

- refer the case to a practice panel
- seek the views of the carer about becoming a permanent guardian
- seek the views of the child and family about a permanent care order
- complete an assessment of the proposed guardian
- consult with OCFOS about making a recommendation for a permanent care order
- develop a case plan
- make a referral to the DCPL for a permanent care order.

Refer the case to a practice panel

Prior to making the decision about whether to assess a proposed guardian for a child, refer the case to a practice panel. The making of a permanent care order is a significant decision for a child and all factors must be thoroughly assessed prior to making this decision. For an Aboriginal or Torres Strait Islander child, arrange for an independent person to help facilitate the child’s and family’s participation in the decision-making process. In addition, there must be an Aboriginal or Torres Strait Islander person, who is independent from the case on the practice panel.

Refer to Chapter 4, 5.4 Refer the case to a practice panel for further information.
Obtain the views of the child and family

When determining permanency options for a child, the child must be provided with an opportunity to participate in the decision-making process and contribute their views, regarding:

- the proposed order
- how the proposed guardian has responded to the child’s needs to date, and whether the child has any concerns about the proposed guardian continuing to meet their needs should the carers be granted permanent guardianship.
- how the proposed guardian has provided opportunities for ongoing family contact with parents and family or community members
- keeping the child’s parents informed about the child’s care and where the child is living.

For information about engaging children in the decisions that affect their lives, refer to the practice resource Participation of children and young people in decision-making and the Children and young people’s participation strategy.

Consultation with the parents about permanency options will have been ongoing as part of the concurrent planning processes. Once the decision is made to cease reunification activities, ensure further conversations occur with the parents to seek their views about a possible permanent care order for the child and any concerns they may have about the order or the proposed guardian.

When the child is Aboriginal or Torres Strait Islander, arrange for an independent person to help facilitate the child’s and family’s participation in the decision-making process about the permanent care order. For further information refer Chapter 10. Decision-making about Aboriginal and Torres Strait Islander children. Record the details in the ‘Independent entity’ form in ICMS.

As part of consultation, provide the child with a copy of the Permanent care order – Information for children and young people brochure, and a copy of The Charter of Rights for a child in care and their parents with a copy of the Permanent care order – Information for parents brochure and a copy of The Charter of Rights for a child in care.

Complete an assessment of the proposed guardian

To undertake an assessment of the proposed guardian, use the Permanent guardian assessment report and refer to the practice resource Permanent guardian assessment guide. As part of the process:

- interview the child, parents and other people of significance to the child
- interview the carers
- take into account:
  - the information gathered through interviews with the child, parents, carers and other people of significance to the child
  - the views of Child Safety staff, foster and kinship care service staff, residential care service staff and Indigenous foster and kinship care service staff, where applicable, who have been involved in the child’s case work
  - information from the assessment, monitoring, support or renewal of approval responsibilities associated with approved carers
  - any previous standard of care issues for the carers
• how the carers have facilitated relevant actions to implement the case plan, and provided support and monitoring progress towards the case plan goals
• all relevant information from Child Safety records
• whether the application requires submissions to restrict the provision of information to, or contact with, parents and other family members (Child Protection Act 1999, section 80).

Where the assessment identifies complex or sensitive issues, always consult the senior team leader, senior practitioner or CSSC manager to ensure these issues are comprehensively evaluated as part of the assessment.

**Undertake assessment interviews**

When completing the assessment of a permanent guardian:
• interview the child (having regard to their age, ability to understand and level of maturity), parents and carers separately - as part of these meetings, provide them with information in relation to the permanent care order and clarify their understanding of the full implications of the making of a permanent care order
• respond to any concerns or questions raised about the making of a permanent care order
• assess the likelihood that the proposed guardian will fulfill all of their guardianship obligations, for the duration of the order or until the child leaves home to live as an independent adult.
• direct the discussions to enable full consideration of the child, family and carer factors underpinning the assessment - refer to the practice resource Permanent guardian assessment guide
• if applicable, discuss any matters or considerations which suggest that an order granting long-term guardianship to the chief executive or a suitable person may be more appropriate for the child - refer to the practice resources Long-term guardianship - assessment factors and Long-term guardianship orders - a comparison
• discuss the financial support arrangements that are in place for permanent guardians – that is the fortnightly caring allowance is paid until the child turns 18
• clarify (prior to completing the assessment and recommending a permanent care order) the CSSC managers likely approval of any proposed financial support in exceptional circumstances, that is over and above the fortnightly caring allowance
• determine whether the referral to the DCPL will include a recommendation that the application will require provisions to restrict the provision of information to, or contact with, parents and other family members - refer below to ‘Other assessment considerations’.

**Other assessment considerations**

• A permanent care order will not be appropriate for any child where there are concerns that the proposed guardian will not comply with their obligations under the Child Protection Act 1999, section 80(2), where significant risk to the safety of the child or anyone else with whom the child is living has been identified. For example, where the Court orders contact with family not occur, and it is assessed that the proposed guardian may allow this to occur.
• As part of the assessment for a child with a disability, discuss the proposed guardian’s
capacity and willingness to be responsible for meeting the child’s disability. Where a child already has an existing NDIS plan in place, the permanent guardian will be required become the child’s representative for the existing NDIS plan. Where a disability is diagnosed following the making of a permanent care order, the permanent guardian will engage with the NDIS to secure ongoing disability support, to ensure effective identification and response to the child’s needs.

- If the proposed guardian advises that they intend to move interstate at any stage following the making of the permanent care order, ensure they are aware of their obligations to:
  - discuss the obligations in relation to keeping the child connected with their family, culture and community
  - advise them that the permanent care order is unable to be transferred interstate
  - advise them that the order will be registered with the Family Court of Australia.

Discuss the assessment outcome and inform all parties

Following the completion of the permanent guardian assessment and prior to finalising the Permanent guardian assessment report, discuss the outcome of the assessment with the senior team leader, senior practitioner, CSSC manager and OCFOS, to confirm the recommended outcome.

Following agreement about the assessment recommendation:

- discuss the report and give feedback to the child, parents and the proposed guardians about the conclusions reached, including the rationale for the recommended outcome
- for an Aboriginal or Torres Strait Islander child, provide the child and family with the opportunity to have an independent person help facilitate their involvement at this point
- incorporate relevant comments and feedback from the child, parents and where applicable, the potential suitable persons, in the assessment report
- finalise the Permanent guardian assessment report, which will provide an analysis of all the information gathered and assessed, with a particular focus on the rationale for the decision about:
  - whether a permanent care order is the most appropriate order for the child
  - whether it best meets the child’s need for safety, stability and belonging
  - whether the proposed guardians are able to meet all of the guardianship responsibilities for the duration of the order.

Seek approval for the assessment

To seek approval of a suitable person as a permanent guardian, provide the senior team leader:

- the completed Permanent guardian assessment report
- the completed ‘Independent entity’ form, for an Aboriginal or Torres Strait Islander child
- any other attachments.

The senior team leader, if satisfied, will endorse the assessment and provide all of the information to the CSSC manager. The CSSC manager will consider all the information provided prior to determining whether the permanent care order is the most appropriate order for ensuring the child’s current and ongoing safety, belonging and well-being.
The purpose of a permanent care order is to provide for the child’s needs for safety, belonging and wellbeing, not to provide for the carer’s needs. If there is any conflict between the child’s safety, wellbeing and best interests, and the interests of an adult caring for the child, the conflict must be resolved in favour of the child’s safety, wellbeing and best interests (Child Protection Act 1999, section 5A).

**Seek approval to recommend a referral to DCPL for a permanent care order**

Once the assessment has been approved:

- consult with OCFOS - refer to the resource Working with OCFOS and the DCPL
- where there is agreement to proceed with a referral to the DCPL, map out the tasks required and the timeframe for completion
- obtain additional information from other agencies or professionals that will support the application for a child protection order – refer to Chapter 10.3 Information sharing for service delivery coordination
- draft an affidavit (form 25) to support the application for a child protection order - refer to 2.8 Draft an affidavit for a child protection order
- draft a Rule 13 affidavit and collate relevant documents to meet disclosure obligations.

An OCFOS officer is available to provide advice, and act as a consultant, to Child Safety staff with regard to the preparation of court documentation, including the affidavit.

**Prepare the revised case plan to be submitted to the Childrens Court**

When a child is to be subject to a permanent care order, the case plan to be submitted to the Childrens Court upon the application for a permanent care order, and must incorporate information about:

- the child’s protection and care needs - how the child’s safety, belonging and well-being needs will be met
- family and community - how the guardian will preserve the child’s relationships with members of their family and community
- cultural connection - how the guardian will preserve the child’s identity and connection to their community, culture and country
- health - how the guardian will support the child and respond to any identified health issues
- education/training/employment - how the guardian will support the child to achieve their educational and vocational goals
- planning for adulthood - how the guardian will support the child to transition to adulthood
- resources and financial matters - how the guardian will support the child financially.

For further information about the key items required in the revised case plan, refer to Chapter 4, 3.4 Develop key items in the case plan - application for a permanent care order.

**Record on ICMS**

In the current open ongoing intervention event, complete the ‘PCO – Case plan form’ (used for the court application). Ensure that the proposed guardian is listed in the event with their current role e.g., “Approved carer”, “Long term guardian”.

Note: The ongoing intervention event is to be closed when the order is granted. There is no need
for an open ongoing intervention event unless there is a review of the child’s case plan.

Make a referral to DCPL for the permanent care order
To make a referral to DCPL, OCFOS will draft a Rule 13 affidavit and collate relevant documents to meet disclosure obligations.

Inform all parties of the decision
Once DCPL has approved the decision to apply for a permanent care order:
- discuss the recommendation and reasons with the child, parents and carers
- where applicable, ensure that all parties are informed of available review mechanisms, including the:
  - Child Safety complaints system - for further information refer to the Compliments and Complaints feedback website
  - Office of the Public Guardian - where requested, direct parties to the Office of the Public Guardian website for information.

Following the making of a permanent care order
Where the Childrens Court grants the permanent care order, the child will no longer be subject to case planning processes and Child Safety will have no further contact with the child unless a review of the case plan is requested by the child or the guardian, or a complaint is made about the permanent guardian’s care of the child.

If the Childrens Court does not grant the permanent care order to the proposed permanent guardian, and instead grants an order granting long-term guardianship to the chief executive, or long-term guardianship to a suitable person, the case plan will need to be reviewed accordingly - refer to Chapter 4, 3.2 Develop key items in the case plan or Chapter 4. Develop key items in the case plan - application for long-term guardianship to a suitable person.

Implement actions following the making of a permanent care order
As soon as possible after a permanent care order is made by the Childrens Court provide the child, where age and developmentally appropriate:
- written notice of the making of the order, including the details outlined in the Child Protection Act 1999, section 63(b) - develop the letter on a case-by-case basis, in accordance with the child’s age, level of maturity and ability to understand
- a certified copy of the order - the original remains on the file
- a copy of the Permanent Care Order: Information for children and young people brochure
- verbal and written information about the charter of rights (schedule 1) and its effect unless, having regard to the child’s age or ability to understand, the chief executive reasonably believes the child would not be able to understand the information
- information about the obligations of the child’s permanent guardian under Child Protection Act 1999, section 79A
- information about the complaints process if the child considers that the permanent guardian is not complying with their obligations in relation to the child
- verbal information about the child’s right to contact the chief executive if the child has any questions or concerns or wish to request a review of their case plan

Provide the parents:
- verbal information about the terms and effect of the order
• written notice of the making of the order - complete the Letter advising parents of a permanent care order, which explains the terms and effect of the order
• a copy of the brochure – Permanent Care Order: Information for parents
• a certified copy of the order - the original remains on the file
• the name and contact details of who to contact in the future.

Provide the permanent guardian:
• a certified copy of the order - the original remains on the file
• written information about the order, including their ongoing legal obligations to the child, the child’s parents and Child Safety - complete the Letter advising a permanent guardian of a permanent care order
• a copy of the brochure – Permanent Care Order: Information for permanent guardians
• the name and contact details of who to contact in the future.

In addition to the above requirements, ensure the child or the permanent guardian have the following:
• the child health passport folder, where applicable
• the child’s Medicare card
• a certified copy of the child’s birth certificate - the original remains on the file
• the child’s Tax File number, where applicable
• a certified copy of the child’s Aboriginality Certificate, if applicable - the original remains on the file
• information about the Australian Government’s Transition to Independent Living Allowance (TILA) funding, if the child is fifteen years or older - refer to the Long-term guardianship to a suitable person: Information for children and young people, or the Long-term guardianship to a suitable person: Information for carers.

The permanent guardian will continue to receive the fortnightly caring allowance for the child. In exceptional circumstances, they may also be eligible for the continuation of the high support needs allowance or complex needs allowance for a short period of time - up to six months.

**Record permanent guardian details in ICMS**

Where a carer is granted permanent guardianship of a child and is not intending, or continuing, to provide placements for other children as a foster or kinship carer:
• end the current carer entity approval
• add a new carer entity approval type of ‘Permanent guardian’ for the child for whom the carer entity is now guardian
• Update the existing ICMS Placement event to amend the ‘Placement details’ select for the ‘Carer type’, "Permanent guardian – (name of Subject child)".

Where the carer remains, or becomes, a foster or kinship carer for other children:
• record an additional carer entity approval type of ‘permanent guardian’ for the child for whom the carer entity is now guardian
• Update the existing ICMS Placement event to amend the ‘Placement details’ select for the ‘Carer type’, "Permanent guardian – (name of Subject child)".
Respond to a complaint about a permanent guardian

Under the *Child Protection Act 1999*, section 80B, a child or a member of the child’s family can make a complaint to Child Safety if they honestly and reasonably believe a permanent guardian of the child is not complying with their legal obligations to:

- ensure the charter of rights for a child in care is complied with in relation to the child as if the guardian were the chief executive and the child were a child in need of protection in the custody or care of the chief executive, as far as reasonably practicable
- ensure the child is provided with appropriate help in the transition from being a child in care to adulthood
- preserve the child’s identity and connection to the child’s culture of origin, to the extent it is in the best interests of the child
- help maintain the child’s relationships to with the child’s parents, family members and other persons of significance to the child, to the extent it is in the best interests of the child.

In certain circumstances, the Childrens Court may make a decision that some of these requirements do not apply, or will not apply fully, if compliance with the requirement would not be in the best interests of the child and either constitute a significant risk to the safety of the child or anyone else with whom the child is living.

A person can make a complaint on behalf of another person, with that person’s consent.

To make a complaint about a permanent guardian of a child who is not complying with their obligations, a child or the member of a child’s family may:

- talk to the senior team leader or CSSC manager (of the CSSC that applied for the permanent care order), if known and ask for their assistance to contact the Complaints Unit
- contact the Complaints Unit directly on 1800 080 464 (free call).

Staff of the Complaints Unit will talk to the complainant and explain the process of making a complaint, what will happen next, Child Safety’s response to the complaint and the outcome of the complaint.

If assistance with an urgent matter is required outside of Child Safety working hours, then contact the Child Safety After Hours Service Centre on 07 3235 9999 or 1800 177 135 (free call).

Following this the Complaints Unit will decide whether to deal with the matter or re-allocate it to the region.

**Following the making of a complaint**

If Child Safety does decide to deal with a complaint, it must take all reasonable steps to resolve the complaint as soon as practicable. Once this has occurred, the complainant will receive a response stating the steps taken to resolve the complaint, why these steps were taken and any known results of the actions taken at the time of giving the response.

Child Safety may refuse to deal with a complaint if it is believed the complaint is trivial, unreasonable, without substance or made vexatiously. Child Safety may also refuse to deal with a complaint if the complainant refuses, without a reasonable excuse, to provide additional information reasonably required by the chief executive to decide whether to deal with the complaint.
Where the decision is made not to deal with a complaint, the chief executive will advise the complainant in writing and is required to keep a record of the decision. This is a reviewable decision. Child or family members must be advised that they have 28 days to contact the Queensland Civil and Administrative Tribunal (on 07 3225 8346 or 1300 753 228 (if living outside Brisbane) from the time Child Safety sends them a letter about the decision not to deal with the complaint.

2.8 Draft an affidavit for a child protection order

The purpose of an affidavit is to provide sworn, factual information, to assist a magistrate in making a decision in relation to an application before the court, for a child protection order. The information provided in the affidavit is aimed at supporting the DCPL application for a child protection order.

When the affidavit relates to an Aboriginal or Torres Strait Islander child, ensure that clear information is provided about the decision-making process undertaken with the child and family, their views and whether an independent person helped facilitate their participation in the decision.

For information about how to write an affidavit, including content, formatting and the roles and responsibilities of Child Safety officers, refer to the practice resource Writing an affidavit.

Complete an affidavit
An Affidavit (Form 25) and Rule 13 Affidavit need to be completed before OFCOS makes a referral to the DCPL.

The Affidavit (Form 25) outlines the assessment of the child protection concerns, the recommendations about actions required to ensure the safety, belonging and wellbeing of the children and details of evidence relied upon to make this assessment.

A Rule 13 Affidavit exhibiting the following documents must be filed in support of a child protection application:

- an assessment of whether the child is in need of protection including the assessment and outcome form for new applications and Practice Panel minutes for expiring orders
- an assessment of the most recent strengths and needs of the child and their parents
- records of the most recent family group meeting including a case plan (if developed) or a case plan review
- any previous applications or orders for the child, including court assessment orders, temporary assessment orders and temporary custody orders
- referral to an external agency supporting the child and their family members
- any independent assessment or report about the child or their parents
- the child’s birth certificate
- any child protection history report, criminal history, domestic violence history or traffic history of someone relevant to the proceedings.

When preparing an affidavit, the Child Protection Act 1999, section 191, allows the DCPL to refuse to disclose a document or information if it may or does endanger a person’s safety or psychological health. It is the responsibility of the CSO, senior team leader and OFCOS lawyer to ensure a referral to DCPL highlights the information of concern and information is saved in the
‘withheld’ subfolder of the disclosure file in the Court Share site of the child. DCPL will decide if the documents can be withheld. Refer to the practice resource Domestic and family violence – protecting identifying information in court processes.

Additional affidavits may also be required, after the initial application and supporting affidavit have been filed, when:

- updating the court on any relevant assessments or changes in circumstances, during an adjournment period
- preparing for a child protection hearing, in response to affidavits filed by respondents to the application
- the DCPL applies to revoke a child protection order
- the DCPL applies to revoke a child protection order and make a new order
- responding to applications filed by parents, for example, an application by parents to revoke a child protection order
- a party has initiated an appeal of a decision made by a court.

File the affidavit

The DCPL will ensure an affidavit is always filed:

- with an Application for a child protection order (Form 10)
- on or before the expiry date of an existing order
- for a supplementary affidavit, a minimum of three business days before the next court mention.

Note: The information contained in the application form for a child protection order is an unsworn document and is not considered evidence.

Providing information and documents to the Office of Public Guardian (OPG)

When Child Safety receives general requests for information from child advocates from the OPG, the requests are responded to by the relevant child safety service centre. This may include requests for historical court documents.

When Child Safety receives a request from the OPG for court documents to assist the child advocate to make a decision about whether they will intervene in current Childrens Court proceedings, OCFOS will provide a copy of the Form 10 application. If the OPG then files a notice of intention to appear, or the magistrate indicates they want OPG involved in the matter, DCPL will seek a direction that OPG be served with filed documents.

A similar process will apply for court assessment order applications – the OCFOS lawyer will provide a copy of the Form 5 applications only to assist OPG to make a decision about whether to intervene.

Service of the application and affidavits

All initial applications for child protection orders must be served in person, unless it is not practicable. Whilst the DCPL is the applicant for all child protection orders, they will request Child Safety to serve the application and initial affidavit on the parents, regardless of whether the parents are legally represented or not, due to the personal service requirement. This should occur
three business days before the initial mention of the application in the Childrens Court. All affidavits will be served on each respondent to a child protection application.

For all updating affidavits, if the parents are legally represented, the DCPL will serve the affidavit on the parents, via their legal representative. When parents are not legally represented the DCPL will request Child Safety to serve the updating affidavits on parents. This should only be done when the departmental officer has received written instructions from the DCPL about what to serve and on who. When the departmental officer has served the documents they need to complete an Affidavit of Service (Form 22) for each respondent, as proof of service, as soon as possible following service of the documents. This Affidavit of Service needs to outline the following:

- a description of the document served
- the date it was served
- how the document was served (i.e. in person, by post, leaving it at the last known address)
- if served personally – the location, time and how you knew the person was the person identified.
- if served via post or left at an address – the address, how you knew the address was relevant.

2.9 Recommend an application to extend, vary, revoke an order or revoke and make a new application for a child protection order

Prior to a child protection order expiring, assess whether ongoing intervention is necessary to ensure the child’s safety, belonging and wellbeing and whether a further child protection order is required. To do this, review the case plan to assess progress made towards achieving the case plan goal as outlined in Chapter 4, 5. Review and revise the case plan. For further information, refer to the Practice resource: Decision making process for expiring child protection orders.

The matter will also be referred to a practice panel, prior to expiry, and regardless of whether another order, extension, revocation or variation is being recommended. For further information refer to the practice resource Practice panel guide and for recording, the Practice panel record.

Where it is assessed that the child is no longer in need of protection and does not require a child protection order, allow the child protection order to expire and close the case, as outlined in 4. Close an ongoing intervention case.

Where it is assessed that the child continues to be in need of protection but a child protection order is considered not appropriate the child protection order may expire and another type of ongoing intervention will continue, as outlined in Chapter 6. Intervention with parental agreement.

Where it is assessed that a child protection order is still required, consult with OCFOS six months before the order ends, and when in agreement, make a recommendation to OCFOS for a referral to the DCPL for an application for one of the following:

- an extension of the existing child protection order
- a variation or revocation of the child protection order
• a revocation of the existing child protection order and seek another child protection order in its place.

For further guidance on decision making about expiring child protection orders, refer to practice resource OCFOS Interface with Child Safety - decision making for expiring child protection order.

Where the assessment to extend, vary, revoke, or revoke and make a new application relates to an Aboriginal or Torres Strait Islander child, the child and family must be given an opportunity to collaborate in the decision-making and have an independent person help facilitate their participation, prior to the application being lodged with the Childrens Court. For further information about decision-making for an Aboriginal or Torres Strait Islander child, refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children.

When considering whether to recommend a referral to DCPL to extend, or make a further short-term order, the Childrens Court must consider the child’s need for emotional security and stability, including the child’s need for permanent living arrangements. The factors that inform the court about these areas include:

• the child’s age and their views
• the length of time the child has been in their current placement
• the number of child protection orders the child has been subject to previously
• the progress made towards achieving the case plan goals
• the child’s relationship and attachment with their parents
• information about the nature of contact the child has with their parents
• the child’s relationship and attachment with their carers
• for an Aboriginal or Torres Strait Islander child - Aboriginal tradition or Island custom relating to the child and the five elements of the child placement principle, for further information refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children.

**Extend a child protection order - section 64**

Under the Child Protection Act 1999, section 64, an application can be made to the Childrens Court to extend a child protection order. The application to extend the order must be made before the child protection order ends.

The total duration of the existing order and the extension sought, must not exceed the maximum timeframe allowed for the type of child protection order, as set out in the Child Protection Act 1999, section 62.

Short-term child protection orders (granting custody or guardianship to the chief executive) cannot extend beyond a total period of two years from when the first order was made. However, in exceptional circumstances, the court may make a further short-term order where it is satisfied that it is in the best interests of the child and reunification with the parents is reasonably achievable in a stated timeframe.

The two year timeframe may include one or more consecutive child protection orders. For example, if a child has been subject to a short-term order for 12 months, a further order can only be made for a maximum of 12 months (two years in total). The two year period does not
include interim orders that were in place before the first order was finalised, but does include interim orders that were in place before the second order was finalised. These time frames include orders made under the Child Protection Act 1999, section 99.

A child protection order granting custody to a suitable family member for a period of 12 months can be subject to an application to extend it for a further period of up to 12 months (the maximum duration allowed for this type of order is two years).

The period of time the Childrens Court takes to decide the application must also be taken into account to ensure that the total time does not exceed the maximum duration. For, example above, if an application to extend a child protection order granting custody to a suitable family member for a further period of 12 months takes up to six months for the Childrens Court to decide, at the time the order is made, it can only be extended for a further period of six months to bring it to a total period of two years from the day the original order was made.

Vary a child protection order - section 65

Under the Child Protection Act 1999, section 65, a child, their parent or the DCPL can apply to the Childrens Court to vary a child protection order. The types of child protection orders that can be varied under this section include:

- directive orders - to change the matters stated for a parent to do or refrain from doing certain actions or to vary the contact arrangements
- supervision order - to change the matters stated for supervision
- short-term custody orders - to vary custody arrangements between a family member and the chief executive as well as court ordered conditions
- long-term guardianship orders - to vary who the guardian is - a family member, a suitable person or the chief executive, as well as court ordered conditions.

An application to vary an existing child protection order cannot be made in order to:

- change the type of child protection order - in this circumstance, apply to revoke the order and make another child protection order in its place
- increase the duration of a child protection order - in this circumstance, apply to extend the child protection order
- reduce the duration of a child protection order - in this circumstance, apply to revoke the child protection order when it is assessed that the child protection order is no longer required.

Where the DCPL applies to the Childrens Court to vary a long-term guardianship order to change who the guardian is (for example, from the chief executive to a suitable family member), or revoke the long-term guardianship order and make a permanent care order in its place, the court does not have to be satisfied of the following matters that the court previously decided:

- that the child is a child in need of protection and the order is appropriate and desirable for the child’s protection
- that the protection sought to be achieved by the order is unlikely to be achieved by an order on less intrusive terms
- there is no parent able and willing to protect the child within the foreseeable future.
Revoke a child protection order - section 65

Under the *Child Protection Act 1999*, section 65(1), a child, their parent or the DCPL may apply to the Childrens Court to either:

- revoke a child protection order
- revoke a child protection order and make another order in its place.

However, a child's parent cannot apply to revoke:

- a child protection order and make another order in its place that grants guardianship of the child to any other party
- a permanent care order.

Where it has been assessed that the child is no longer in need of protection, consultation may occur with OCFOS about making a referral to the DCPL to file an application to the Childrens Court to revoke the existing child protection order.

Where it has been assessed that the existing child protection order is no longer appropriate to meet the child's needs for safety, belonging and well-being, recommend a referral to DCPL for an application to revoke a child protection order and seek another order in its place. For example, an application may be made to revoke a child protection order granting custody to the chief executive, and instead seek an order granting guardianship to the chief executive when a parent, refuses to provide consent for the child to receive medication that a medical practitioner has advised is necessary for the child's continuing physical or mental health.

Where an application is made to revoke a long-term guardianship order to a family member or another suitable person, the Childrens Court must also consider the child's need for emotional security and stability. This additional requirement recognises the attachment and relationship that is formalised and enhanced from the making of this type of order, and therefore requires the Childrens Court to consider both whether the order is still appropriate and desirable for the child’s protection as well as the child’s need for emotional security and stability.

### 2.10 Apply for a transition order

A transition order continues the existing child protection order for a period of up to 28 days, to enable the child’s gradual transition from a care placement to their parents’ full-time care. The DCPL or a party to proceedings may apply verbally for a transition order, when both of the following apply:

- the Childrens Court makes a decision not to grant a subsequent child protection order
- the immediate return of the child to their parents care is expected to cause distress to the child and a gradual transition would be in the child’s best interest.

A transition order may be considered for a child subject to a short-term order when the Childrens Court:

- refuses to extend or make a further order before the order ends
- revokes the order
- decides an appeal against the making of the order in favour of a person other than the chief executive (*Child Protection Act 1999*, section 65A(1)(a)(i)-(iii)).

A transition order may also be considered for a child subject to a long-term order when the court:
- revokes the order
- decides an appeal against the making of the order in favour of a person other than the chief executive (Child Protection Act 1999, section 65A(1)(b)(i)-(iii)).

Before making a transition order, the Childrens Court must:
- be satisfied that the order is necessary to enable the gradual transition of the child to the parents care in a way that supports the child, reduces their disruption or distress or is otherwise in their best interest (Child Protection Act 1999, section 65B(1))
- consider the child’s views
- consider the parents readiness to care for the child and any other relevant matter (Child Protection Act 1999, section 65B(2))
- for an Aboriginal or Torres Strait Islander child – have regard to Aboriginal tradition or Island custom relating to the child and the five elements of the child placement principle, for further information refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children.

Note: The Childrens Court may decide to make the order on its own initiative (Child Protection Act 1999, section 65A (3)(5)).

When the Childrens Court adjourns an application for a transition order, the pre-existing child protection order continues in force until the application is decided (Child Protection Act 1999, section 65A(4)).

Prior to an application being lodged with the Childrens Court for an Aboriginal or Torres Strait Islander child, the child and family must be given the opportunity to participate in the decision and have an independent person help facilitate their participation if they so choose.

**Duration of the order**

The term of a transition order must not be more than 28 days, after the day of the decision by the Childrens Court not to extend or grant a further order, or to revoke the current order. This period cannot be extended and incorporates any adjournment periods which may have been ordered (Child Protection Act 1999, section 65A (5)).

**Develop the transition plan**

If the Childrens Court makes a transition order, a transition plan for the child must be prepared. The transition plan outlines how Child Safety will support and gradually transition the child into the parents care, so as to minimise distress and disruption to the child. It also includes any other relevant matter, for example:
- actions required to ensure the transition occurs within the period of the order
- care and contact arrangements for the duration of the order.

To develop a transition plan:
- determine whether a meeting is required - this will depend on the length of the transition order and the complexity of the plan
- obtain and consider the views of:
  - the child, where age and developmentally appropriate
  - the child’s parents
• the child’s carer
• other relevant people, for example, the child’s counsellor.

When a transition order is made, complete the ‘Transition plan’ in the ongoing intervention event in ICMS and submit it to the senior team leader for approval.

Where the Magistrate requests to see the transition plan prior to deciding an application for a transition order, complete the Transition plan as a word document and attach it to the ongoing intervention event in ICMS. Once the order is granted, record the ‘Transition plan’ in ICMS.

Once the plan is developed, monitor the progress of the transition plan. Where new child protection concerns are received during the transition period, take action to ensure the child’s immediate safety and refer to 2. What if new child protection concerns are received?

When an application for a child protection order is not granted by the Childrens Court, consider other types of ongoing intervention to ensure the safety, belonging and wellbeing needs of the child, during period of the transition order - refer to 1.2 Decide the type of intervention - child in need of protection.

3 Undertake ongoing intervention activities

3.1 Undertake case planning and review processes

When a child is in need of protection, Child Safety is responsible for addressing the child's needs to ensure their safety, belonging and well-being. Child Safety must develop and regularly review a case plan using collaborative family decision-making processes. This helps to ensure that the family and their network (including the child, their family, extended family and community) contribute to developing and subsequently implementing plans that meet the identified needs while acknowledging current strengths. For information about the required cycle of assessment, planning, implementation and review, refer to Chapter 4. Case planning.

When a child is subject to a long-term guardianship order to a suitable person, there are specific legislative requirements to review the child's case plan. For further information, refer to 1. What if the child has a long-term guardian?

There are specific legislative requirements for case planning and decision-making for an Aboriginal or Torres Strait Islander child. For further information, refer to 10.1 Decision-making about Aboriginal or Torres Strait Islander children.

3.2 Undertake support planning and review processes

When a decision is made to open a support service case for a child, Child Safety is responsible for developing a Support plan with the child and family, pregnant woman or young person, and regularly reviewing it.

For information about the development and review of the support plan, refer to Chapter 7. Support service cases.

4 Close an ongoing intervention case

4.1 Prepare for case closure
The decision to close a case is part of a planned process that occurs as part of the assessment, planning, implementation and review cycle. Planning for case closure is most effective when the implementation of the case plan or support plan is regularly monitored and reviewed with the child and family, and the child and family are kept informed about the timelines for closure of the case.

For a child in need of protection, the decision about case closure is made as part of the review of a case plan and is dependent on the progress made to meet the case plan goal and outcomes. Complete the review of the case plan in accordance with Chapter 4, 5. Review and revise the case plan.

For an Aboriginal or Torres Strait Islander child, the review of the case plan is a significant decision. Arrange for an independent person to help facilitate the child and family’s participation in the decision – Refer to Chapter 10.1 Decision-making about Aboriginal and Torres Strait Islander children.

For a child who is not in need of protection, the decision about case closure is made as part of the review of a support plan. Complete the review of the support plan in accordance with Chapter 7. Support service cases.

**When to close a case**

To close a case for a child, ensure that either:
- the family have addressed the child protection concerns to the extent that the child is no longer in need of protection, based on:
  - completion of a risk assessment, with the risk level outcome being ‘low’ or ‘moderate’ for the family risk re-evaluation assessment
  - completion of a safety assessment in which no immediate harm indicators are present for the child or a robust safety and support plan is in place
  - feedback from existing service providers that indicates they will continue to work with the child and family following the closure of the case by Child Safety, where applicable
  - the child protection order has expired or been revoked, where applicable
  - the child has transitioned from care, has turned 18 years and no longer requires support from Child Safety.

When a young person who is 18 years, has transitioned from care and requires ongoing support and assistance from Child Safety, this will occur through a support service case. The decision to provide a support service case is made prior to the young person reaching the age of 18 years. In this circumstance, the case management type will change to a support service case. Refer to Chapter 5, 2.9 Plan and support the young person’s transition to adulthood.

For further details about closing an intervention with parental agreement, refer to Chapter 6, 4.1 End the intervention with parental agreement.

**When to close a support service case**

To close a support service case for a child who is not in need of protection, ensure that:
- the completed family risk re-evaluation has an outcome of either a ‘low’ or ‘moderate’ risk
- a safety assessment has been completed and there are no immediate harm indicators
present for the child
  • feedback from existing service providers indicates they will continue to work with the child and family following the closure of the case by Child Safety, where applicable.

The decision to close a case must be approved by the senior team leader, following a review of the support plan.

**Assess the impact of case closure on the child and family**

During ongoing intervention with the child and the family, relationships are established that may have emotional significance for those involved. When relationships change or end there may be feelings of loss and anger. Make every effort to ensure that the case closure process is a positive experience for the child, family, carers and service providers, whenever possible.

**Prepare to close the case**

When case closure is being considered:

  • assess the demonstrated change, for the period subject to review, in the parents ability to meet the child’s need for safety, belonging and wellbeing
  • ensure consideration is given, where applicable, to preparing and supporting the child through the transition, for example, where the decision is made to reunify a child with parents
  • prepare the child and family, pregnant woman or young person for what will happen when the ongoing intervention by Child Safety ceases
  • inform all relevant people that Child Safety is to end the ongoing intervention with the child and family.

In cases where a child has been reunified with the family, the case will remain open for a period of time to ensure the ongoing safety and wellbeing of the child. The period of time will vary according to the specific situation for each child.

In cases where a child has recently left a care placement, undertake relevant planning activities, as outlined in Chapter 5.4. Conclude a care placement.

If the placement at home incorporates a different type of ongoing intervention, update the case management tab, located on the person record in ICMS - refer to 1.6 Record case management information in ICMS.

**4.2 Complete actions to close a case**

**Actions to close a case for a child in need of protection**

Following the preparation for case closure, take the following actions to close a case:

  • ensure that all relevant review documentation is recorded in ICMS, and clearly document the decision and the rationale to close the case
  • gain verbal approval by the senior team leader to close the case
  • meet with the child and family, pregnant woman or young person before closing the case, to discuss the factors outlined below, as applicable:
    • the abilities and strengths of the pregnant woman or young person, or within the family
    • the actions they have taken and the outcomes they have achieved
    • their goals and likely challenges
• strategies the parents can use in the future to continue to meet the child’s needs
• their ability to make changes independently in their lives
• continuing to access support available through their safety and support network
• other services available to them
• ensure all relevant people involved in the case have been prepared and are advised that the case closure will go ahead
• update the case management tab located on the person record in ICMS - refer to 1.6 Record case management information in ICMS.

What if$s$ - responding to specific ongoing intervention matters

1. What if the child has a long-term guardian?

When the child has a long-term guardian, Child Safety is responsible for:

• recording a ‘Long-term guardianship to suitable person - Case plan’ in ICMS as soon as practicable after the order is granted
• having 12 monthly contact with the child (Child Protection Act 1999, section 51VA) and long-term guardian and deciding whether a case plan review will occur
• completing the case plan review, where appropriate
• the provision of support, where requested and necessary
• the provision of agreed financial supports, only where the guardian was previously the carer of the child - refer to 2.6 Apply for a long-term guardianship order.

Meet the contact requirements with the child and long-term guardian

For a child subject to a long-term guardianship order to a suitable person, a minimum of 12 monthly contact is required with the child, and the long-term guardian must allow Child Safety to have this contact (Child Protection Act 1999, section 51VA). This contact can occur more frequently where requested by the child or long-term guardian, or it is considered necessary by Child Safety.

Contact with the child

To organise contact with the child:

• make a suitable time for a visit with the child and long-term guardian
• negotiate with the long-term guardian and the child for contact to occur in a location other than the home if considered more appropriate.

During the visit:

• talk to the child about their current situation and any matters they wish to discuss
• give the child an opportunity to comment on or ask questions about the case plan, or ask for it to be reviewed (Child Protection Act 1999, section 51VA), based on their age and ability to understand - ensure the child is aware that some requests for assistance or
support can be actioned without the need to review the child’s case plan

- discuss any changes in circumstances or needs that may require additional supports for the child or long-term guardian
- facilitate appropriate referrals to services within the community, where requested
- discuss with a young person who is 15 years or older, that they may be eligible for the Commonwealth Government’s Transition to Independent Living Allowance (TILA) and provide the young person with information about supports available through other organisations to help them prepare for adulthood
- discuss how the guardian has been helping the child to have their cultural and identity needs met, and if applicable, how the guardian is helping the child to plan and prepare for adulthood
- discuss the contact arrangements and any changes required to the frequency or type of contact with family members and significant others
- consider the child’s immediate safety and well-being, and determine whether a case plan review is required, regardless of whether it is requested by the child or long-term guardian
- take any immediate actions considered necessary to ensure the child’s immediate safety and wellbeing.

In circumstances where the long-term guardian does not allow the 12 monthly contact with the child:

- remind the long-term guardian of their legislative responsibility to allow contact
- organise to have contact with the child outside of their home
- take any actions considered necessary to ensure the child’s immediate safety and wellbeing.

**Contact with the long-term guardian**

Contact with the long-term guardian is also to occur 12 monthly. During contact with the long-term guardian:

- ask if they would like to have the child’s case plan reviewed (*Child Protection Act 1999*, section 51VA) - ensure the long-term guardian is aware that some requests for assistance or support can be actioned without the need to review the child’s case plan
- confirm that the child is still residing in the direct care of the long-term guardian
- discuss any changing needs or circumstances that may require additional support to the child or long-term guardian
- ensure that the long-term guardian is continuing to meet their obligations to tell the child’s parents where the child is living, give them information about the child’s care and providing opportunity for contact between the child, parents, family members and other significant people (*Child Protection Act 1999*, section 80), unless the Childrens Court has made an exception
- facilitate appropriate referrals to services within the community, where requested
- discuss, where applicable, how the long-term guardian is assisting the young person to prepare for life as a young adult and provide the guardian with information about supports available to the young person through other organisations
• ensure the long-term guardian is aware that a young person over 15 years may be eligible for the Commonwealth Government’s Transition to Independent Living Allowance (TILA) - and is aware that further information can be accessed from the Transition to Independent Living Allowance (TILA) website

• ensure that the long-term guardian is maintaining the child’s cultural connection

• discuss the ongoing provision of financial assistance, and record the financial delegate’s approval in the case plan

• remind the long-term guardian of their legal responsibility to notify Child Safety in writing, should the child leave their direct care and to provide information about where the child is living, if known (Child Protection Act 1999, section 80A).

Following contact with the child and long-term guardian, complete the relevant sections of the ‘Long-term guardianship to a suitable person - Contact and review report’ in ICMS and finalise unless a decision is made to formally review the case plan. Where a decision is made to formally review the case plan, refer to Chapter 4, 5.10 Long-term guardianship to a suitable person - case plan review.

**Family contact**

In circumstances where a child is subject to a long-term guardianship order to a suitable person:

• Child Safety has no legal authority to facilitate or monitor family contact arrangements

• the long-term guardian assumes full responsibility for providing the opportunity for ongoing contact between the child and the child’s parents and appropriate members of the child’s family, as often as is appropriate in the circumstances, **unless** otherwise ordered by the Childrens Court upon the making of the order.

Where the long-term guardianship order does not prevent or restrict family contact, and issues or circumstances subsequently arise that prevent or impact a child’s ongoing contact with their parents and appropriate members of their family, Child Safety will offer assistance to address the identified issues.

In the first instance, discuss options for resolving the issues and encourage the long-term guardian and family members to attempt to address the issues independently, or, where this is not possible, negotiate with the long-term guardian, for Child Safety to contact family members directly.

Any assistance regarding family contact will not include supervising family contact or transporting a child for family contact. If it becomes apparent that supervised visits are required, or family contact should be prevented, review the case plan, in accordance with the case planning requirements.

**Respond to requests for support**

In any circumstance the child or long-term guardian may contact Child Safety to request support - for further information, refer to the [Support for children in the care of long-term guardians and permanent guardians](#) policy.

The CSO with case responsibility for the child is responsible for receiving and responding to requests for support, and will:

• discuss the request with the senior team leader
facilitate the provision of appropriate support
obtain the decision of the appropriate financial delegate, where the long-term guardian is eligible for financial support.

The available supports are outlined below.

Please note, with the exception of special payments (including Ex-gratia), **financial support is only available** where approved, for long-term guardians who were approved foster or kinship carers, and were subsequently granted the long-term guardianship of the child.

**Child Related Costs**

Requests for reimbursement of child related costs that are not approved within the child’s existing case plan may be made following the granting of a long-term guardianship order, where the costs are considered to be **significant or ongoing**.

In addition, the long-term guardian will have access to financial support for services to meet the health, educational, therapeutic, transition into adulthood and cultural needs of a child, when the necessary services are not available to the general public. For further information, refer to the Child related costs - Long-term guardian support policy.

**High support needs allowance and complex support needs allowance**

The high support needs allowance and complex support needs allowance may be provided to long-term guardians, when the child develops or presents with previously unforeseen special needs, whether of a short-term or ongoing nature. For further information, refer to the High Support Needs Allowance policy and the Complex Support Needs Allowance policy.

**Special payments (including Ex-gratia)**

Long-term guardians are able to claim for a special payment (for example, if the long-term guardian has suffered a loss or property damage caused by a Child Safety client), subject to the Special Payments (including Ex-gratia) policy.

**Respite**

The long-term guardian of a child is eligible for **emergent** respite, only in circumstances where an emergency arises and there is no other option available within the long-term guardian’s existing support network.

In this circumstance, the child may be placed in emergent respite with an **approved foster carer**, only if the long-term guardian provides his or her written consent, using the Respite agreement form. For further information, refer to the Dual payment of carer allowances policy.

A child subject to a long-term guardianship order to a suitable person is **not** eligible for ‘planned’ respite through Child Safety, however, if the child has a disability, they may be able to access this support through the National Disability Insurance Scheme (NDIS) — refer to NDIS information for Child Safety staff.

**Evolve**

A child subject to a long-term guardianship order to a suitable person is not eligible for Evolve Interagency Services, as the long-term guardian assumes full responsibility for attending to the child’s emotional and behavioural needs. However, where required, provide assistance with a referral to an appropriate mental health or counselling service.
Transition from care into adulthood

A young person subject to a long-term guardianship order to a suitable person:

- can apply for the Commonwealth Government’s Transition to Independent Living (TILA) allowance
- may be eligible for child related costs, as outlined above
- is eligible for transition from care case work support by Child Safety, **only** if they are no longer living with a long-term guardian.

For further information, refer to the Transitioning from care into adulthood and Child related costs - Long-term guardian support policies.

Case work in response to emergent issues

Time-limited, intensive case work may be provided to the child and long-term guardian by Child Safety for **up to three months**, where emergent circumstances arise that are likely to impact on the stability of the care arrangement if intervention is not provided. This may include circumstances where the long-term guardian is indicating an unwillingness or inability to meet guardianship responsibilities, including the ongoing provision of direct care for the child, or where the long-term guardian is diagnosed with a terminal illness. To facilitate the case work, review and develop a revised case plan for the child. If the emergent circumstances relate to a child’s disability support needs, refer to Maintaining Critical Supports during NDIS transition: decision tool.

If, following the period of intensive case work, the circumstances remain unchanged, the **CSSC manager** will decide whether to apply to vary the long-term guardianship order and seek an order granting long-term guardianship to the chief executive in its place. In making this decision, consider the views of the child and the long-term guardian.

While the CSSC manager may decide to extend the period of case work, this will only be appropriate where it is apparent (based on progress made during the preceding three month period), that a **brief** continuation of the case work is likely to fully resolve the identified issues. It would not be appropriate for the case work to extend to a period of six months or longer, unless exceptional circumstances apply.

Referrals for intensive family support

When a long-term guardian seeks support and it is assessed that the required support is able to be provided by an intensive family support service (IFS), and the child is **not** currently subject to case work for emergent issues, make an IFS referral for the child by completing an online referral through the Family and Child Connect website.

Support service case

Following a young person’s eighteenth birthday, a support service case may be opened for a young person who was previously subject to a long-term guardianship order to a suitable person. For further information, refer to Chapter 7, Support service cases.

Foster and Kinship Carer Support line

All long-term guardians may access the Foster and Kinship Carer Support line. For further information, refer to Chapter 9, 1. Provide support to carers.
Access to counselling services for a long-term guardian

Where a long-term guardian continues to be an approved foster or kinship carer for other children, and requires support in relation to a traumatic event related to the child in their guardianship, support should be provided by the affiliated foster and kinship care service in the first instance.

In some circumstances, the traumatic event may lead to the long-term guardian requiring more intensive support, such as counselling or psychological support or therapy that can only be provided by a professional counsellor or psychologist. Where the long-term guardian was an approved foster or kinship carer who was subsequently granted long-term guardianship of the child, counselling can be approved by the CSSC manager on a case-by-case basis through child related costs - refer to the Child related costs - Long-term guardian support policy.

When deciding whether to approve counselling, the CSSC manager will consider the following:

- contextual information regarding the need for the service, for example, does it specifically relate to trauma experienced in relation to the child subject to the guardianship order
- whether the long-term guardian has accessed support from their foster and kinship care service, if applicable
- the length of time for which counselling may be required
- whether the long-term guardian is able to access Medicare rebates for the services of a psychologist or other allied mental health professionals.

Training

Any suitable person who is granted the long-term guardianship of a child, may choose to participate in training as a support to the care arrangement. For further information, refer to Chapter 8, 4.1 Standard and advanced training.

Child Support

Where the long-term guardian is a relative of the child, the long-term guardian may be eligible for Child Support. For further information, contact the Child Support Agency on telephone 131 272 or refer to the Child Support Agency website.

Other issues associated with long-term guardians

1. Regulation of care requirements

Long-term guardians are not required to hold a current blue card or have a certificate of approval as foster or kinship carers, unless they intend, or continue, to provide care to other children who are in custody or guardianship of the chief executive.

Long-term guardians are not subject to the Responding to concerns about the standards of care policy for the child subject to the long-term guardianship order, and any information or concerns received about the child will be responded to in accordance with the process for a child in the general community - refer to Chapter 1, Intake.

2. Separation or divorce of long-term guardians

Where long-term guardians have separated or divorced, both long-term guardians continue to hold guardianship responsibility for the child subject to the order. As is the case for parents in the general community, the long-term guardians will need to consider the child’s views and the
circumstances of the separation or divorce, and negotiate future plans for the daily care and guardianship of the child. Long-term guardians who separate or divorce may, but are not obligated to, apply for orders from the family law court.

If a long-term guardian intends to apply, or applies, to a family law court, consult with Court Services, to consider and decide the level of Child Safety intervention in family law court proceedings - for further information, refer to Chapter 10.21 Family courts.

Where the long-term guardians have been receiving the fortnightly caring allowance, only one person can continue to receive the allowance following the separation or divorce. In circumstances where the future daily care of the child is to be shared, the long-term guardians will need to decide who will be paid the allowance. In this circumstance, the long-term guardian in receipt of the allowance may, but is not obligated to, pay part of the allowance to the other long-term guardian. Dual payment of carer allowances will not be paid in circumstances of shared care between guardians.

If a long-term guardian subsequently remarries or re-partners, there is no legal requirement for the new partner to be assessed or approved to provide care for the child subject to the long-term guardianship order. If, however, concerns arise regarding the new partner, Child Safety may:

- request a meeting with the long-term guardian, to discuss relevant issues
- undertake an investigation and assessment, where identified or reported concerns meet the threshold for recording a notification.

Please note: If the long-term guardian continues to be an approved foster or kinship carer for other children in care, the new partner is required to be assessed and approved as a carer - refer to Chapter 8, 2. What if there is a change in carer circumstances?

3. Succession planning for the child

Long-term guardians may document details of a nominated person or persons who they wish to be considered as the child’s guardian in the event of the death of a sole long-term guardian or a long-term guardian couple. While this is not legally binding, by informing Child Safety or recording their wishes in a will, Child Safety is able, should this be required, to consider inviting the persons to apply to become an approved carer for the child.

In the event of the long-term guardian’s death, arrangements need to be made to seek an appropriate child protection order, as required, as guardianship will revert to the child’s parents.

In the event that a long-term guardian is diagnosed with a terminal illness, and the long-term guardian or long-term guardians wish to secure a child’s legal status prior to the death of a long-term guardian, seek a legal consult with OCFOS with a view to making a referral for an application to vary the existing order granting long-term guardianship to the suitable person and seek an order granting long-term guardianship to the chief executive in its place. This may occur in the following circumstances:

- where the terminally ill long-term guardian, or both long-term guardians state that they cannot continue to fulfil their role as long-term guardian during the course of the illness
- where the surviving long-term guardian indicates they will not be able to fulfil their responsibility as the child’s long-term guardian following their partner’s death.
4. Alternative care arrangements for the child

A long-term guardian is not able to give the care of the child to another person. In circumstances where this occurs:

- the child’s parents could remove the child from the person selected by the long-term guardian, potentially placing the child at risk of harm
- the person selected by the long-term guardian has no authority to have the daily care of the child, make any guardianship decisions or provide consents about guardianship decisions
- Child Safety cannot, in any circumstance, pay allowances or child related costs to another person who is caring for the child instead of the long-term guardian.

In circumstances where a long-term guardian decides that they are no longer able or willing to meet their responsibilities as a long-term guardian, including the responsibility to provide daily care for the child, Child Safety will:

- obtain and consider the child’s views, prior to deciding the best way to proceed
- review the case plan and explore all options available to the child
- consider whether it is in the best interests of the child to make a referral to DCPL for an application to vary the existing order and seek an order granting long-term guardianship to the chief executive or another suitable person in its place.

If a person given the daily care of the child, or nominated to take over the daily care of the child, appears to be the most appropriate placement option to meet the child’s emotional and physical needs and best interests, Child Safety will:

- consult with OCFOS and, where there is agreement, recommend to OCFOS to make a referral to vary the existing order granting long-term guardianship to the suitable person, and seek an order granting long-term guardianship to the chief executive in its place
- invite the person to apply to become an approved carer for the child and, to ensure continuity for the child, facilitate the provisional approval of the carer applicant - refer to Chapter 8, 1. What if the applicant requires provisional approval?

Take actions where the child is no longer in the direct care of the long-term guardian

The Child Protection Act 1999, section 80A, requires the long-term guardian to advise the chief executive in writing when the child is no longer in their direct care and advise where the child is living, if known. Where the long-term guardian has advised that the child is no longer in their direct care:

- contact the long-term guardian, if relevant, to confirm the child’s current whereabouts and the circumstances contributing to the change
- have direct contact with the child as soon as practicable after receiving the advice, to assess their immediate safety and well-being and determine whether a review of the case plan is required, where the child’s address is known
- review the child’s needs for safety, belonging and well-being, and take any actions considered appropriate (Child Protection Act 1999, section 80A)
• assess whether the long-term guardian is prepared to resume direct care of the child and the child is prepared to return to the direct care of the long-term guardian, if Child Safety provides a period of time-limited case work with a view to addressing factors contributing to the change - refer to the above section ‘Respond to requests for support’

• determine whether the fortnightly caring allowance for the child and other financial supports will cease - refer to the Fortnightly Caring Allowance and inter-state foster payments and High Support Needs Allowance policies

• advise the long-term guardian that payments will cease if the child is not in their direct care, but that they can recommence, should the child return to the long-term guardians care

• inform the long-term guardian of their responsibility to advise Centrelink of the conclusion of the child’s care arrangement, if applicable

• update the child’s placement details in ICMS.

If the child’s address is unknown, make reasonable attempts to locate them, by contacting:

• the child’s long-term guardian

• the child’s school or other educational facility

• the child’s parents, siblings or other family members

• the child’s friends

• professionals or agencies currently or recently in contact with the child

• Centrelink if considered appropriate in the circumstances. The child may also be reported to the police as a missing person.

For further information, refer to Chapter 2.12, What if a child and family cannot be located?

After assessing the child’s safety and well-being, Child Safety may decide to intervene:

• to assist the child and long-term guardian to resolve the issues contributing to the young person leaving and enable them to return to the long-term guardian’s care

• to review the appropriateness of the order to meet the child’s ongoing care and protection needs.

In these circumstances, recommend to OCFOS a referral to DCPL to apply to the court to vary the long-term guardianship order and seek, in its place, an order granting long-term guardianship to the chief executive.

**Decision to vary the child protection order**

Consider making a recommendation to OCFOS to make a referral to DCPL to vary the long-term guardianship order from a suitable person to the chief executive when:

• the long-term guardian is no longer able and willing to be the child’s long-term guardian and fulfill their obligations under the Child Protection Act 1999, section 80

• the long-term guardian is no longer able and willing to fulfill the guardianship responsibilities, but would like to continue caring for the child. In these circumstances, the long-term guardian can be assessed as a ‘kinship carer’ for the child and the child can remain in their care under a long-term guardianship order to the chief executive

• the outcome of an investigation and assessment is ‘Substantiated - ongoing intervention continues’ and it is assessed that the child is at an unacceptable risk of harm, and the long-
term guardian is not willing to work with Child Safety to address the concerns.

In any of these circumstances, meet with the child, family and other significant people to review the existing case plan. A case plan review will be undertaken as outlined in Chapter 4. Case planning, with the exception that the family reunification and parental strengths and needs assessments do not require completion. Complete the child strengths and needs assessment, as outlined in Chapter 4, 5.7 Re-assess the child’s strengths and needs.

During the court proceedings, the long-term guardian will continue to maintain guardianship rights and responsibilities for the child. The long-term guardian will be treated as a parent and afforded the same appeal rights. The long-term guardian will also be a respondent in the proceedings.

This does not negate the rights of a parent who will also have appeal rights and be a respondent in the proceedings.

2. **What if the child has a permanent guardian?**

When the child has a permanent guardian, Child Safety is responsible for:

- recording a ‘Case plan – Permanent care order’ in ICMS as soon as practicable after the order is granted
- completing a case plan review, where requested by the child or guardian
- the provision of support, where requested and approved
- the provision of agreed financial supports, in additional to the foster care allowance, in exceptional circumstances.

**Family contact**

In circumstances where a child is subject to a permanent care order:

- Child Safety has no legal authority to facilitate or monitor family contact arrangements
- the permanent guardian assumes full responsibility for providing the opportunity for ongoing contact between the child and the child’s parents and appropriate members of the child’s family, as planned and agreed, unless otherwise ordered by the Childrens Court upon the making of the order.

**Respond to requests for support**

A child’s permanent guardian may contact Child Safety to request support by requesting a review of the child’s case plan. Details about support available to permanent guardians is outlined in the Support for children in the care of long-term guardians and permanent guardians policy.

**High support needs allowance and complex support needs allowance**

The high support needs allowance and complex support needs allowance may be provided, in exceptional circumstances only, to permanent guardians, where it is assessed that the child’s needs present a risk to the stability and suitability of the care arrangement. The payment can only occur for a time limited period that does not exceed six months. For further information, refer to the High Support Needs Allowance policy and the Complex Support Needs Allowance policy.

A permanent guardian may request a review of the child’s case plan, so as to seek additional
financial support. The CSO will consult with the senior team leader or senior practitioner and arrange a meeting to discuss the guardians request and to make an assessment of the child’s current support needs and the support options available for the child.

The process of assessing the provision of the high or complex support needs allowance for a permanent guardian is the same as for any other carer or guardian.

**Special payments (including Ex-gratia)**

Permanent guardians are able to claim for a special payment (for example, if they have suffered a loss or property damage caused by a Child Safety client), subject to the Special Payments (including Ex-gratia) policy.

**Transition from care to adulthood**

A young person who has a permanent guardian:

- can apply for the Commonwealth Government’s Transition to Independent Living (TILA) allowance
- is eligible for transition from care case work support by Child Safety, **only** if they are no longer living with the permanent guardian.

For further information, refer to the Transitioning from care into adulthood and Child related costs - Long-term guardian support policies.

**Referrals for intensive family support**

When a permanent guardian seeks support and it is assessed that the required support is able to be provided by an intensive family support service (IFS) make a referral to IFS for the child by completing an online referral through the Family and Child Connect website.

**Child Support**

Where the permanent guardian is a **relative** of the child, the guardian may be eligible for Child Support. For further information, contact the Child Support Agency on telephone 131 272 or refer to the Child Support Agency website.

**Other issues associated with permanent guardians**

1. **Regulation of care**

   Permanent guardians are **not** required to hold a current blue card, or to have a certificate of approval as foster or kinship carers, **unless** they intend, or continue, to provide care to other children who are in the custody or guardianship of the chief executive.

   Permanent guardians are **not** subject to the Responding to concerns about the standards of care policy for the child subject to the permanent care order, and any information or concerns received about a child will be responded to in accordance with the process for a child in the general community - refer to Chapter 1, Intake.

2. **Separation or divorce of permanent guardians**

   Where permanent guardians have separated or divorced, both guardians continue to hold guardianship responsibility for the child subject to the order. As is the case for parents in the general community, the guardians will need to consider the child’s views and the circumstances of the separation or divorce, and negotiate future plans for the daily care and guardianship of the child.
Guardians who separate or divorce may, but are not obligated to, apply for orders from the family law court. If a guardian intends to apply, or applies, to a family law court, consult with Court Services, to consider and decide the level of Child Safety intervention in family law court proceedings - for further information, refer to Chapter 10.21 Family courts.

Where permanent guardians have been receiving the fortnightly caring allowance, only one person can continue to receive the allowance following the separation or divorce. In circumstances where the future daily care of the child is to be shared, the guardians will need to decide who will be paid the allowance. In this circumstance, the long-term guardian in receipt of the allowance may, but is not obligated to, pay part of the allowance to the other long-term guardian. Dual payment of carer allowances will not be paid in circumstances of shared care between guardians.

If a permanent guardian subsequently remarries or re-partners, there is no legal requirement for the new partner to be assessed or approved to provide care for the child. If, however, concerns arise regarding the permanent guardian or the new partner, Child Safety will respond to the information in accordance with Chapter 1. Intake.

3. Succession planning for the child

Permanent guardians may document details of a nominated person or persons who they wish to be considered as the child’s guardian in the event of the death of a sole long-term guardian or a long-term guardian couple. While this is not legally binding, by informing Child Safety or recording their wishes in a will, Child Safety is able, should this be required, to consider inviting the persons to apply to become an approved carer for the child.

In the event of the permanent guardian’s death, arrangements need to be made to seek an appropriate child protection order, as required, as guardianship will revert to the child’s parents.

In the event that a permanent guardian is diagnosed with a terminal illness, and the permanent guardian or permanent guardians wish to secure a child’s legal status prior to the death of a permanent guardian, seek a legal consult with OCFS with a view to making a referral for an application to vary the existing order granting permanent guardianship to the suitable person and seek an order granting permanent guardianship to the chief executive in its place. This may occur in the following circumstances:

- where the terminally ill permanent guardian, or both permanent guardians state that they cannot continue to fulfil their role as guardian during the course of the illness
- where the surviving permanent guardian indicates they will not be able to fulfil their responsibility as the child’s guardian following their partner’s death.

Alternative care arrangements for the child

A permanent care order does not enable the guardian to give the care of the child to another person. Child Safety cannot, in any circumstance, pay financial assistance to another person caring for the child instead of the guardian.

In circumstances where a permanent guardian decides that they are no longer able or willing to meet their responsibilities as a guardian, including the responsibility to provide daily care for the child, Child Safety will:

- obtain and consider the child’s views, prior to deciding the best way to proceed
- review the case plan and explore all options available to the child
consider whether it is in the best interests of the child to make a referral to DCPL for an application to vary the existing order and seek an order granting long-term guardianship to the chief executive or another suitable person in its place.

If a person given the daily care of the child, or nominated to take over the daily care of the child, appears to be the most appropriate placement option to meet the child’s emotional and physical needs and best interests, Child Safety will:

- consult with OCFOS and, where there is agreement, recommend to OCFOS to make a referral to vary the existing order granting long-term guardianship to the suitable person, and seek an order granting long-term guardianship to the chief executive in its place
- invite the person to apply to become an approved carer for the child and, to ensure continuity for the child, facilitate the provisional approval of the carer applicant - refer to Chapter 8, 1. What if the applicant requires provisional approval?

Take actions where the child is no longer in the direct care of the permanent guardian

The Child Protection Act 1999 requires the permanent guardian of a child to advise the chief executive in writing when the child is no longer in their direct care and advise where the child is living, if known. Where the guardian has advised that the child is no longer in their direct care:

- contact the guardian to confirm the child’s current whereabouts and the circumstances contributing to the change
- have direct contact with the child (where the child’s address is known) as soon as practicable after receiving the advice, to assess their immediate safety and wellbeing and determine whether a review of the case plan is required,
- review the child’s needs for safety, belonging and wellbeing, and take any actions considered appropriate
- assess whether the guardian is prepared to resume direct care of the child and the child is prepared to return to the direct care of the guardian
- where the child is not returning to the care of the guardian, cease the fortnightly caring allowance and advise the guardian
- inform the guardian of their responsibility to advise Centrelink of the conclusion of the child’s care arrangement, if applicable
- update the child’s placement details in ICMS.

If the child’s address is unknown, make reasonable attempts to locate them, by contacting:

- the child’s guardian
- the child’s school or other educational facility
- the child’s parents, siblings or other family members
- the child’s friends
- professionals or agencies currently or recently in contact with the child
- Centrelink if considered appropriate in the circumstances. The child may also be reported to the police as a missing person.

For further information, refer to Chapter 2, 12. What if a child and family cannot be located?
After assessing the child’s safety and wellbeing, take action to:

- assist the child and guardian to resolve the issues contributing to the young person leaving and enable them to return to the guardian’s care - this may involve a referral to an IFS service
- review the appropriateness of the order to meet the child’s ongoing care and protection needs and consider a referral to DCPL to revoke the order and apply for another order in its place.

**Referral to revoke the permanent care order**

Consider making a referral to DCPL to revoke the permanent care order and make another order in its place when:

- the guardian is no longer able and willing to be the child’s guardian and fulfil their obligations under the *Child Protection Act 1999*
- the guardian is no longer able and willing to fulfil the guardianship responsibilities, but would like to continue caring for the child – in these circumstances, the consider making a referral to DCPL to apply for a long-term guardianship order to the chief executive and placing the child with the guardian as a foster or kinship carer
- the outcome of an investigation and assessment is ‘Substantiated - ongoing intervention continues’ and it is assessed that the child is at unacceptable risk of harm, and the guardian is not willing to work with Child Safety to address the concerns.

In any of these circumstances, meet with the child, family and other significant people to review the existing case plan. For an Aboriginal or Torres Strait Islander child, arrange for an independent person to help facilitate the child’s and family’s participation in decision making.

A case plan review will be undertaken as outlined in Chapter 4, Case planning, with the exception that the family reunification and parental strengths and needs assessments do not require completion. Complete the child strengths and needs assessment, as outlined in Chapter 4, 5.7 Re-assess the child’s strengths and needs.

During the court proceedings, the guardian will continue to maintain guardianship rights and responsibilities for the child. The guardian will be treated as a parent and afforded the same appeal rights. The permanent guardian will also be a respondent in the proceedings.

This does not negate the rights of a parent who will also have appeal rights and be a respondent in the proceedings.

**3. What if new child protection concerns are received?**

New child protection concerns are defined as information not previously known that may pose a new or increased risk to the child’s safety. When new child protection concerns are received for a child during ongoing intervention, take action to ensure the child’s immediate safety. Where concerns about a child in care relate to the level of care being provided in their placement, refer to Chapter 9, Standards of care.

**Concerns received by the CSO with case responsibility**

When new concerns are received by the CSO with case responsibility, the CSO will:

- refer to the screening criteria to determine whether the concerns reach the threshold for a notification and consult with the senior team leader about the appropriate
response

- consider contacting the RIS for assistance in applying the screening criteria and advice regarding the response
- determine whether the concerns meet the threshold for a new notification.

When the concerns do not reach the threshold for a notification, the CSO with case responsibility will record the concerns in a ‘Generic’ case note in ICMS using the title ‘OI - received concerns’ and:

When the concerns do reach the threshold for a notification, the CSO with case responsibility will:

- complete the notification in accordance with intake policies, procedures and timeframes and submit it to the supervising senior team leader for approval - refer to Chapter 1 Intake.
- consult and collaborate with the investigating CSO to ensure the safety and wellbeing of the child is paramount throughout the investigation.

When there is an existing notification not yet finalised or an open investigation and assessment, record the information as additional notified concerns regardless of whether it meets the threshold for a notification. Refer to Chapter 2, What if 6. What if Child Safety is contacted about additional concerns for a child or an unborn child?

Concerns received by the RIS or CSAHSC

When new concerns are received by the RIS or CSAHSC, the RIS or CSAHSC CSO will:

- contact the CSO with case responsibility immediately to gather information and help decide the response, unless it is outside of business hours
- record a notification where the concerns reach the threshold for a notification - refer to Chapter 1 Intake

When the concerns do not reach the threshold for a notification the RIS or CSAHSC will record the concerns as a ‘Generic’ case note in ICMS using the title ‘OI - received concerns’ and:

- include the rationale for the concerns not reaching the threshold for a notification
- include details of consultation with the senior team leader and any other person that contributed to the decision
- clearly document that the person providing the information is a notifier so they are afforded protection in accordance with the Child Protection Act 1999, section 186
- when the concerns relate to siblings, ensure the case note is a shared document available in each child’s ongoing intervention event
- notify the CSO and senior team leader with case responsibility immediately so they are aware of the concerns (if this has not occurred as part of the decision making process).

When there is an existing notification not yet finalised or an open investigation and assessment, record the information as additional notified concerns regardless of whether it meets the threshold for a notification. Notify the CSO with case responsibility of the information and a case note recorded in the ongoing intervention event - refer to Chapter 2, What if 6. What if Child Safety is contacted about additional concerns for a child or an unborn child?

Case work response

All new concerns that do not reach the threshold for a notification, must be addressed directly with the child and family as part of ongoing case work. Once the concerns have been addressed with the child and family, record the following in a case note:

- the date when the concerns were discussed with the child and family and their
response
- the assessment and any resulting actions, including amendments to the child's case plan. Refer to Chapter 4, 5. Review and revise the case plan
- the outcome of a new safety assessment, due to a change in circumstances.

Other matters
When the concerns relate to a child in the care of their long-term guardian or a permanent guardian, respond to these concerns in accordance with the process for a child in the general community - refer to Chapter 1. Intake.

Where the information involves allegations of harm to a child that may have involved the commission of a criminal offence relating to the child, immediately provide the information to the QPS (Child Protection Act 1999, section 14(2) and (3)) using the Police referral and attach the referral in ICMS. For further information refer to Chapter 10.2 Statutory obligation to notify the Queensland Police Service of possible criminal offences and the practice resource Schedule of criminal offences.

4. What if an ongoing intervention case needs to be transferred to another CSSC?

Case management responsibility for an ongoing intervention case will be held by the CSSC in the geographical area where the child and family normally reside. A case transfer between CSSCs may be required in the following circumstances:
- the family of a child move, or plan to move to another geographical area
- there is a plan to move a child in care to a placement in another geographical area
- the approved carer of a child in care relocates to another geographical area, including a licensed care service or another entity (Child Protection Act 1999, section 82(1))
- a suitable person granted the long-term guardianship of a child moves, or plans to move, to another geographical area.

For information about exceptions to the case transfer principles and guidelines, refer to ‘Exceptions to case transfers’ outlined below.

Placement and transfer principles
The following principles are to guide decision-making, prior to the placement of a child and the transfer of a case:
- the best interests of the child is the primary consideration, that is, what will best support the needs and well-being of the child - this consideration is paramount and takes priority over the location of the placement
- children in care should be placed as close to family and supports as possible - any family placement must take into consideration whether there is an existing positive relationship between the proposed kinship carer and the child
- the elements of the child placement principle and other considerations relating to decision making for an Aboriginal or Torres Strait Islander child – for further information refer to 10.1 Decision-making about Aboriginal and Torres Strait Islander children
- placement and transfer will occur in a manner that prioritises the safety of the child and the provision of continuous and planned service delivery to the child, family or carer
• any placement of a child must support the goal of the child's case plan
• timely information sharing between CSSCs and Placement Services Units is vital to ensuring the above occurs. This includes circumstances when a child is to be placed with an approved carer in another geographical area, or reunified with a parent in another geographical area
• all cases are to be transferred in the relevant timeframes - CSSCs are not to hold on to cases where they cannot regularly and adequately service the case.

**Transfer guidelines**

In addition to the principles, the following guidelines apply:

• all case transfers will be planned with the family where possible, and negotiated with the new CSSC prior to the move or to the new placement occurring, to minimise unnecessary disruption to service delivery
• where a family moves without the knowledge of the CSSC, a case transfer should be considered as soon as the new address becomes known
• a child cannot be placed with an approved carer of another CSSC until that CSSC has been contacted and the CSSC manager has given permission to make the placement
• where CSAHSC staff making placements after hours are not able to place a child within the child's own geographical location, they will advise the CSSC with case management responsibility and the CSSC where the child has been placed by the next business day, so that placement beyond this time can be negotiated
• where a child is to be placed with a kinship carer in an area covered by another CSSC, the CSSC manager with case management responsibility for the child is responsible for the approval of the kinship carer, unless otherwise agreed between the CSSC managers - this must occur prior to the placement of the child in the other area
• the child and family or carers are to be involved in the planning process for the transfer, where appropriate, and kept informed of the progress of the matter
• transfer decisions are to take into account the placement and transfer principles and:
  • the planned length of the placement and whether the relocation is temporary or permanent
  • the planned length of the intervention (see exceptions below).

**Exceptions to case transfers**

The above principles and guidelines apply to case transfers, except in the following circumstances.

• **Short-term cases:** When the original CSSC is within a reasonable distance and able to adequately service a case that is not likely to remain open for very long, they must advise the new CSSC that the family is in their area, but only transfer the case if circumstances change and the family requires ongoing involvement by Child Safety.

• **Temporary placements:** When a temporary placement is made with a neighbouring CSSC due to a lack of placements in the originating CSSC area and the placement is within a reasonable distance, consideration must be given to maintaining case management with the originating CSSC to maintain stability in service provision.

• **Siblings placed with different carers in adjacent geographical areas:** When a group of siblings is placed with approved kinship or foster carers who live in different
geographical areas, but within close proximity, CSSC managers may agree it is in the best interests of the children for case management to remain with one CSSC for the duration of the arrangement, to maintain continuity and stability for all siblings.

- **Children placed in residential care services:** When a child is placed in a grant funded residential care service placement, the case **cannot be transferred**, unless the child has remained in the residential placement for more than 12 months, both CSSC managers agree to the transfer and it is in keeping with the placement and transfer principles. When a child is placed in a residential within the region, the case is to remain with the original CSSC and negotiations are to be had with the CSSC where the residential is located, to undertake any required case work tasks, for example, visits to the child, if the residential is not within reasonable driving distance.

- **Admission to a hospital:** When a child is admitted to a hospital in another location, but their family remains in the original geographical area, the case is not to be transferred. Case management will remain with the CSSC where the family or carer reside, and the CSSC in the area of the hospital will be required to undertake visits to the child, liaise with hospital staff and complete other case work task, in accordance with the child’s case plan.

- **Boarding schools:** When a child attends a boarding school, but their family remains in the original geographical area, the case is not to be transferred. Case management will remain with the CSSC where the family or carer reside, and the CSSC in the area of the boarding school will be required to undertake visits to the child, in accordance with the child's case plan.

- **Expiry of a child protection order:** When a child is subject to a child protection order that is due for renewal within the transfer timeframes, negotiation should occur between CSSCs about the type of order required, but case management will remain with the original CSSC until the order has been finalised.

- **Transition from care:** A support service case for a young person over the age of 18 who is transitioning from care, will not be transferred. However, the CSSC in the new area is to be provided with relevant information, so that they are able to respond to the young person, should the need arise.

- **Homeless or mobile young people:** When it is not possible to determine a ‘usual address’ for a child because they are homeless or highly mobile, case management will not be transferred until there is some stability with the child’s living arrangements, unless otherwise negotiated between CSSCs. Where a child is mobile and homeless in Brisbane or a larger centre, negotiations need to occur to ensure that the CSSC where the child is temporarily living undertake active case work tasks with the young person where they are at high risk.

**Accept a case transfer**

Before a case can be transferred, the CSSC in the new geographical area must accept the transfer, based on the case transfer principles and guidelines. There are three levels of acceptance that apply:

- **Senior team leaders:** may accept the case transfer for:
  - a child subject to a support service case (see exceptions below)
  - a child subject to an intervention with parental agreement case, including where the child is subject to child protection care agreement
• a child subject to a protective supervision or directive child protection order
• CSSC managers: must give approval for the placement of, and accept the transfer for, any child subject to a child protection order where the child is in a care placement
• regional directors: must approve the financial cost for a placement of a child from another region where there is a transitional placement or grant funded residential placement, in accordance with their financial delegation, prior to acceptance of the case transfer.

Acceptance and approval of the transfer must be given in writing, prior to the placement of the child, and must include an agreement about the likely timeframe of any planned case transfer.

Timeframes for case transfers
The following timeframes apply to case transfers, both planned and unplanned:
• within six weeks for:
  • support service cases
  • intervention with parental agreement, including a child subject to a child protection care agreement
  • child protection order cases where a child is not in care
• after three months for:
  • a child subject to a child protection order and in care
  • a child subject to a child protection order granting long-term guardianship to a suitable person.

In all circumstances, the new CSSC is to begin the required case work tasks immediately following advice that the child is in their area and that the case is to be transferred. For a child in care, ensure that the new placement is stable prior to initiating the case transfer.

Unplanned relocation of a child who is not in care
When a child subject to ongoing intervention and not in care is relocated to another geographical area by their parents or family, the following actions are required (with the exception of a child subject to the long-term guardianship of a suitable person):
• advise the senior team leader in the new area within 24 hours of becoming aware of the relocation, that the family has moved without the prior knowledge of the CSSC and that the case may need to be transferred to the new CSSC
• negotiate how the review of the case plan or support plan will occur and who will be involved
• advise what case work tasks the new CSSC will be required to undertake until the matter is reviewed and either closed, or transferred
• proceed with the transfer process outlined below.

Responsibilities of the transferring CSSC
It is the responsibility of the transferring CSSC to:
• commence discussions and negotiation between senior team leaders or CSSC managers as soon as possible about:
  • the case, including critical case issues, financial commitments and service needs
  • the plan to place the child in their area
• the process for approving a foster or kinship carer applicant in the new area
• timeframes for the transfer and responsibility for specific case work tasks required over the transfer period
• contact the PSU in the region where the prospective kinship carer resides to request a foster or kinship assessment, where necessary
• complete a review of the current case plan or support plan in conjunction with staff from the receiving CSSC, to ensure the revised case plan or support plan includes actions that have been discussed with and agreed to by the CSSC in the new area. This may occur in person or via a telelink or by phone discussion
• have face-to-face contact with the child to prepare them for the transfer process
• ensure all electronic case documentation in ICMS is completed and approved, prior to the transfer
• complete a Case summary for transfer and attach to a case note screen on ICMS
• request acceptance of the case transfer from the relevant person at the receiving CSSC
• inform other agencies providing services to the child and family of the pending transfer
• hold a joint case transfer meeting with the family and the receiving CSSC, where possible, to enable all parties to meet and to facilitate a smooth transfer of the case.

Case management responsibility for the case remains with the transferring CSSC until written acceptance (email or written correspondence) of the transfer has been received. The new CSSC is responsible for essential case work tasks until this occurs. Following this:

• re-allocate open events in ICMS to the receiving CSSC, including outstanding ‘event tasks’ so that any partially completed forms are also transferred
• send the paper files to the receiving CSSC.

Responsibilities of the receiving CSSC

The receiving CSSC is responsible for the actions outlined below:

• participate in:
  • all discussions regarding the transfer process with the transferring CSSC
  • the review of the case plan or support plan, either in person or via a telelink or phone discussion, to ensure the case work requirements can be met by the new CSSC
• allocate a CSO to the case and ensure contact with the child and family occurs within one week of their arrival to the area
• undertake essential case work tasks prior to the transfer of the case and coordinate referrals to community agencies in the new area, where required
• finalise the approval for any new foster or kinship carer applicant that resides in their area, and who will provide care for a child in care
• provide written confirmation of the acceptance of the case to the CSSC manager or senior team leader from the transferring CSSC, once the transferring CSSC has completed and approved all electronic case documentation in ICMS, including a Case summary for transfer
• participate in the joint case transfer meeting with the family and the transferring CSSC, where possible
• provide confirmation that the child's paper case files have been received
• update the case management screen in ICMS
• contact the child and family to advise them that the transfer is complete, once all of the relevant documentation has been received
• assume all responsibility, including financial responsibility, for the case.

Interim orders and appeals
A case for a child subject to an interim order or an appeal of a child protection order can be transferred, but only where both CSSC managers agree. When the receiving CSSC does not agree to the transfer, the case cannot be transferred.

Where the child has moved to a new geographical area but the case is yet to be transferred, a co-ordinated approach by both CSSCs is required to undertake specific tasks until the order is finalised and the case can be transferred. In the interim:
• the CSSC with case responsibility will provide the CSSC in the area where the child resides with a case summary that includes the specific tasks to be undertaken as agreed to by the CSSC in the new area
• the CSSC in the new area will:
  • allocate a CSO to the child immediately and sight the child within one week
  • undertake appropriate case work tasks, as negotiated with the original CSSC.

Where the case for a child subject to an interim order is transferred, the matters to be negotiated between OCFOS lawyers and senior team leaders on a case by case basis are outlined in the practice resource Transferring an ongoing intervention case.

Unplanned relocation of a child in care by an approved carer
The unexpected, unplanned relocation of a child who is in a placement with an approved carer should be a rare occurrence. Where it does occur, consideration needs to be given to the ongoing appropriateness of the placement and to recording a standard of care or harm report in relation to the approved carer’s actions, refer to Chapter 9. Standards of care.

This procedure does not apply to a child subject to a long-term guardianship order to a suitable person or a child subject to a permanent care order, as the child is not considered to reside in a care placement.

When a notification is recorded during the transfer process
If a new notification is recorded during a case transfer process, the CSSC where the family is residing is responsible for undertaking the investigation and assessment. In this circumstance, ongoing liaison between the two CSSCs will occur until the transfer process is completed.

Resolving disagreements
It is the responsibility of the CSSC managers to resolve any disagreement during the transfer process of ongoing intervention cases. Disagreements must be resolved within a two week period. Where CSSCs cannot reach an agreement in principle about a placement in another area, the matter should be referred to the appropriate directors to determine if the grounds for placement are sound and if the placement or transfer should proceed.
5. What if assistance is required with social housing?

The Department of Housing and Public Works (DHPW) provides a range of housing services for Queenslanders, including children deemed to be in need of protection and their family or carer. A child in need of protection included in the Department of Housing and Public Works - interagency priority may be:

- a child at risk of being removed from their family
- an unborn child at risk of being removed from their family following birth
- a child living with an approved foster or kinship carer but who is returning to live with their family
- a child living with an approved foster or kinship carer
- a young person aged up to 25 who is transitioning to adulthood or has transitioned to adulthood and who requires independent living.

Where support is required for housing services for a child, their family or carer; or for a young person who is transitioning to adulthood or has transitioned to independence:

- discuss and inform the applicant of the referral process
- complete ‘Part A - Referral to the Department of Housing and Public Works’ to request housing assistance for a child in need of protection.

Upon receipt of Part A - Referral to the Department of Housing and Public Works, the Housing Service Centre will:

- check the referral has been completed and signed by the applicant and Child Safety
- complete and forward Part B - Referral to the Department of Housing and Public Works to Child Safety within two business days of receiving the referral.

After receiving Part B - Referral to the Department of Housing and Public Works:

- contact the Housing Service Centre to arrange a meeting to discuss the referral
- involve the applicant and/or the young person whose housing need is being met
- develop a Joint Action Plan with DHPW to determine what form of housing assistance is required and to ensure all parties understand their commitment
- ensure the Joint Action Plan is signed by DHPW and Child Safety
- place a signed copy of the action plan on the relevant client file.

Applicants who are aged up to 21 and living in care, who need to transition out of this arrangement to independent living are included in the Interagency Priority group.

Note: Applicants who are aged 21 and over and living with carers who need to transition to independent living are not identified under the children in need of protection Interagency Priority group. These applicants are assessed based on their current circumstances and placed on the Housing Register in accordance with their level of housing need.

For further information refer to the practice resource - Department of Housing and Public Works - interagency priority.

6. What if a child is subject to ongoing intervention and youth justice intervention?
A child subject to ongoing intervention by Child Safety may also be subject to youth justice intervention (Youth Justice Services).

Where a child is subject to a child protection order granting custody or guardianship, the person who has been granted custody or guardianship meets the definition of parent, as outlined in the Youth Justice Act 1992. This requires the person with custody or guardianship, to participate in youth justice matters, as would the child’s usual parent.

Where a child is subject to a child protection order granting custody or guardianship to the chief executive, the CSO with case responsibility is required to participate in all youth justice processes. The CSO will work collaboratively with Youth Justice Services to deliver services to address the child’s safety, belonging and wellbeing needs. Where the child is placed with a foster or kinship carer, the carer will also be invited to participate.

Where a child is subject to a child protection order granting custody or guardianship to another person, that person, not the CSO, is required to participate in all youth justice processes for the child. The CSO must consult with the youth justice case worker to determine if their attendance is required to inform the court about supports to the child and their guardian to maintain the placement and address behaviours.

Unless the involvement of the parents would impact on the child’s safety or well-being, encourage or facilitate the parents’ involvement in youth justice processes. Where issues of safety or well-being arise, make decisions about the parents attendance in consultation with the youth justice case worker. The youth justice case worker, however, is responsible for directly liaising with parents about all youth justice matters.

For a child subject to a permanent care order, the guardian, who has parental responsibility, is required to participate in all youth justice processes for the child.

Where a child is subject to an investigation and assessment and youth justice intervention, refer to Chapter 2, 16. What if a young person is subject to youth justice intervention?

Ensure service delivery coordination

For the period of time that a child is subject to both ongoing child protection and youth justice intervention:

- inform the child and family of the legal obligation to liaise with Youth Justice, to ensure service delivery coordination and the sharing of information
- obtain information from the youth justice case worker that will inform the child and parental strengths and needs assessments, if applicable to the type of ongoing intervention
- involve the youth justice case worker and associated agencies, in the development and review of the case or support plan - where the youth justice case worker or a youth justice related service is unable to directly participate in the meeting, ensure that relevant information is shared, to inform the planning or review process
- advise the youth justice case worker of the outcome of all case planning and reviews undertaken by Child Safety, including advice of a decision to:
  - reunify a child with parents
  - close an ongoing intervention case
provide information to the youth justice case worker about any critical incident or an alert recorded by Child Safety in relation to the child or family - refer to the Critical incident reporting policy and Chapter 1.9 What if an alert needs to be recorded in ICMS?

provide information about the child that may be relevant to, or impact on, the child’s offending behaviour or ability to fulfil the requirements of their youth justice order or program, for example, hospitalisation may prevent the child from fulfilling the conditions of an order.

If the child requires a care placement, discuss the child’s youth justice obligations and reporting requirements with the child, the parents and carers, including matters to be attended to by each party for the duration of the placement. Agreed responsibilities will be recorded:

- in the placement agreement, for a child subject to a child protection order granting custody or guardianship - refer to Chapter 5, 1.9 Complete a placement agreement
- in the Care agreement - Form, for a child subject to a care agreement - refer to Chapter 6, 3. Place a child using a child protection care agreement.

For information about the role and responsibilities of parents and carers, refer to the practice resource Youth justice - an overview.

In addition, for a child subject to a child protection order granting custody or guardianship to the chief executive:

- ensure that the youth justice case worker is aware of the process for obtaining decisions or consents about custody or guardianship matters relating to the child - refer to Chapter 5, 3.1 Determine who may decide a custody or guardianship matter
- inform the youth justice case worker of the child’s placement details, including any change of address.

Note: Where a youth justice case worker directly participates in the development or review of the case plan or support plan for a child, and has responsibility for the implementation of certain components of the plan, provide the youth justice case worker with a written copy of the plan. A copy of the case plan or support plan should also be provided to a youth detention centre upon admission of a child subject to a child protection order.

**Respond to a request by Youth Justice Services for information about a child**

The child’s youth justice case worker may contact the CSSC to:

- provide information and documentation about the child
- request information relating to the child, for example, the details of child protection history to inform youth justice court proceedings.

Where the information requested is considered relevant to coordinating service delivery or meeting the child’s safety, belonging and wellbeing needs, provide the information in a manner consistent with the confidentiality requirements of the Child Protection Act 1999, section 186 and 187 and 188.

If there is uncertainty about whether the information should be provided verbally or in writing, consult with the senior team leader.
Participate in a youth justice conference

Where a child is subject to a child protection order granting custody or guardianship to the chief executive, the CSO is required to participate in any youth justice conference for the child. Where a child is subject to a support service case, intervention with parental agreement or a directive or supervision order, participation in a youth justice conference may occur where considered necessary and appropriate by the youth justice conference convenor as negotiated with the senior team leader or CSSC manager.

Participate in youth justice reviews or meetings

Where a child is subject to a child protection order granting custody or guardianship to the chief executive, the CSO is required to participate in:

- the initial interview and final review held by Youth Justice Services, with a child, in relation to:
  - a probation or community service order
  - conditional bail
  - an intensive supervision order
  - a conditional release order
  - a supervised release order

- at least one progress review a month, in relation to:
  - conditional bail
  - an intensive supervision order
  - a conditional release order.

Where the CSO is not able to attend any of the above meetings or reviews:

- seek advice from the senior team leader or CSSC manager and make other appropriate arrangements, for example, another Child Safety officer already known to the child might be able to attend
- advise the youth justice case worker of the person who will be attending on behalf of the CSO
- provide relevant information to the youth justice case worker, prior to the meeting.

Record the inability to attend and the reason, including details of other arrangements made, as a case note in ICMS.

The participation of the CSO or senior team leader in additional progress reviews will be determined on a case-by-case basis, in consultation with the senior team leader and, where possible, will be documented in Child Safety’s case plan. Where possible and appropriate to the child’s needs, the CSO may also attend warning meetings undertaken by Youth Justice Services with respect to the child’s non-compliance with a youth justice order.

Where a child is subject to a support service case, intervention with parental agreement or a directive or supervision order, it may be appropriate to participate in youth justice reviews for the child where:

- it is considered appropriate, for example, where a support service case is specific to a young person who has transitioned from care
- where requested by the child or family, or the youth justice case worker.
Attend youth justice court proceedings

Where the child is subject to a child protection order granting **custody or guardianship to the chief executive**, the CSO will attend the court proceedings and undertake the responsibilities usually fulfilled by a child’s parents, including:

- transporting the child to and from court
- supporting the child throughout the proceedings
- participating in interviews with legal representatives and Youth Justice Services’ staff, as required
- providing information to the court as appropriate including accommodation options and therapeutic interventions
- responding to questions of the court
- ensuring that the child understands any court decisions and outcomes.

The CSOs attendance at youth justice court proceedings does **not** negate the legislative requirement under the *Child Protection Act 1999*, for the child’s parents to participate in matters involving their child, to the extent possible and practicable in the circumstances.

The youth justice case worker retains responsibility for representing the chief executive in youth justice court proceedings.

Where the CSO is unable to attend youth justice court proceedings, the senior team leader or another Child Safety officer will attend the court proceedings. The person attending must have relevant information about the child, including:

- the type of order the child is subject to under the *Child Protection Act 1999*, including who has custody and guardianship rights and responsibilities for the child
- the child’s placement details, if applicable
- the child’s case plan including information on current supports offered to the child and level of engagement in these supports, and any current referrals made and waiting approval.

If the inability to attend youth justice court proceedings is due to geographical issues, explore with the local court the possibility of participating by teleconference.

Where a child is subject to a **support service case**, **intervention with parental agreement** or a **directive** or **supervision order**, the CSO is not required to attend youth justice court proceedings but must attend where:

- requested by the Childrens Court
- requested by the child or family, or the youth justice case worker.

Respond to advice that a child is being held in watch-house custody

Where a child subject to ongoing intervention is being held in watch-house custody, contact the youth justice case worker to negotiate a joint plan for phoning and where possible, visiting the child, for the duration of their detention in watch-house custody. Should the child’s current placement or circumstances impact on the child’s eligibility for bail, then Child Safety will offer, where possible, other alternatives and additional supports to increase the child’s opportunity for bail.
Participate in planning and review processes - child subject to a detention order or remanded in custody

Where the child is subject to a child protection order granting custody or guardianship to the chief executive, the CSO is required to participate in youth justice planning and review processes and to maintain contact with the child, as outlined below. Contact with the child will occur by phone, and in person, where geographically possible.

Upon the child’s admission to a detention centre, provide the detention centre with relevant information about the child. This will include, where applicable, information about:
- the child’s strengths and needs
- family contact arrangements
- contact details for persons of significance to the child
- the child’s education support plan
- the child’s health needs and outstanding matters requiring follow up
- issues impacting, or likely to impact, the child’s safety or wellbeing, or the safety of detention centre residents or staff.

While the child is in the detention centre:
- maintain contact with the child’s family and if applicable, the child’s carers
- arrange all visits with the child through the detention centre case worker and arrange regular visits or telephone contact, if geographically difficult to attend in person
- liaise with the detention centre case worker and the youth justice case worker to monitor the child’s progress
- attend youth justice court appearances for the child
- attend to any issues as requested by detention centre staff or the youth justice case worker
- participate in planning and preparations for the child’s transition from:
  - detention
  - being a child in care, if applicable.

Prior to, and upon the release of the child from the detention centre:
- determine whether there are outstanding medical appointments to be attended to
- obtain relevant information about the child’s future education or employment plans
- ensure that the responsibilities agreed to by both Child Safety and Youth Justice Services are clear and will be actioned in a timely way
- ensure that the child’s basic needs will be or are attended to, for example, accommodation, contact with family or community and education or employment
- make contact with the child to discuss arrangements for their release
- consider whether the child’s change in circumstances is such that a review of Child Safety’s case plan is required - refer to Chapter 4, Case planning and where applicable, Chapter 5, Children in care.

Where a child is subject to a support service case, intervention with parental agreement or a directive or supervision order, the CSO will liaise with the youth justice case worker and the detention centre case worker, to ensure service delivery coordination and information exchange.
Visit or telephone a child in a detention centre
To arrange telephone calls or visits with a child in a detention centre, contact the detention centre case worker and negotiate an agreed plan and process.

When arranging any visit or telephone call, consider and, where necessary, inform the detention centre case worker of any matters to be discussed with the child during the visit or telephone call that may have a detrimental effect on the child’s wellbeing or behaviour.

Obtain approval of costs, prior to Youth Justice submission to a court
Where a child is subject to ongoing intervention and the child’s living arrangement is, or is likely to be, a component of conditional bail or a youth justice order, the program proposal and any associated costs to be met by Child Safety are to be endorsed by the appropriate financial delegate, prior to any submission being made to a court by the youth justice case worker.

In these circumstances, liaise with the youth justice case worker to:

- provide advice that written approval of proposed costs is to be sought from Child Safety’s financial delegate, prior to any submission being made to a court in relation to the youth justice matter
- discuss planning programs, alternative care placements, if applicable, and support options for the child
- negotiate proposed costs to be met, pending approval, by each of Child Safety and Youth Justice
- document the proposed program, and proposed costs to be met, by each of Child Safety and Youth Justice

Following these negotiations:

- seek the appropriate financial delegate’s approval of proposed costs to be met by Child Safety
- urgently advise the youth justice case worker of the financial delegate’s decision, to facilitate Youth Justice Services’ timely completion of a submission to a court
- comply with Child Safety’s policy and procedure with regard to any proposed transitional placement and flexible funding for a child.

The approval of costs to be met by Child Safety, for the purpose of the child’s conditional bail or youth justice order, only applies up to and including the child’s next youth justice court appearance. Following the child’s court appearance, continuations or extensions of existing programs and associated costs require re-negotiation and re-approval by the delegated Child Safety officer.

On rare occasions where a court orders that accommodation arrangements are to be part of conditional bail or a youth justice order, prior to the endorsement of proposed costs, the requirements of the order must be implemented until such time as the condition is otherwise ordered by the court as part of a sentence review.

7. What if you require a child protection authority in another state or territory to provide case work assistance to a child placed interstate?
When a child is subject to a child protection order in Queensland and resides in another state, territory or New Zealand (jurisdiction), Child Safety may request the other state or territory to provide case work assistance to the placement.

The matter remains an open case in Queensland and case management and financial costs remain the responsibility of the CSSC, until such time as the order is officially transferred to the jurisdiction - refer to 7. What if a child protection order or proceedings are to be transferred to another jurisdiction?

To request the transfer of case work tasks:

- complete the Interstate request for casework assistance template, giving particular attention to specifying the case work tasks required, as identified on the template - be realistic in what is being asked of the other jurisdiction, including the frequency of visits, as the interstate office may not be able to offer the same level of support to the placement as has been provided in Queensland
- provide as much information as possible in section C of the template
- sign the completed form and obtain the senior team leader’s signature
- attach appropriate supporting documentation, for example, medical or psychologist reports, school reports and the child's current case plan
- email the request to ILO@communities.qld.gov.au.

The ILO will advise the CSO as soon as advice is received that the other jurisdiction has agreed to the provision of case work assistance, and will advise the name and contact details of the child's new interstate case worker.

If a child is placed with a parent who resides in another jurisdiction, Child Safety may request that the other jurisdiction provides the child and family with case work support, to assist the reunification process. This request will be negotiated with the jurisdiction, initially through the ILO, and will generally be for a time-limited period.

**Family contact**

When a decision is made by the CSSC that a child is to visit kinship members in another jurisdiction for family contact or a holiday, refer to Chapter 5, 2.5 Facilitate and monitor family contact.

**Reunification assessment request**

If requesting an assessment for the purpose of reunifying a child subject to a Queensland child protection order, with a parent who resides in another jurisdiction, refer to Chapter 4, 6. What if a reunification assessment is required when parents live in another jurisdiction?

**8. What if a child protection order or proceedings are to be transferred to another jurisdiction?**

When a child is subject to a child protection order or child protection proceedings in Queensland, Child Safety may request the transfer of the child protection order, short or long-term, or child protection proceedings, to another state, territory or New Zealand (jurisdiction). In relation to a child protection order, there are two types of transfers:
• an administrative transfer, which may occur when all relevant parties consent to the
  transfer of the order (Child Protection Act 1999, section 209)
• a judicial transfer, which may be sought when a parent refuses to consent to the
  administrative transfer of an order.

Administrative transfer of an order to another jurisdiction

Before requesting a transfer to another jurisdiction, the child protection order should be for the
maximum period of time possible. This may necessitate a new application to the Childrens
Court, to extend the child protection order, before any request for a transfer is made. Legal
advice indicates that there may be difficulty in extending an order when the child is placed
interstate and is not considered to remain ‘at risk’ in Queensland, for example, the parents have
moved from Queensland. Consult with OCFOS to confirm a referral to the DCPL is legally
possible before contacting the Queensland ILO to discuss the matter further.

Case management and financial costs remain the responsibility of the CSSSC until such time as
the order is officially transferred to the other jurisdiction, through registration of the transfer.

If there are high costs associated with the placement in Queensland, for example, child related
costs – placement and support funding or high support needs allowance paid to the carers, the
transfer of the order requires careful negotiation between the ILO and the child protection
agency in the other jurisdiction. This will include negotiations about the provision of the relevant
documentation that will be provided as part of the transfer request. While there is potential for
negotiation, the other jurisdiction may refuse to accept transfer of the order on the basis of the
very high costs involved.

To request an administrative transfer of a Queensland child protection order to another
jurisdiction, refer to the Transfer summary sheet - administrative transfer from Queensland to all
states and New Zealand and:

• contact the ILO at Court Services to discuss the process of transferring the order to
  another jurisdiction - custody orders cannot be transferred to Western Australia, Northern
  Territory or New South Wales and supervision and directive orders cannot be transferred
to Western Australia, and in some cases to New Zealand
• meet with the family to discuss the decision to proceed with an administrative transfer of
  the order, the rationale for the decision and the terms and effect of the proposed
  interstate order - this meeting may occur as a family group meeting or a case plan review
• request a copy of the 'Request for Interstate Transfer of Child Protection Order' form and
  'Consents for Interstate Transfer' form from the ILO.
• under the Child Protection Act 1999, section 209(1), obtain the written consents of:
  • the child, if the child is 12 years of age or over
  • the child’s parents
  • the child’s carers, if the child has moved to the interstate jurisdiction at the same time
    as the carers
• record the consents on the 'Consents for Interstate Transfer' form, which must be signed
  by the CSSSC manager - there is no requirement to record all consents on one form
• complete the 'Request for Interstate Transfer of Child Protection Order' form and have the
  request signed by the CSSSC manager.
If the child’s parents cannot be contacted or their whereabouts ascertained, attach a record of the attempts made to gain their written consent to the transfer.

When all forms are completed and where appropriate, signed, scan the documentation to the Queensland ILO at ILO@communities.qld.gov.au, with a copy of the child protection order and a copy of the child’s birth certificate. New Zealand requires two certified copies of the child protection order and two copies of the required consents, mailed to the ILOs, while the material for a transfer to South Australia should also be mailed to the ILO.

The Queensland ILO will advise the CSSC manager when advice of consent to the transfer has been received from the interstate jurisdiction and will provide the CSSC manager with a letter which must be sent within three business days to all parties whose consent is required for the transfer. This letter advises the consenting parties of their appeal rights.

If an appeal to the transfer has not been lodged by any party within the 28 day appeal period, the ILO will send an ‘Administration transfer of child protection order from Queensland’ form to the CSSC manager to sign and return by mail to the Queensland ILO, who will forward it to the interstate jurisdiction ILO for registration in the appropriate interstate court.

Following advice from the Queensland ILO, that the order has been registered in the court of the interstate jurisdiction the CSSC:

- prepare a photocopy of all relevant file material, including a print-out of the electronic file, and send to the manager of the interstate office in the accepting jurisdiction - the original file will be kept by the CSSC and will not be forwarded to the other jurisdiction. The ILO will advise the appropriate interstate address
- cease carer payments as advised by the ILO
- complete the administrative requirements for concluding the placement - refer to Chapter 5, 4.1 Conclude the child’s placement in care
- close the case management record and update the order details for the child in ICMS.

Note: Payments to a foster or kinship carer are to be made up to and including the day before the date of transfer (date of registration of the order), unless otherwise advised by the ILO.

**Judicial transfer of an order to another jurisdiction**

The judicial transfer of a child protection order occurs only rarely, and may be sought when parents refuse to consent to the administrative transfer of a child protection order. An application to the Childrens Court is required for an order to be transferred, and is similar to applying for a child protection order in Queensland.

Due to the complexity of judicial transfers, the transfer of the child protection order must not be commenced until consultation has occurred with the Queensland ILO.

If following consultation with the ILO, a decision is made to proceed with a judicial transfer, the ILO will provide the CSSC with procedural information for completing the transfer process.

**Transfer of child protection proceedings**

Requesting the transfer of Queensland child protection order proceedings to another jurisdiction, will only occur after consultation with the Queensland ILO, and OCFOS and should not be viewed as a substitute for seeking or continuing with an application for a Queensland order. The
transfer of proceedings is a complex matter, subject to the complete agreement and ongoing co-
operation of the 'receiving' jurisdiction throughout the transfer process, within a 28 day
timeframe for the child to be moved interstate.

The ILO will provide advice in relation to the viability of the request, especially in relation to the
*Child Protection Act 1999*, section 229, which outlines the grounds on which such a transfer may
take place.

If following consultation with the ILO, a decision is made to proceed with the transfer of child
protection proceedings, the ILO will provide the CSSC with procedural information and
appropriate forms for completing the transfer process.

9. What if a matter needs to be referred to the SCAN team system?

During ongoing intervention, it may be appropriate to make a referral to the SCAN team, when a
coordinated multi-agency response is required to effectively assess and respond to the needs of
the child to ensure their safety, belonging and wellbeing. A referral to a SCAN team may also be
made by a core member agency representative. Referrals must meet the mandatory referral
criteria.

For further information, refer to the Information Coordination Meetings (ICM) and the Suspected
Child Abuse and Neglect (SCAN) Team System Manual.

10. What if immediate custody is required for a child in need of
protection - use of a TCO?

Under the *Child Protection Act 1999*, sections 51AA-51AM, a TCO may be applied for when a
child is assessed as being in need of protection and is at unacceptable risk of immediate harm.

The purpose of a TCO is to authorise the action necessary to ensure the immediate safety of a child
while Child Safety or the DCPL decide the most appropriate action to meet the child's ongoing
safety, belonging and well-being needs and to start taking that action.

A TCO is an order sought from a magistrate, not a court, to authorise any of the following actions:

- have contact with a child
- take a child into, or keep the child in, the custody of the chief executive while the order
  is in force
- authorise medical examination or treatment – for further information, refer to Chapter
  2, 9. What if a child needs a medical examination?
- direct a parent about contact with the child
- enter a residence or premises and search for a child
- remain in the place for as long as necessary
- exercise powers using the force that is reasonable in the circumstances.

Apply for a TCO

An authorised officer or OCFOS lawyer may apply for a TCO for at any time to ensure the
immediate safety of a child while a decision is made about the most appropriate action to meet
the child’s ongoing safety, belonging and wellbeing needs. This includes circumstances where a
referral has been made to the DCPL for an application for a child protection order and a decision
is pending as to what action will be taken.

The magistrate may decide the application for a TCO without notifying the child's parents of the application or hearing them on the application.

It is not desirable to apply for a TCO when there are existing child protection proceedings. The new information relating to the concerns should, where possible, be presented to the same magistrate for their consideration.

If an interim child protection order is in place and new child protection concerns are received that indicate a child is at unacceptable risk of immediate harm, ask the OCFOS lawyer to organise an urgent case consult with the DCPL to discuss:

- whether the matter can be urgently listed for consideration
- presenting the new information before the same magistrate hearing the substantive child protection proceedings
- whether the interim order should be amended.

An after-hours application should be made to ensure the safety of a child, where needed, if concerns for the immediate safety of a child are received after business hours.

When preparing an application for a TCO, the nature of the concerns and the rationale for seeking specific provisions under that order need to be clearly articulated.

An authorised officer or OCFOS lawyer may apply for a TCO for a child removed under the Child Protection Act 1999, section 18.

To apply for a TCO:

- consult with OCFOS
- OCFOS will complete a draft ‘Form 39 - Application for a temporary custody order’, however if necessary due to time constraints, draft the Form 39 for OCFOS to settle/finalise and complete a draft order in ICMS.
- check these documents thoroughly including the timing of the order
- OCFOS will make a time to appear on Child Safety’s behalf before the magistrate, including in after-hours situations
- afterwards, collaborate with OCFOS to prepare a referral to the DCPL.

If a referral has already been made to the DCPL and new immediate safety concerns are received while DCPL is still deciding whether to make an application for a child protection order, an authorised officer or OCFOS lawyer can make an application for a TCO. The application should be discussed with the OCFOS lawyer and if possible the DCPL prior to it being made.

Note:

- The application must advise the magistrate what actions were taken in relation to the child during any period of custody of the child
- The magistrate must be satisfied the child will be at unacceptable risk of suffering harm for the duration of the TCO if the order is not made, and that Child Safety will be able (within the term of the TCO) to decide the most appropriate action to meet the child’s ongoing needs for safety, belonging and wellbeing and start taking that action.

When a TCO is granted by a magistrate:
• finalise the ‘Form 39 - Application for a temporary custody order’ in ICMS
• record the order details in the ‘Form 39 - Temporary custody order outcome form’ in ICMS
• tell the child about the order, where age and developmentally appropriate
• ensure the child, where age and developmentally appropriate, understands the reasons why they have been removed from the home and placed in care
• make reasonable attempts to contact at least one of the parents and record the nature of the contact or details of the attempts to make contact
• provide a copy of the order to at least one of the child’s parents
• explain to the child and the parents the reasons for, and the effect of, taking the TCO
• inform the parents about the right of appeal and because of the duration of the order, that if they wish to appeal, they must take immediate action to lodge the appeal
• consult with OCFOS about the most appropriate course of action to meet the child’s ongoing safety, well-being and belonging needs.

When considering a TCO for a child subject to long-term guardianship to a suitable person, the long-term guardian will have the same rights as a parent. Contact at least one of the long-term guardians to provide them with a copy of the order, explain the terms and effect of the order and inform them of the right to appeal.

**Effect of a TCO on existing child protection orders**
Under the *Child Protection Act, 1999*, section 51AM, the child protection order, as it relates to the child’s custody or guardianship, ceases to have effect while the chief executive’s custody continues under the TCO.

**Duration of the TCO**
A TCO cannot remain in effect for longer than **three business days**, from midnight on the date it was decided. For example, a TCO decided on Tuesday will end at midnight on Friday. The provisions of a TCO cannot be exercised once the order has ended.

A TCO can be extended once only, to the end of the next business day if the magistrate is satisfied the order has not ended and the DCPL intends to apply for a child protection order during the period of extension. This allows the application for a child protection order to be lodged with the court during business hours. The application for a child protection order must be lodged before the court closes on the day the TCO expires. OCFOS will complete the application for the TCO extension in the same event in ICMS as the initial application. It is necessary to provide a copy of the email confirmation that the DCPL intends to apply for a child protection order.

Alternatively, a TCO granted for a period of either one or two days may be extended for a maximum of either two days or one day, respectively.

Under the *Child Protection Act 1999*, section 99, the TCO will continue until the application for a child protection order is decided.

**Assessing safety prior to returning a child to the care of the parents**
When a child has been placed in care subject to a TCO, consider all of the available information
and complete a safety assessment prior to returning the child to the care of the parents. For further information, refer to Chapter 2, 2.6 Complete the safety assessment.

If the child is considered to be ‘unsafe’, determine the appropriate placement intervention that will ensure the child’s safety and where applicable, lodge an application for a child protection order, before the TCO expires.

When a child has a long-term guardian, and has been placed with a carer whilst subject to a TCO, consider all of the available information and complete a safety assessment prior to returning the child to the care of the long-term guardian. If the child is considered to be ‘unsafe’, determine the most appropriate placement intervention that will ensure the child’s safety, before the TCO expires.

What if there is a change in the individuals residing in the family home?
Due to the possible impacts on child protection concerns and the resulting case plan, inform the parents, when developing or reviewing the case plan, that Child Safety must be notified when:

- the parent commences a new relationship and their partner will be having regular contact with the child or is intending to take up residence in the family home
- the parents’ relationship ends and one of the parents takes up residence at a separate address
- an adult is intending to or has taken up residence in the family home - for example, a member of the extended family, a family friend or a boarder
- another child or young person is intending to or has taken up residence in the family home - for example, a member of the extended family, the child of a family friend, one of the children’s friends or a boarder.

Following notification by a parent of a change in the membership of the family household:

- complete child protection history checks on the new household member
- complete a further safety assessment
- review and modify the case plan, as required
- give consideration to completing criminal and domestic violence history checks on the new household member.

11. **What if obvious or blatant breaches of pool fencing requirements are noticed?**

If during ongoing intervention with a family, obvious or blatant breaches of pool fencing requirements are noticed, for example, broken fencing or gates, or unfenced access points, discuss the associated safety risks and water safety strategies with the parents.

Following the discussion with the parents, contact the relevant local council to report the safety concerns. Staff can only provide the property address and the nature of the issue relating to the pool fence to the relevant local council. Staff cannot provide identifying family details.
Resources

Forms and templates

- Affidavit (Form 25)
- Affidavit of Service (Form 22)
- Application for a Temporary custody order (Form 39)
- Assessment report - long-term guardianship to a suitable person
- Care agreement - Form
- Case Summary for Transfer
- Decision-making checklist - long-term guardianship to a suitable person
- Family referral (CSIS)
- Letter advising a permanent guardian of a permanent care order
- Letter advising parents of long-term guardianship order
- Letter advising parents of a permanent care order
- Letter advising suitable persons of long-term guardianship order
- Letter to parent regarding a supervision order (section 78)
- Permanent guardian assessment report
- Police referral form
- Practice panel record
- Support plan
- Temporary custody order (Form 40)
- Transition plan

Departmental resources

- Children and young people’s participation strategy
- Compliments and Complaints feedback
- Information Coordination Meetings (ICM) and the Suspected Child Abuse and Neglect (SCAN) Team System Manual
- Long-term guardianship to a suitable person: Information for carers
- Long-term guardianship to a suitable person: Information for children and young people
- Long-term guardianship to a suitable person: Information for parents
- Maintaining Critical Supports during NDIS transition: decision tool
- Memorandum of Understanding between the Department of Communities, Child Safety, and Disability Services (Child Safety) and the Office of the Public Guardian (OPG)
- Permanent care order - Information for children and young people
- Permanent care order - Information for parents
- Permanent care order - Information for proposed guardians
- Permanent guardian assessment guide
• Practice guide: The assessment of harm and risk of harm
• Practice guide: Unaccompanied humanitarian minor wards
• Practice resource: Completing the joint action plan
• Practice resource: Decision making for expiring child protection orders
• Practice resource: Department of Housing and Public Works – interagency priority
• Practice resource: Long-term guardianship - assessment factors
• Practice resource: Long-term guardianship orders - a comparison
• Practice resource: Overview of referral and planning process with Department of Housing
• Practice resource: Participation of children and young people in decision-making
• Practice resource: Practice panel guide
• Practice resource: Program of supports - long-term guardians
• Practice resource: Responsibilities - long-term guardians
• Practice resource: Schedule of criminal offences
• Practice resource: Transferring an ongoing intervention case
• Practice resource: Working with OCFOS and the DCPL
• Practice resource: Writing an affidavit
• Practice resource: Youth justice - an overview
• Structured Decision Making Policy and Procedures Manual
• Transfer summary sheet - administrative transfer from Queensland to all states and New Zealand

External resources

• Office of the Public Guardian
• Child Support Agency
• Disability Services
• Transition to Independent Living Allowance (TILA)
• Youth Justice Act 1992