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

Policy No: 607-3

Policy Statement:

The Department of Child Safety, Youth and Women (Child Safety) is committed to providing appropriate support to children subject to guardianship of someone other than the chief executive, through a long-term guardianship order or a permanent care order.

For ensuring the wellbeing and best interests of a child, actions taken by Child Safety will best ensure the child experiences or has:

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

For a child who is removed from their family, and for whom reunification is not appropriate, the preferred arrangement is for the child to be cared for under the guardianship of a person who is kin or another suitable person. This would be achieved through either a long-term guardianship order or a permanent care order.

To promote permanency for a child, Child Safety is committed to providing support, appropriate to the circumstances, to ensure the long-term stability of arrangements under long-term guardianship orders and permanent care orders.

In proposing a long-term guardianship order or permanent care order, Child Safety conducts rigorous planning and assessment processes to determine that it is the best possible option for a child, and this includes an assessment that the proposed guardian is able and willing to provide for the child’s needs until the child reaches 18 years of age and support the child into independent adulthood.

However, Child Safety recognises that unforeseen circumstances may arise, and the needs of a child or young person subject to the long-term guardianship or permanent care order may change significantly, at any time following the making of the order.
**Principles:**

The safety, wellbeing and best interests of the child, both now and throughout the child’s life, are paramount.

The child has a right to be placed in a care environment that provides ongoing positive, trusting and nurturing relationships with persons of significance to them, including their parents, siblings, extended family and carers.

Decisions and actions made under the *Child Protection Act 1999* (s5BA) for a child must promote:

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

Additional principles for achieving permanency for Aboriginal and Torres Strait Islander children:

- Aboriginal and Torres Strait Islander people have the right to self-determination (s5C).
- The long-term effect of a decision on the child’s identity and connection with the child’s family and community must be taken into account (s5C).
- A child has the right to be brought up within the child’s own family and community (*the prevention principle*).
- Aboriginal or Torres Strait Islander persons have the right to participate in significant decisions about their children (*the partnership principle*).
- If a child is to be placed in care, the child has a right to be placed with a member of the child’s family group (*the placement principle*).
- A child and the child’s parents and family members have a right to participate, and be enabled to participate, in an administrative or judicial process for making a significant decision about the child (*the participation principle*).
- A child has a right to be supported to develop and maintain a connection with the child’s family, community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person (*the connection principle*).

**Objectives:**

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

**Scope:**

This policy relates to children and young people subject to:

- a long-term guardianship order granting guardianship to a person other than the chief executive
- a permanent care order.
Roles and Responsibilities:

Obligations to children under guardianship orders

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

- tell the child about the Charter of Rights and what it means for them
- give the child written information about the Charter of Rights
- tell the child about the obligations of the child’s guardian
- tell the child about the public guardian and other entities who can help the child if the child has worries that the guardian is not complying with their obligations
- tell the child about their right to contact Child Safety if they have any questions or concerns about their protection and care needs.

Case planning and ongoing contact—long term guardianship orders

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

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

Case planning and ongoing contact—permanent care orders

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

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

Financial support

The Child Protection Act 1999 provides that the chief executive may pay an allowance to a long-term guardian or permanent guardian for the child’s care and maintenance (s159).

Child Safety may pay an allowance to long-term guardians and permanent guardians where:

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

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

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

A long-term guardian or permanent guardian is responsible for:

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

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

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

The guardian is also responsible for:

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

Complaints about permanent guardians

A child or a member of the child’s family may make a complaint to Child Safety if the person honestly and reasonably believes that the child’s permanent guardian is not complying with their obligations under the Child Protection Act 1999. Child Safety may ask for more information to assist with responding to the complaint.

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

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

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

**Authority:**

*Child Protection Act 1999*

*Adoption Act 2009*
Delegations:
Refer to instruments of delegation for information on delegations for decision-making under the *Child Protection Act 1999*.

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**Records File No.**: Not applicable  
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**Date to be reviewed**: 29 October 2021

**Office**: Child and Family Operations – Operational Support

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**Links:**

**Procedures**:  
Child Safety Practice Manual

**Related Policies**
Expenses - Fortnightly caring allowance and inter-state foster payments (365)  
Regional/Remote loading for carers (379)  
Dual payment of carer allowances (289)  
High Support Needs Allowance (296)  
Complex Support Needs Allowance (612)  
Child Related Costs – Long-term guardian support (608)  
Transitioning from care into adulthood (349)  
Case planning (263)  
Special payments (including Ex-gratia) (FSE009)  
Carer learning and support (457)

**Related Legislation or Standards:**

*Child Protection Act 1999*  
*Right to Information Act 2009*
Director of Child Protection Litigation Act 2016

Childrens Court Rules 2016

Financial Accountability Act 2009

**Rescinded Policies**

607-2 Supporting children in the care of long-term guardians

Michael Hogan

Director-General