

Guide for health professionals

Medical decision making for children and young people in out-of-home care



This document is to assist health professionals to determine who has the authority to provide consent for the health and medical treatment of children and young people subject to child protection orders and placed in out of home care. Please liaise with the child or young person's Child Safety Officer to seek further clarification if required.

Who can consent for the medical assessment or examination of a child or young person in out of home care?

Section 97 of the *Child Protection Act 1999* provides the authority for a health professional to medically examine a child subject to an order granting custody or guardianship to the chief executive. This provision may be utilised despite parents retaining guardianship of the child.

Who can make health treatment decisions for children and young people who are in out-of-home care?

The *Child Protection Act 1999* provides the Child Safety chief executive authority to delegate officers in specified positions within the department to provide consent for treatment and other health related procedures when a child is in the custody or guardianship of the chief executive - this is outlined in the table below.

In addition, when a child or young person is subject to a child protection order granting guardianship to the chief executive:

- carers are authorised to make the necessary immunisation arrangements of behalf of the chief executive

- carers are authorised to make the necessary arrangements for the child or young person to have a blood test, where one has been requested by a doctor to assist in diagnosis or medical intervention (excluding any DNA blood testing) - this consent is included on the 'Authority to Care – guardianship to the Chief Executive' form

Doctors have the legal authority to proceed with treatment in a life threatening emergency situations where appropriate consents cannot be obtained prior to treatment, or the time taken to obtain appropriate consent would jeopardise the child's life.

Confirmation of the type of Child Protection Order a child or young person in out-of-home care is subject to can be found on the following documents:

- The Child Protection Order
- The Authority to Care form
- A letter signed by the appropriate departmental officer outlining what child protection order has been granted by the Children's Court.

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What does the child or young person need?	Who is to provide consent when Child Safety has custody and parents retain guardianship?	Who within Child Safety can provide consent when Child Safety has guardianship?
Day to day/routine health care	The child or young person's carer Parents	The child or young person's carer Child Safety Senior Team Leader Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager
Prescribed medications to manage behaviour or mental health conditions	Parents	Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager
Immunisation	Child Safety Senior Team Leader Child Safety Manager	The child or young person's carer Child Safety Senior Team Leader Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager Regional Director – Child Safety
Blood tests (excluding DNA testing)	Parents	The child or young person's carer Child Safety Senior Team Leader Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager Regional Director – Child Safety
Dental – routine check-ups and treatment, not requiring a general anaesthetic	The child or young person's carer	The child or young person's carer Child Safety Senior Team Leader Child Safety Manager
Dental treatment, requiring a general anaesthetic	Parents	Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager Regional Director – Child Safety
Invasive medical and surgical procedures or considerations	Parents	Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager Regional Director – Child Safety
Acting on a second medical opinion	Parents	Depending on the type of illness/condition and proposed treatment: - Child Safety Manager - Child Safety After Hours Service Senior Team Leader or Manager - Regional Director – Child Safety
Other decisions relating to medical matters requiring a guardian's explicit consent	Parents	Child Safety Manager Child Safety After Hours Service Senior Team Leader or Manager Regional Director – Child Safety
Pregnancy termination	Parents	Regional Director – Child Safety
Contraception – when a child is under 12 years of age or a child is not considered "Gillick competent"	Parents	Regional Director – Child Safety
DNA testing	Parents	Regional Executive Director
End of life decisions	Parents	Director-General



Child Protection Order types and impact on custody and guardianship

Nature of statutory intervention / order	Effect on custody and guardianship
Child Protection Order (directive or supervision order)	Parents retain custody and guardianship
Temporary assessment order	Child Safety has custody, the parents retain guardianship
Court assessment order	Child Safety has custody, the parents retain guardianship
Interim order (made on adjournment of CPO)	Child Safety has temporary custody, the parents retain guardianship.
Child protection order – custody	Child Safety has custody, the parents retain guardianship.
Child protection order – short-term guardianship	Child Safety has custody and guardianship.
Child protection order – long-term guardianship order to the Chief Executive	Child Safety has custody and guardianship until the child is 18 years.

