

SUPPORT FOR CHILDREN OF IMPRISONED PARENTS IN NEW SOUTH WALES

Organisation: NSW Office of the Children's Guardian

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Chair
Committee on Children and Young People
Parliament House
Macquarie Street
SYDNEY NSW 2000

By email: childrenyoungpeople@parliament.nsw.gov.au

Dear Mr Mason-Cox

Inquiry into Support for Children of Imprisoned Parents

Thank you for providing my office with an opportunity to make a submission to the Inquiry into support for children of imprisoned parents in New South Wales (the Inquiry).

The international community has recognised under article 9(3) of the United Nations Convention on the Rights of the Child (CRC)¹ that state parties have an obligation to:

respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

In our submission to this Inquiry, we make recommendations to:

1. develop evidence-based guidelines on facilitating contact between children and imprisoned parents
2. improve data collection and protocols for information sharing between government agencies about children with imprisoned parents.

Given that children in out-of-home care (OOHC) may have parents in prison, we also outline the role of the Office of the Children's Guardian (OCG) in accrediting agencies that provide OOHC.

1. Background

There has been considerable growth in New South Wales' (NSW) prison population, with the NSW Auditor-General publishing a report last year indicating an increase in the prison population of 40 per cent between 2012 to 2018.² The latest statistics from the NSW Bureau of Crime Statistics and Research (BOCSAR) show there are approximately 13,600 prisoners in NSW including those on remand.³ Surveys of NSW incarcerated offenders

¹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 44 UNTS 25 (entered into force 2 September 1990) (CRC).

² NSW Government, Audit Office of NSW, *Managing growth in the NSW prison population* (May 2019) <https://www.audit.nsw.gov.au/our-work/reports/managing-growth-in-the-nsw-prison-population>.

³ NSW Government, BOCSAR, *NSW Custody Statistics: Quarterly Update* (December 2019) https://www.bocsar.nsw.gov.au/Documents/custody/NSW_Custody_Statistics_Dec2019.pdf.



have previously estimated that approximately half of inmates have children.⁴ However, there appears to be limited publicly available official data on the numbers of children with imprisoned parents.

We note that a 2015 Australian Research Council (ARC) study found children of imprisoned parents are regularly 'invisible' in the criminal justice process.⁵ They are particularly vulnerable as they may experience disruption in their care, difficulties in maintaining family ties, and social impacts, such as stigma and isolation.⁶ Psychologically, they often experience feelings of grief, loss, depression and shame.⁷

We also note that Aboriginal and Torres Strait Islander children are disproportionately impacted by parental imprisonment, given the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system. For example, the Australian Law Reform Commission report *Pathways to Justice – an Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* found that the number of Aboriginal and Torres Strait Islander parents – particularly women – in prison has a direct effect on the number of Aboriginal and Torres Strait Islander children in out-of-home care, which is a recognised pathway to youth detention and adults offending.⁸ Further, the 2015 NSW *Young People in Custody Health Survey Report* found that Aboriginal young people in custody were significantly more likely to have a parent who had been incarcerated (67% vs 36%).⁹

While the terms of reference use the terminology of “parents”, we note that consideration should be given to the collectivist kinship system of Aboriginal and Torres Strait Islander people and the important role that extended family members play in the lives of children.¹⁰

2. Children in out-of-home care with imprisoned parents

The Children's Guardian has powers to allow it to regulate ensure agencies that provide statutory out-of-home care and voluntary out-of-home care to children, via accreditation processes that are designed to ensure that organisations promote the safety, welfare and wellbeing of children.¹¹ In order to be accredited, agencies are expected to meet the

⁴ Courtney Brown and Kevin O'Sullivan, 'Somebody's mum, somebody's dad: Parents as offenders and offenders as parents in New South Wales' *Australasian Journal of Correctional Staff Development* (January 2012).

⁵ Catherine Flynn and Tess Bartlett et al, 'Responding to children when their parents are incarcerated: exploring the responses in Victoria and New South Wales, Australia' (2015) 32 *Law in Context* Available from: <https://journals.latrobe.edu.au/index.php/law-in-context/article/view/70>.

⁶ Rosemary Sheehan, 'Parental Imprisonment and child protection: a study of children presented to the Melbourne's Children's Court' (2010) 63(2) *Australian Social Work* 164-178.

⁷ C Flynn, *Waiting for Mum: The Impact of Maternal Incarceration on Adolescent Children* [PhD Thesis] (Monash University, 2008).

⁸ Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples – Final Report* (December 2017) https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_133_amended1.pdf.

⁹ Justice Health & Forensic Mental Health Network and Juvenile Justice NSW, *2015 NSW Young People in Custody Health Survey Report* <http://www.juvenile.justice.nsw.gov.au/Documents/2015%20YPICHS.pdf> 18.

¹⁰ Shaun Lohoar and Nick Butera et al, *Strengths of Australian Aboriginal cultural practices in family life and child rearing* (2014) <https://aifs.gov.au/cfca/publications/strengths-australian-aboriginal-cultural-practices-fam/export>.

¹¹ *Children's Guardian Act 2019* (NSW) s 71(e). However, we note that the Act does not commence until 1 March 2020. Until the commencement date, these regulatory powers are currently contained in the *Children and Young Persons (Care and Protection) Act 1998* (NSW)

requirements of the *NSW Child Safe Standards for Permanent Care*.¹² A copy of the standards is **enclosed**.

Pursuant to the standards, agencies providing statutory OOHC are required, amongst other things, to:

- consider the rights of children and young people as a primary focus for their care, including providing opportunities for them to participate in decisions that affect their lives and providing support for them to maintain relationships with family.¹³
- provide children and young people with access to information and experiences which assist them to develop a positive sense of identity.¹⁴
- provide parents with information as to the placement of the child, their development and progress.¹⁵
- demonstrate that case planning and review supports stable placements which are responsive to the changing needs of children and young people.¹⁶

When making assessments of agencies seeking to provide OOHC to children and young people, the OCG has observed that challenges can arise for OOHC agencies assisting children and young people to maintain relationships with parents in prison. We outline these issues below and make suggestions for improving support to children with imprisoned parents.

Issue 1 – guidelines to support carers to manage contact between children and imprisoned parents

In our experience, the level of contact between children and imprisoned parents can be dependent on the attitude and the willingness of the child's carer to support this relationship. For example, the personal views of carers towards incarcerated people or prison environments may influence efforts made to maintain contact with parents. When this occurs, there is a risk that decisions about contact with imprisoned parents are disproportionately influenced by individual bias. Without clear, formalised guidance, research has found that professionals rely on personal frameworks or experiences to shape their decision-making.¹⁷

To promote consistent approaches, evidence-based guidelines could be developed to assist carers and others to manage contact between children and imprisoned parents. We suggest that these guidelines include specific information about the benefits of children having contact with imprisoned parents, together with guidance as to the assessment of relevant risk factors (i.e. a relevant risk factor may include previous instances of abuse by a parent to the child). Such an approach may assist with providing a framework for carers to make better informed decisions about contact between children and imprisoned parents.

¹² NSW Government, *NSW Child Safe Standards for Permanent Care* (November 2015) https://www.kidsguardian.nsw.gov.au/ArticleDocuments/449/ChildSafeStandards_PermanentCare.pdf.aspx?Embed=Y.

¹³ Ibid standard 1.

¹⁴ Ibid standard 4.

¹⁵ Ibid standard 5.

¹⁶ Ibid standard 14.

¹⁷ Catherine Flynn and Tess Bartlett et al, 'Responding to children when their parents are incarcerated: exploring the responses in Victoria and New South Wales, Australia' (2015) 32 *Law in Context* Available from: <https://journals.latrobe.edu.au/index.php/law-in-context/article/view/70>.

Issue 2 – improved data collection and information sharing between services for children and adults

In our view, the collection of official and accessible data about children of imprisoned parents is a key step towards supporting children and avoiding the risk of children falling through gaps in services. Preferably, the data would be standardised and centralised for agencies to access independently.¹⁸

We submit that the flow of information between children's services and adult's services has a significant impact on how well the relationship between children and imprisoned parents is facilitated. Research has shown that, "children's services typically do not ask about parental incarceration, and adult services do not, as a matter of course, ask about children."¹⁹ We support efforts to make children 'visible' at an early stage in their parent's contact with the correctional system. We also support improved data collection about children of imprisoned parents, together with information sharing protocols between child-focussed and adult-focussed government agencies.

3. Review of the OCG Child Safe Standards for Permanent Care

As discussed above, the *Child Safe Standards for Permanent Care* require that OOHC agencies provide placements which facilitate ongoing involvement between children and their parents. Agencies are assessed against these standards and will only be accredited if they demonstrate compliance. In our view, these standards set the expectations for agencies to facilitate family involvement with children, including contact between children and parents in prison. We note that the standards are due to be reviewed in 2020.

If you would like to discuss this matter further, please contact [REDACTED]

Yours sincerely



Janet Schorer PSM
Children's Guardian

18 February 2020

¹⁸ Ibid.

¹⁹ Ibid.

NSW Child Safe Standards for Permanent Care

November 2015



Minister's Message

Every child deserves to have a safe and loving home.

For most children, safety, a sense of belonging, stability and love are provided by their birth family. For some, carers and guardians provide the stability and loving home children deserve and need.

Children that live in out-of-home care are particularly vulnerable to harm. We learned from the Royal Commission into Institutional Responses to Child Sexual Abuse that it is critically important that children in care are not exposed to further harm.

So, it is vitally important that permanency and stability for children in care is at the centre of everything we do.

Many children do not experience the safety and love a permanent home can offer, and they leave the out-of-home care system with no sense of belonging.

Achieving stability through a greater focus on permanency planning is at the heart of the *NSW Child Safe Standards for Permanent Care*.

Developed by the NSW Children's Guardian and our sector partners, the Standards assist the sector to better meet the needs of children and young people who cannot live with their birth families.

We are focused on better lives for vulnerable children and young people and we want the community to know that children in care who cannot go home need families for life.

And, we know that exiting the out-of-home care system through restoration, guardianship or open adoption can improve long-term outcomes for children and young people.

Thank you to the Children's Guardian and our sector partners for their committed work in developing the *NSW Child Safe Standards for Permanent Care* and encouraging ongoing compliance by agencies.

The Standards have been a major step forward in helping to ensure that more children living in NSW have safe, happy and loving childhoods.



A handwritten signature in dark ink that reads 'Pru Goward'.

The Hon. Pru Goward, MP
Minister for Family and Community Services

Foreword

All children and young people should be able to live in safe environments in their communities where they are supported to achieve their full potential. While I believe that families are the best place for children and young people to be protected, unfortunately this is not always possible. The out-of-home care sector has an important role providing care and quality support services for the children and young people who need them. Organisations need to provide services and care that will meet young people's needs and protect their rights and their interests as they move through childhood and transition to become independent young adults.

The NSW Government, the Office of the Children's Guardian and the out-of-home care and adoption sectors together provide children and young people with that quality care. For over 20 years NSW has had a set of standards that operate as a framework for the provision of out-of-home care.

The *NSW Child Safe Standards for Permanent Care* have been in place since 2015 and were developed in close collaboration with the out-of-home care sector and key peak organisations to do two important things:

1. To establish a clear benchmark of care – where every organisation that provides out-of-home care is expected to meet a quality of care that is nurturing, safe and secure
2. To help agencies to reflect on and improve their own practices.

Through the Office of the Children's Guardian's accreditation process, we work with designated agencies to make sure they meet the requirements that are set out in these Standards. And we use the Standards to document and measure how organisations give some of our most vulnerable children and young people long-term, safe and stable care. The standards give all of us the framework to drive continuous improvement in this important sector.

The independence of the Office of the Children's Guardian allows us a different perspective that can hold a mirror up to the sector and reflect what is being done well, and which practices could be improved. We take our independent role seriously not only in giving well-informed and objective feedback as regulator, but also make sure that we listen, consider and respond to feedback including new research or changes in legislation that impacts the care of young people.

These Standards, first launched in 2015, have delivered a more streamlined accreditation system for agencies providing both out-of-home care and adoption services. They have also helped the sector strengthen its capacity to provide more stable, permanent care for vulnerable children and young people. Over that time, the Office of the Children's Guardian has also evolved as an organisation with changes to our leadership, strategic direction and culture.

While our environment has been one of change, the Standards remain the same: aiming for quality care and on building child-safe cultures. The unwavering focus continues to be to keep vulnerable children and young people safe from harm and abuse, and do all we can to give them the best environment possible while they are in our care.



Janet Schorer

Janet Schorer
Children's Guardian



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About the NSW Child Safe Standards for Permanent Care

Purpose of the standards

The standards establish the minimum requirements for the accreditation of out-of-home care and adoption service providers and are based on the statutory responsibilities of out-of-home care and adoption service providers, as set out in the *Children and Young Persons (Care and Protection) Act 1998*, the *Adoption Act 2000* and relevant regulations.

The purpose of the NSW accreditation scheme is to ensure that the rights of children and young people are upheld and that children and young people will receive quality services, regardless of where they are placed.

The rights of children and young people arise from the United Nations Convention on the Rights of the Child and the Charter of Rights for Children and Young People in Out-of-Home Care in NSW. These charters underpin the NSW Child Safe Standards for Permanent Care.

Children and young people have the right to:

- be safe and protected from harm
- live a full life and develop healthily
- participate in decisions that affect them
- healthy living environments
- receive an education
- receive quality health care
- maintain relationships with family and people of significance
- maintain connections to community, culture, language and spirituality
- information about issues that concern them
- privacy
- engage in leisure activities and spend time with their peers
- services that assist them to achieve their full potential.

Guide to reading the standards

There are 23 standards. The standards are designed to be flexible and apply to a range of care arrangements including foster care and residential care. The standards also apply to restoration, adoption and guardianship until such times as restoration is achieved or adoption or guardianship orders are made. **Note:** Standard 16: Post-adoption support applies after adoption orders are made.

While the desired outcomes of an agency's practice are the same, the strategies agencies use to achieve these outcomes will differ according to the type of care the agency provides. The Office of the Children's Guardian's assessment of an agency's practice will be tailored to suit the type of care the agency provides.

The standards expect that agencies understand and meet the particular needs of each child or young person regardless of their culture, religion, background, ability, circumstances or preferences. The standards are not prescriptive and have been designed to allow agencies to be flexible, responsive and innovative in the way they deliver services to children and young people.

While the standards document is divided into individual standards, the document is designed to be read as a whole. The standards deliberately overlap and individual standards cannot be considered in isolation from the other standards.

Each standard includes an objective, which sets out the overall goal of the standard. Each standard includes a summary of the key requirements set out in the legislation and includes the relevant references to legislation. The standards must be read in conjunction with the relevant legislation.

Each standard also includes indicators of compliance which signals to the agency and the Office of the Children's Guardian that there are effective systems in place to support quality services. These indicators are not exhaustive and agencies may have other strategies to support children and young people. The Office of the Children's Guardian assesses agencies' compliance against the standards as a whole and agencies must demonstrate that they meet the intent of each standard.

The accreditation scheme also requires agencies to continually strive to improve the care they provide to children and young people.

Continuous quality improvement

In order to achieve accreditation, agencies must have effective processes and practices in place to meet the needs of children and young people. Accreditation is granted when an agency is demonstrating at least minimum compliance with the standards. Achieving accreditation is an important first step in providing quality services to children and young people; however the Children's Guardian expects that agencies engage in a process of continuous quality improvement.

The accreditation system is underpinned by the assumption that out-of-home care and adoption service providers have systems in place to support children and young people and that agencies have a commitment to providing quality services to children and young people.

Standard 23: Strategic planning and evaluation requires agencies to continuously assess the quality of their services and develop strategies to address gaps in practice. Agencies that perform well have strong, effective leadership, transparent and robust decision making processes and create a child-focused culture that embraces continuous improvement.

When the Office of the Children's Guardian assesses compliance with the standards, evidence which supports the implementation of the agency's policies, procedures and practice is considered. If the standards are met the evidence should consistently demonstrate that:

- children and young people are safe and cared for in environments that are free from harm and abuse
- children and young people are cared for in stable care arrangements appropriate to their particular needs
- children and young people participate in decisions that affect their lives and their views and wishes are considered
- children and young people are cared for by caring and skilled adults
- children and young people are supported to develop resilience and a positive sense of identity
- children and young people maintain important relationships with their family and other people of significance

- children and young people maintain connections to community, culture, language and spirituality
- children and young people have access to quality health care and have their health and medical needs met
- children and young people are supported to achieve their developmental and educational potential and have access to additional education supports where required
- children and young people engage in play, leisure activities, recreation and sport and have hobbies and interests that assist them to learn new skills
- children and young people feel valued by the people caring for them, their families and their peers
- children and young people are able to make personal choices that are safe and appropriate and are supported to manage their own behaviour
- children and young people develop self-care and independent living skills, as appropriate to their circumstances, for transition to young adulthood
- children and young people have access to information that is collected about them and can be confident that their personal information will be used appropriately
- children and young people and the people who work with and care for them are confident to raise concerns or complaints and are taken seriously when they do
- people who work with and care for children and young people have the necessary qualities, skills and supports to provide appropriate care
- people who work with and care for children and young people are confident in their skills and knowledge and feel that their work is valued.

When assessing compliance with Standard 23: Strategic planning and evaluation, the Office of the Children's Guardian will assess how well the agency identifies and addresses areas of practice requiring improvement.

Agencies should consider how they can demonstrate the quality of their systems and provide evidence of improvements to practice over time.



Section 1:

Children and young people – Care and wellbeing

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Standard 1: Children's rights

Objective: The rights of children and young people are the primary focus for their care.

Standard

Care is arranged in accordance with the United Nations Convention on the Rights of the Child and the Charter of Rights for Children and Young People in Out-of-Home Care in NSW.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8–14, 20, 91, 145, 162, 166, 168

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 14, 34, 42

Adoption Act 2000

Sections: 7–9, 32–39, 46, 55, 63, 69, 73, 123, 127–129, 177, 133C, 134, 201

Adoption Regulation 2015

Clauses: 71, 72, 74–75, 79–82, 84, 85, 93, 99

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- The best interests of the child or young person must be the paramount consideration in decisions that affect their lives.
- Children and young people who cannot remain in the care of their family deserve special protection and assistance.
- Organisations responsible for the care and protection of children and young people should provide services that foster their health, developmental needs, spirituality, self-respect and dignity.
- Children and young people must be provided with opportunities to participate in decisions that affect their lives.
- Children and young people should be supported to maintain family and other important relationships.
- Aboriginal and Torres Strait Islander people are to be provided with opportunities to participate in the care and protection of children and young people with as much self-determination as possible.

Indicators of compliance with the standard

- People working with and caring for children and young people have access to copies of the United Nations Convention on the Rights of the Child; and where relevant to the Charter of Rights for Children and Young People in Out-of-Home Care and the UN Declaration on the Rights of Indigenous Peoples.
- Governing authorities ensure that staff understand their obligations in promoting the best interests of children and young people.
- Children and young people are given information about their rights in a manner they can understand, including the right to access their personal file.
- Children and young people are given information in a manner they can understand about access to organisations or individuals who will advocate on their behalf.

Standard 2: Providing a positive care environment

Objective: Children and young people receive appropriate care relevant to their circumstances, in a safe environment.

Standard

Children and young people are cared for in safe, nurturing environments that are suited to their specific needs.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-13, 17-22, 134, 140, 142, 143-146, 149B-K, 150, 157, 158, 160-163, 185, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 30, 31, 33-39, 40, 41, 42, 44, 48(3), 65, 87
Schedule 3 – Clauses 3, 4

Adoption Act 2000

Sections: 8, 32-39, 45A, 45B, 45G, 45H, Chapter 8

Adoption Regulation 2015

Clauses: 45, 59, 71-73, Part 6

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- All children and young people must be provided with comfortable and safe care environments.
- Agencies that work with children and young people have an obligation to keep them safe from harm.
- The permanent placement principles must guide placement decisions for all children and young people.

- The Aboriginal and Torres Strait Islander placement principles must guide placement decisions for all Aboriginal and Torres Strait Islander children and young people.
- Children and young people have the right to privacy within the care environment and to maintain their personal belongings.
- Children and young people must be provided with a range of social and recreational activities.

Indicators of compliance with the standard

- The agency cooperates with other agencies to provide an integrated service for each child or young person and their family.
- Children and young people are placed in care environments that support their need for permanency and stability.
- The care environment is assessed for safety and suitability prior to a placement commencing, including the safety of swimming pools and outdoor areas.
- There is ongoing monitoring of the safety and suitability of the care environment.
- The care environment is altered when the specific needs of a child or young person require it.
- Staff allocation in the care environment supports continuity of care and relationships.
- Children and young people have privacy in their personal space and their belongings are safe and respected.
- There is a range of age-appropriate activities and experiences in the care environment.
- Critical incidents occurring within the care environment are reported, recorded and managed within the agency's required timeframes and in accordance with mandated responsibilities.

Standard 3: Child protection and child safety

Objective: Children and young people are safe and protected from harm.

Standard

Children and young people's safety, welfare and wellbeing is actively safeguarded.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-10, 23, 24, 27, 29, 29A, 140, 154(2)(a), 157, 158, 162, 185, Chapter 16A, 248, 254

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 15, 30, 31, 33-37, 40, 41, 42, 44, 45(2) (d-f), 48, 87, Schedule 3 - Clause 3

Adoption Act 2000

Sections: 7, 8, 11, 45, 67(1)(C)&(d), 79A, 79B, 92

Adoption Regulation 2015

Clauses: 44, 58

Child Protection (Working with Children) Act 2012

Sections: 4, 6-11, 11A, 12, 13, 22-24, 26-30

Child Protection (Working with Children) Regulation 2013

Clauses: 5, 22A-D, 24, 25, 35

Ombudsman Act 1974, Part 3A

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to be safe, to live a full and healthy life and to reach their developmental potential.
- Child protection is the responsibility of all people who work with and care for children and young people.
- Children and young people must be provided with the care and protection necessary for their safety, welfare and wellbeing.
- In making decisions regarding children and young people organisations must always consider the need to protect children and young people from harm.
- The appropriate use and exchange of information is an important tool in protecting children and young people.

Indicators of compliance with the standard

- The agency is aware of its responsibilities to protect the children and young people in its care.
- The need to protect children and young people from abuse and harm underpins all areas of the agency's work with children and young people.
- The agency complies with current child protection legislation and relevant government requirements.
- People who work with and care for children and young people undergo suitability assessments prior to being engaged by the agency.
- Staff are aware of their responsibilities and reporting obligations and are supported to fulfil these obligations.
- People who work with and care for children and young people receive training on child protection and child safety.
- Children and young people are educated and supported to recognise behaviour that makes them feel unsafe or uncomfortable and are encouraged to report concerns.
- Children and young people receive support when making allegations or raising concerns.
- All reportable allegations are reported, recorded and managed within the required timeframes.

Standard 4: Identity

Objective: Children and young people have a positive sense of identity.

Standard

Children and young people have access to information and experiences which assist them to develop a positive sense of identity.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8–14, 79, 140, 142, 150, 157(4), 160, 162, 165, 167, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 14, 34, 36, 42, 65,
Schedule 3 – Clauses 3, 4

Adoption Act 2000

Sections: 7, 8, 11, 32–39, 45B, 45H, 46–51, 59, 63–65, 101, 133C, 134, 195

Adoption Regulation 2015

Clauses: 45, 59, 68, 71–73, 75, 76, 87, 93, 99

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people who cannot remain in the care of their family deserve special protection and their name, identity, language, cultural and religious ties should, as far as possible, be preserved.
- Children and young people who cannot remain in the care of their family should be cared for by people who understand and respect their religion, culture and language.

- In all actions and decisions that affect the child or young person, consideration must be given to their culture, disability, language, religion and sexuality.
- Aboriginal and Torres Strait Islander children and young people must be placed in accordance with the Aboriginal and Torres Strait Islander Placement Principles.
- Social and cultural information regarding children and young people and their families should be clearly documented in their care records.

Indicators of compliance with the standard

- Placement decisions take into consideration children and young people's cultural needs.
- Family details and personal histories are recorded and available to children and young people where appropriate.
- Children and young people's preferences to identify with particular names, places or people are respected.
- Events of significance to a child or young person and their family are celebrated.
- Children and young people have opportunities to exercise personal choices in their appearance, personal living space and life story work.
- Aboriginal children and young people and children and young people from culturally and linguistically diverse backgrounds are supported to maintain meaningful connections with community, culture, language and spirituality.
- Children and young people are supported to make informed, personal choices.
- Children and young people have opportunities to participate in activities and experiences relevant to their background, culture and identity.
- Children and young people's case plans or adoption plans include strategies to assist them to maintain meaningful connections with family, community, culture and language.
- People who work with and care for children and young people receive adequate training and support to undertake life story work.

Standard 5: Family and significant others

Objective: Children and young people remain connected to significant people and places in their lives.

Standard

Children and young people have placements which facilitate the ongoing involvement of their families and communities, and support significant attachments.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8–14, 21, 79, 84–86, 140, 142, 164, 149B–K, 150, 160, 163, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 14, 34, 36, 39, 42, 48(3), 65, Schedule 3 – Clauses 3, 4

Adoption Act 2000

Sections: 7, 8, 11, 33, 37, 45A, 45B, 45G, 45H, 46–51, 52–54, 56, 58, 59, 60–68, 72, 73(2), 74, 124, 133E, 136, 184(1), 195

Adoption Regulation 2003

Clauses: 45, 59, 71–72, 75, 76, 79, 80–85, 95, 101

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people who cannot remain in the care of their families are entitled to ongoing relationships with family, people of significance, friends and community.
- Children and young people must be given opportunities to participate in decisions regarding contact with families and other people of significance.

- Aboriginal and Torres Strait Islander people are to be provided opportunities to participate in the care and protection of their children and young people with as much self-determination as possible.
- Designated agencies must provide information regarding the placement of children and young people to parents and other people of significance to the child or young person.
- Parents have the right to ongoing information regarding the development and progress of their child.
- People who work with and care for children and young people should support opportunities for the development and maintenance of positive relationships with families and significant others.
- Parents have the right to participate in adoption decisions regarding their child, including whether to give their consent.

Indicators of compliance with the standard

- Children and young people maintain relationships with family and other significant individuals in accordance with their wishes, where it is safe and appropriate.
- Where possible and appropriate, children and young people are placed within reasonable proximity to their family and community.
- Families contribute to decision-making processes that concern their child.
- Families are provided with an appropriate level of information about their child's placement and care arrangements, in accordance with legislative requirements.
- Families are provided with ongoing information about the progress of their child.
- Where relevant and appropriate, parents and significant others are provided with appropriate supports to facilitate restoration of the child or young person to their family.
- Where guardianship or adoption orders are under consideration, families are provided with appropriate information, counselling and support to participate in decision-making processes.
- A parent's consent to adoption is sought in accordance with the legislation.

Standard 6: Participation in decision-making

Objective: Children and young people contribute to decisions relating to their lives.

Standard

Children and young people are included in decision-making processes.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8(b), 9(2)(a & f), 10–14, 79A, 140, 142, 145, 149B–K, 150, 160, 162, 165, 166(1)

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 14, 23B, 34, 42, 48(3)

Adoption Act 2000

Sections: 8, 9, 46–51, 55, 59, 63–66, 69, 73(1), 123, 127–129, 184(2)

Adoption Regulation 2015

Clauses: 75, 76, 79, 80–85

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Where children and young people are able to form their own views regarding their safety, welfare and wellbeing they must be given an opportunities to express their views freely and their views should be given due weight.
- Agencies must provide children and young people with information about decisions to be made regarding their care in a manner they can understand, and must provide opportunities for meaningful participation.

- Agencies must provide children and young people with information regarding processes for raising complaints or concerns.
- Placement decisions for Aboriginal and Torres Strait Islander children and young people must take into account whether the child or young person identifies as Aboriginal or Torres Strait Islander.
- Children and young people have the right to information regarding their proposed authorised carer or residence.
- Children and young people have the right to participate in decisions regarding guardianship or adoption arrangements.

Indicators of compliance with the standard

- Children and young people are informed of how and when decisions that affect them will be made.
- Children and young people are consulted before decisions are made and their views are recorded on file.
- Where a choice is available, children and young people may choose the level of their participation in decision-making.
- To the extent that it is possible, children and young people's preferences are reflected in decisions.
- Children and young people are provided with information in a manner they can understand regarding decisions that affect them and processes for making a complaint.
- Children and young people considering consenting to adoption or guardianship orders are provided with information, support and counselling in accordance with their age and capacity to make informed decisions.
- The consent of a child or young person to adoption or guardianship orders is received in accordance with the legislation.

Standard 7: Confidentiality and privacy

Objective: The organisation's practices are underpinned by rights to privacy and confidentiality.

Standard

Privacy and confidentiality is maintained for each child, young person and their family.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-12, 14, 29(1)(f), 29(3A-6), 105, 140, 142-144, 149B-K, 160, 162, 163, 185, 245, Chapter 16A, 248, 254

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 14, 20, 34, 37, 40, 42, 87,
Schedule 3 – Clause 5-7, 11

Adoption Act 2000

Sections: 7-9, 119, 178, 180, 180A, 186, 194

Adoption Regulation 2015

Clauses: 74

Further guidance

United Nations Convention on the Rights of the Child
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Ministerial Code of Conduct for Authorised Foster,
Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to confidentiality and privacy.
- Children and young people's personal privacy should be respected.
- Information relating to children and young people and their families must be protected from unintentional release.
- A 'need to know' principle should guide the sharing of confidential information within and outside the agency.

Indicators of compliance with the standard

- Personal information about children and young people and their families is securely stored and treated with confidentiality.
- There are systems in place to ensure that confidential information regarding children and young people and their families is protected from unintentional release.
- People working with and caring for children and young people uphold the children and young people's rights to confidentiality and privacy.
- There is provision of appropriate spaces for confidential discussions.

Standard 8: Emotional and social development

Objective: Children and young people are emotionally healthy and are supported to achieve their developmental potential.

Standard

Children and young people are cared for in placements that meet their specific emotional, social and behavioural needs.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-13, 21(2), 22, 140, 142-144, 146, 150, 157, 158, 160, 162, 163, 175, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 25, 26, 34, 36, 39-42, 44, 45(2)(d-f), Schedule 3 - Clauses 3, 4

Adoption Act 2000

Sections: 7-9, 45, 45F, 46-51, 59, 63, 90, 91

Adoption Regulation 2015

Clauses: 45, 59, 68, 75, 79

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to meet with other children and young people and participate in social, recreational and leisure activities.
- Children and young people must be cared for in environments that support their social and emotional development.
- People who work with and care for children and young people have an obligation to ensure children and young people are provided with services to support their development.

Indicators of compliance with the standard

- Children and young people's emotional and social development and behavioural needs are assessed, recorded and addressed.
- People working with and caring for children and young people are provided with information, resources and support to meet the specific needs of each child or young person.
- People working with and caring for children and young people share information about the child or young person's social and emotional development as required and where appropriate, with the consent of the child or young person.
- The social and emotional development of children and young people in out-of-home care is reviewed regularly, and at least annually.
- Children and young people are supported to establish and maintain peer relationships.
- Children and young people have opportunities to participate in age appropriate social and recreational activities.
- Adoptive parents and guardians are provided with information regarding community resources to support children and young people's social and emotional development.

Standard 9: Health

Objective: Children and young people are healthy and have access to appropriate health and support services.

Standard

Children and young people's health and developmental needs are addressed.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-12, 21(2), 22, 79, 140, 142-144, 146, 150, 157, 158, 160, 162, 163, 165, 169, Chapter 9, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 25, 26, 34, 36, 38, 40-42, 44, 45(2)(f), 65

Adoption Act 2000

Sections: 7-9, 90, 91

Adoption Regulation 2015

Clauses: 45, 59, 68, 75, 79

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to live a full and healthy life.
- People who work with and care for children and young people have an obligation to ensure that children and young people receive appropriate services to address their medical needs and support healthy development.
- People who care for children and young people must be provided with all necessary information to assist them in providing appropriate care.
- Health and medical information about children and young people and their families should be clearly documented in their care records.

Indicators of compliance with the standard

- The health and development needs of children and young people in out-of-home care are monitored and regularly reviewed, at least annually.
- Identified health, medical, dental, optical, auditory, nutritional, psychological and developmental needs are addressed as required.
- Adoptive parents and guardians are provided with information regarding community resources to meet the health and developmental needs of children and young people.
- People working with and caring for children and young people share information about the child or young person's health and development as required and where appropriate, with the consent of the child or young person.
- Children and young people are provided with age and developmentally appropriate information about access to health and development support services.
- Aboriginal children and young people are supported to access culturally appropriate health services where possible.

Standard 10: Education

Objective: Children and young people's educational outcomes match those of their peers in the general population.

Standard

Children and young people have opportunities to realise their education potential.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-12, 21(2), 22, 79(2)(c), 140, 142, 146, 150, 157, 160, 162, 163, 165, 169, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 34, 36, 39, 40(2)(b)(i), 42

Adoption Act 2000

Sections: 7-9, 90, 91

Adoption Regulation 2015

Clauses: 45, 59, 68, 75, 79

Further guidance

United Nations Convention on the Rights of the Child

Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to an education suited to their abilities.
- People who work with and care for children and young people have an obligation to ensure that children and young people are provided with the services and supports necessary to support their educational development.
- Children and young people must be cared for in environments that support learning and assist the child or young person to engage in education.

Indicators of compliance with the standard

- Children and young people attend an appropriate educational institution.
- Children and young people have access to a range of educational resources to support their learning and have opportunities beyond the school day to engage in activities which promote learning.
- Children and young people in out-of-home care have their progress at school or other educational institutions assessed and reviewed, at least annually.
- Children and young people are provided with additional learning support in cases where a review or an education institution has identified a need.
- People working with and caring for children and young people engage with schools or other educational or vocational institutions to support the child or young person's education.
- People working with and caring for children and young people share information about the child or young person's educational progress as required and where appropriate, with the consent of the child or young person.

Standard 11: Behaviour support

Objective: Children and young people are supported to manage their own behaviour.

Standard

Children and young people have effective behaviour support and management plans where necessary.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-10, 27, 21(2), 22, 140, 142-144, 146, 150, 157, 158, 162, 175, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 25, 26, 34, 36, 40-42, 45, Schedule 3 – Clause 3

Adoption Act 2000

Sections: 7-9, 90, 91

Adoption Regulation 2015

Clauses: 45, 59, 68, 75, 79

Further guidance

United Nations Convention on the Rights of the Child

Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- People who care for children and young people must be provided with information, training and support to assist them in providing appropriate behaviour management and support to children and young people.
- Approaches to behaviour management and support should include strategies to encourage positive behaviour.

- People who work with and care for children and young people must follow the directions of the agency regarding behaviour management and support.
- The use of psychotropic medication for children and young people in out-of-home care must be supported by behaviour support plans.

Indicators of compliance with the standard

- The agency has a behaviour management policy that articulates its views on behaviour management practices and the administration of psychotropic medication.
- Behaviour support and management practices have a positive focus and are aimed at developing children and young people's capacity to manage their own behavior.
- Behaviour support and management plans for children and young people in out-of-home care are developed by suitably qualified professionals in consultation with the child or young person.
- Behaviour support and management plans for children and young people in out-of-home care are reviewed and updated regularly using current information from relevant professionals.
- Plans and implementation strategies are communicated to all relevant parties.
- The agency has clear protocols regarding the use of police as a behaviour management strategy or in response to risk taking behaviour by children and young people.
- People working with and caring for children and young people are trained and supported to manage challenging behaviours and to implement behaviour support and management plans.
- People caring for children and young people are supported to manage their own feelings and responses to children and young people's behaviour and to understand how previous experiences can manifest as challenging behaviour in children and young people.

Standard 12: Living independently

Objective: Young people successfully transition to independent living.

Standard

Young people have leaving care plans that support their transition from out-of-home care.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-10, 12, 14, 21(2), 22, 140, 142, 146, 149B-K, 150, 157, 160, 161(3), 162-170A, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 13, 14, 34, 36, 42, 65

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Young people between the ages of 15 and 25 years are entitled to services and assistance to support their transition from out-of-home care to independent living arrangements.
- Young people are entitled to receive services that meet their particular needs including financial assistance and assistance in securing appropriate accommodation, setting up a home, education and training, employment, legal advice, and accessing health and counselling services.
- Young people must have a leaving care plan, before they leave out-of-home care, detailing the supports and services to be provided to the young person.
- Leaving care plans should be developed in consultation with the young person, their family, their carers and other people who are significant in the life of the young person.

Indicators of compliance with the standard

- Young people are encouraged and assisted to develop independent living skills.
- Strategies for young people to manage everyday issues in their lives are included in leaving care plans.
- Young people have leaving care plans which include support for accessing accommodation and financial assistance.
- Upon leaving care, young people are provided with their original identity documents and life story material and are provided with information on how to access their files, if they wish.
- Upon leaving care, young people are provided with information about their entitlements to continued support and assistance, and how to access these services.
- After they have left care young people are provided with additional support or are referred to a relevant service, where their circumstances require it.



Section 2:

Casework practice to support care

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Standard 13: Initial assessment and permanency planning

Objective: Children and young people are in stable and secure placements that promote their safety, welfare and wellbeing.

Standard

Children and young people receive an initial assessment based on their best interests and are placed according to their identified needs, the permanent placement principles and where relevant, the Aboriginal and Torres Strait Islander Placement Principles.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-14, 86, 140, 142-145, 149B-K, 160, 162, 163, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 14, 34, 37, 38, 42, 65,
Schedule 3 – Clauses 2, 3, 4

Adoption Act 2000

Sections: 7-11, 24-30, 32-39, 46-51, 90, 91, 201

Adoption Regulation 2015

Clauses: Part 3, Part 4, 65-67, 68-73, 75, 76

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- All actions and decisions regarding the placement of children and young people must be guided by the permanent placement principles and where relevant, the Aboriginal and Torres Strait Islander placement principles.
- The primary means of providing for the safety, welfare and wellbeing of children and young people is by providing them with long-term, safe, nurturing, stable and secure care arrangements.
- People caring for children and young people should be provided with information regarding the child or young person's care needs to assist them in providing appropriate care.
- The views of children and young people must be taken into account when making placement decisions.
- Where appropriate, parents and other people of significance to the child or young person should have opportunities to contribute to placement decisions.

Indicators of compliance with the standard

- The initial assessment of a child or young person occurs prior to the placement, or immediately after for crisis or emergency placements.
- The initial assessment considers the reason for the placement, family details, social and medical history and the cultural identity of the child or young person.
- Placement matching decisions are informed by an assessment of the capacity of the proposed placement to meet the identified needs, interests and wellbeing of the child or young person.
- Placement decisions take into account the needs of children or young people already in the care environment.
- Where residential care is considered for a child under the age of 12 years, a placement rationale is documented which sets out and reviews alternate care arrangements considered prior to the placement in residential care.
- The permanent placement principles are applied to all placement decisions.
- The Aboriginal and Torres Strait Islander Placement Principles are also applied to all placement decisions for Aboriginal and Torres Strait Islander children and young people.
- People working with and caring for children and young people receive the necessary information, resources and support to provide appropriate care.
- Parents considering adoption for their child are supported wherever possible to participate in the selection of the approved, adoptive family.

Standard 14: Case planning and review

Objective: Children and young people have stable, secure placements that meet their changing needs.

Standard

Case planning supports stable placements that are responsive to the changing needs of children and young people.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-13, 21(2), 22, 78A, 84-86, 140, 142-146, 149-149A, 149B-K, 150, 160-163, 165-167, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8-11, 34, 36-40, 42, 65,
Schedule 3 – Clause 3

Adoption Act 2000

Sections: 7-9, 26-30, 90, 91, 201

Adoption Regulation 2015

Clauses: 75, 76, 131

Further guidance

United Nations Convention on the Rights of the Child
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Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people in out-of-home care must have their care arrangements reviewed regularly and following a significant change in the placement or in the child or young person's circumstances.
- Children and young people's case plans must include the necessary supports for providing long-term, secure care arrangements.

- Children and young people, their families and the people caring for them must be given opportunities to participate in case planning processes.

Indicators of compliance with the standard

- A designated worker is allocated to coordinate a case plan for each child or young person.
- The transition of children from emergency or short-term placements to their long-term care arrangements is well planned and appropriate to the child's age and maturity.
- Case plans include a permanent placement plan for each child or young person, with clear tasks to achieve permanency planning goals.
- Plans for moving in care are based on the continuity of existing health, education and social arrangements and the child or young person's significant relationships.
- A thorough assessment of the child or young person's individual circumstances and best interests, including educational stability, health care, cultural needs and social arrangements, the views of the child or young person and where appropriate his or her family are considered when planning for permanency.
- Case planning includes a review of all aspects of the child or young person's care and his or her changing needs and interests, and all participants are provided with a copy of the updated case plan.
- Children and young people in out-of-home care receive a regular, formal review of their case plans, at least annually.
- Case meetings or other planning processes include all significant parties, and their views (including dissenting views) are recorded.
- Decisions are recorded on each child or young person's case plan and the records include the timeframe and person responsible for planned actions.
- Leaving care plans are developed for each young person prior to leaving care and planning for leaving care begins when the child or young person reaches 15 years of age.

Standard 15: Casework and monitoring placements

Objective: Children and young people have stable placements that meet their changing needs.

Standard

Children and young people are monitored and supported in their placements, according to their care arrangements.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-13, 78A, 84-86, 137(3) and (4), 140, 142-146, 149-149A, 149B-K, 150, 160-163, 165-167, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 34, 37-40, 42, 65, Schedule 3- Clause 4

Adoption Act 2000

Sections: 7-9, 26-30, 90, 91, 201

Adoption Regulation 2015

Clauses: 75, 76, 131

Further guidance

United Nations Convention on the Rights of the Child
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Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Placement supervision and support is a key means by which an agency fulfils its obligation to protect and promote the safety, welfare and wellbeing of children and young people.
- Agencies must monitor the suitability of children and young people's care arrangements, in order to support permanent care arrangements.
- It is necessary to monitor placements prior to guardianship or adoption orders being made to ensure that guardianship or adoption continues to be in the child or young person's best interests.
- The degree of placement supervision will depend on the child or young person's care arrangements.
- People caring for children and young people must be provided with information to assist them in providing appropriate care.

Indicators of compliance with the standard

- Monitoring practices include regular contact and consultation with children and young people and the people caring for them.
- People working with and caring for children and young people are supported to provide permanent and stable placements.
- Caseworkers act to resolve issues and concerns in a timely manner to avoid disruptions to placements.
- Where appropriate, respite arrangements are provided to support placements.
- Where an agency believes respite or another support or action is necessary to support the placement but is refused by the carer, a placement review is undertaken.
- Changes to placement arrangements are kept to a minimum.
- Children and young people are supported through all placement changes, whether planned or unplanned.
- All relevant information about a child or young person is provided to the designated agency that is assuming responsibility for the child or young person, and to the people who will care for the child or young person.

Standard 16: Post-adoption support

Objective: People affected by adoption receive appropriate information and support.

Standard

After the adoption order is made, support is available to children and their birth and adoptive families.

Legislation

Adoption Act 2000

Sections: 7-10, 46-51, Chapter 8, 201

Adoption Regulation 2015

Clauses: 131, Part 6

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in
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Ministerial Code of Conduct for Authorised Foster,
Relative and Kinship Carers

Key requirements in the legislation

- Adopted children, their parents and birth families are entitled to access adoption information.
- Agencies may provide ongoing financial or other supports following the making of an adoption order.

Indicators of compliance with the standard

- Information is provided to children and young people, their adoptive family and their birth family regarding post-adoption support services.
- Where relevant, referrals are made to post-adoption support services or other specialist services.
- The support agreed in the adoption plan is implemented.
- People affected by adoption are provided with support when accessing their adoption information.
- Adoption information is provided in accordance with relevant legislation and guidelines.

Standard 17: Documentation and record keeping

Objective: Children and young people have access to records of their care arrangements.

Standard

Children and young people have a permanent record of their histories which contains all relevant documentation.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 14, 142, 149B–K, 160, 162, 165, 167–170, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 13, 14, 37(a), 42, 65, Schedule 3 – Clause 4

Adoption Act 2000

Sections: 7, 8, Chapter 7, Chapter 8, 194

Adoption Regulation 2015

Clauses: 68, 87, 88, Part 6, 127, Schedule 1 – Clauses 7 and 10

Further guidance

United Nations Convention on the Rights of the Child

Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to access their records.
- Agencies must retain records regarding the social and medical history, development and identity of children and young people.
- Agencies responsible for the care of children and young people should share relevant information to promote the safety, welfare and wellbeing of children and young people.

Indicators of compliance with the standard

- All available information, documents and records about a child or young person are collected and maintained.
- Information relating to the safety, welfare and wellbeing of children and young people is shared with other organisations responsible for the care of the child or young person.
- Records pertaining to a child or young person and their family are securely maintained for a time specified by relevant legislation.
- Children and young people have access to their information when it is requested.
- Children and young people are provided with support when accessing information about their personal and family histories.
- Upon leaving care, young people are provided with their original identity documents and life story materials and copies of any other relevant documents.



Section 3:

People who work with and care for children and young people

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Standard 18: Recruitment of staff and volunteers

Objective: Children and young people are cared for by skilled and caring adults.

Standard

People who work with children and young people have appropriate skills and experience and are selected through fair and consistent processes.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8–13, 134, 137, 140, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 30, 31, 33–38, 41, 42, 48(3), 65,
Schedule 3 – Clause 3

Adoption Act 2000

Sections: 7–9

Adoption Regulation 2015

Clauses: Division 4, 78, Schedule 1 – Clause 10

Child Protection (Working with Children) Act 2012

Sections: 4, 6–11, 11A, 12, 13, 22–24, 26–30

Child Protection (Working with Children) Regulation 013

Clauses: 5, 22A–D, 24, 25, 35

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to receive quality services, relevant to their culture and background.
- Pre-employment checks are vital to ensure that people who work with children and young people are suitable to do so.

- Agencies must ensure that staff and volunteers are safe and suitable and have the necessary knowledge and skills to work with children and young people.
- Recruitment and selection processes must include mandatory probity checks.

Indicators of compliance with the standard

- Staff have appropriate qualifications, personal qualities, skills and experience to perform their role.
- There are strategies to recruit staff and volunteers from culturally and linguistically diverse backgrounds.
- Staff and volunteers are provided with sufficient and current information about their responsibilities within the organisation to allow them to form their own views and decisions about working with the agency.
- Recruitment processes and employment conditions are fair and transparent and comply with relevant legislation and industry awards.
- Appropriate pre-employment checks are undertaken, including reference checks with previous employers.
- Working With Children Check requirements are met for each staff member or volunteer in a child-related role.
- There are appropriate processes to manage staff members and volunteers who receive a Working With Children Check bar or an Interim Working with Children Check bar.
- Comprehensive records are maintained for all staff and volunteers which include the rationale for employment, personal details, performance management history and details of any allegations or complaints against the person and other information relevant to the employment of the person.
- Staff and volunteer employment records are stored securely and treated with confidentiality.
- Staff and volunteers are aware of their right to access information about themselves held by the agency, and can access that information on request.

Standard 19: Assessment and selection of carers, guardians and adoptive parents

Objective: Children and young people are cared for by skilled and caring adults.

Standard

Appropriately skilled and experienced carers, guardians and adoptive parents are selected through fair and consistent processes.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8–13, 134, 137, 140, 245, Chapter 16A, 248

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 8, 30, 31, 33–38, 41, 42, 48(3), 65,
Schedule 3 – Clause 3

Adoption Act 2000

Sections: 7–9, 10, 11, 26–31, Part 2, Part 3, Part 3A, 90, 91, Chapter 10,

Adoption Regulation 2015

Clauses: Part 3, Part 4, 68–79, 126, 127,
Schedule 1 – Clause 12

Child Protection (Working with Children) Act 2012

Sections: 4, 6–11, 11A, 12(1)(a), 13, 22–24, 26–30

Child Protection (Working with Children) Regulation 2013

Clauses: 5, 22A–D, 24, 25, 35

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Children and young people have the right to receive quality care, relevant to their culture and background.
- Children and young people must only be placed with care givers who have been assessed and authorised as safe and suitable to provide care.

- The assessment of kinship carers may require a different approach to foster carer assessments but must still include mandatory pre-authorisation checks.
- Assessment of prospective adoptive parents or guardians should include consideration of their capacity to care for children and young people independently of the agency.

Indicators of compliance with the standard

- The agency has a recruitment strategy relevant to its circumstances including the cultural background of children and young people in its care.
- The assessment and authorisation of carers, guardians and adoptive parents is undertaken in accordance with legislative requirements and includes mandatory pre-authorisation checks.
- The agency has appropriate processes to manage carers, guardians, adoptive applicants or adult household members who receive a Working With Children Check bar or an Interim Working With Children Check bar.
- Agencies that provide both out-of-home care and adoption services have processes in place to support the dual authorisation of foster carers and adoptive applicants.
- Information regarding the authorisation of carers and their household is recorded on the Carers Register in accordance with the relevant guidelines.
- Information regarding the approval of adoptive applicants is recorded on the Adoption Register.
- Comprehensive records for each carer, guardian or adoptive applicant are maintained, including details of the rationale for authorisation, personal details, the details of any allegations or complaints against the person and other information relevant to the engagement of the person.
- Personal information about carers, guardians and adoptive applicants is securely maintained and treated with confidentiality.
- Carers, guardians and prospective adoptive parents are aware of their right to access information held about them by the agency and can access that information on request.

Standard 20: Training and development

Objective: Children and young people are cared for by skilled and caring adults.

Standard

People who work with and care for children and young people have appropriate training for their role and are provided with opportunities for professional development.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8, 9, 11–13, 134, 140

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 30, 31, 34, 36, 41, 48(3), 65,
Schedule 3 – Clauses 2, 3

Adoption Act 2000

Sections: 7–9

Adoption Regulation 2015

Clauses: 39, 54

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in
Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster,
Relative and Kinship Carers

Key requirements in the legislation

- Agencies are responsible for ensuring that the needs of children and young people in its care are met.
- Agencies must provide pre-employment training to people who care for children and young people to prepare them for their caring role.

Indicators of compliance with the standard

- People who work with and care for children and young people are provided with training to assist them in meeting children and young people's health, education, social, emotional and cultural needs.
- The agency has a planned approach to training.
- Planning includes initial and ongoing training and makes provisions for additional training where required to meet the changing needs of children and young people.
- People who work with children and young people receive training at the commencement of their employment.
- People who care for children and young people participate in training before their final authorisation or approval.
- Training for authorised carers and adoptive parents corresponds to the type of care they provide.
- A range of training opportunities is provided including on-the-job training, internal workshops and external training opportunities.
- There are opportunities to request further training and professional development.
- An up-to-date register is maintained of the training undertaken by each person who works with and cares for children and young people.

Standard 21: Supervision and support

Objective: Children and young people are cared for by skilled and caring adults.

Standard

Staff, carers and adoptive parents have supervision and support which is useful and timely to facilitate better outcomes for children and young people.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8, 9, 11–13, 137, 140

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 34, 36, 37, 39, 40, 41, 42, 48(3)

Adoption Act 2000

Sections: 7, 8, Part 6, 95, 96

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- Agencies are responsible for ensuring that the people who work with and care for children and young people are meeting their care needs.
- Decisions regarding the supervision of people caring for children and young people should be made in consideration of the care arrangement.
- People who care for children and young people have the right to raise complaints or request a review of an agency's decisions regarding their caring role.

Indicators of compliance with the standard

- Supervision is regular and planned.
- Supervision processes include opportunities for discussion, planning and skill development.
- The agency is responsive to the needs of people caring for and working with children and young people and acts to resolve issues and concerns in a timely manner.
- People working with and caring for children and young people are supported to manage difficult situations and are provided with practical assistance if required.
- The agency clearly articulates its expectations regarding the behaviour and conduct of people who work with and care for children and young people.
- Prospective adoptive parents and guardians are supported to develop independence in their caring role.
- Carers providing short term placements in preparation for restoration are supported based on an understanding of their particular needs.
- People working with and caring for children and young people are provided with information about organisations or individuals that will assist them with grievance or complaint procedures and are referred to an independent advisor where appropriate.



Section 4:

Child safe organisations

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Standard 22: Governance

Objective: Agencies operate legally and ethically and in the best interests of children and young people.

Standard

The agency establishes and maintains a governing authority or committee with policies, systems and procedures that demonstrate accountability and good governance.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8–10, 134, 140, 141, 162(3), 172, 245, 258, 258AA

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: 7, 20, 45–68, Schedule 3

Adoption Act 2000

Sections: 7–10, Chapter 3, 84, 87, 88, 91, 175, 177, 178, Chapter 10, 206

Adoption Regulation 2015

Clauses: Part 2, Part 2 Division 4, 125, 126, 127, Schedule 1

Child Protection (Working with Children) Act 2012

Sections: 4, 6–11, 11A, 12, 13, 22–24, 26–30

Child Protection (Working with Children) Regulation 2013

Clauses: 5, 16B, 22A–D, 24, 25, 35

Further guidance

United Nations Convention on the Rights of the Child
Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- The governing authority has a duty of care to children and young people and employees of the organisation.
- Organisations must operate in a legal and ethical manner.

- Agencies must comply with the conditions of accreditation.
- The governing authority is responsible for ensuring that services are provided in accordance with legislative requirements.

Indicators of compliance with the standard

- The agency maintains current information about the members of the governing authority including biographical information, their interest in the agency, and their contribution to the balance of the governing authority membership.
- The governing authority maintains systems and procedures for the administration and management of the agency.
- There are clear delegations and lines of responsibility throughout the agency.
- The governing authority is aware of its reporting obligations and complies with relevant legislation.
- There is a well-defined and transparent recruitment process for members of the governing authority, which clearly sets out roles and responsibilities.
- The governing authority employs or has access to people with expertise in out-of-home care or adoption legislation and contemporary practices.
- The agency has a clearly defined process for managing conflicts of interest.
- The governing authority ensures all people working with and caring for children and young people have the necessary supervision, resources and support to fulfil their role.
- The governing authority has processes to ensure that suitable people are appointed to the principal officer role.
- The agency nominates appropriate individuals within the organisation to be notified of a Working With Children Check bar or interim Working With Children Check bar in respect of any staff, volunteers, carers, adoptive applicants or their adult household members.
- The principal officer and members of the governing authority comply with Working With Children Check requirements.
- The governing authority ensures that the agency is promoted within the community and maintains connections with other service providers and organisations in the sector.

Standard 23: Strategic planning and evaluation

Objective: Agencies strive to provide the best possible service to their clients.

Standard

The governing authority strives for continuous improvement through ongoing planning, evaluation and continuous improvement processes.

Legislation

Children and Young Persons (Care and Protection) Act 1998

Sections: 8-10, 134, 141, 162(3)

Children and Young Persons (Care and Protection) Regulation 2012

Clauses: Schedule 3 – Clause 3

Adoption Act 2000

Sections: 7-10, 175

Adoption Regulation 2015

Clauses: Schedule 1

Further guidance

United Nations Convention on the Rights of the Child

Charter of Rights for Children and Young People in Out-of-Home Care in NSW

Ministerial Code of Conduct for Authorised Foster, Relative and Kinship Carers

Key requirements in the legislation

- The governing authority is responsible for ensuring that the needs of children and young people in the care of the agency are met.
- Agencies are responsible for providing appropriate care environments and services that foster children and young people's health, development, spirituality, self-respect and identity.

Indicators of compliance with the standard

- Strategic planning, evaluation and continuous improvement systems are in place.
- The focus of strategic planning and continuous improvement is to improve outcomes for children and young people.
- The plans and systems are evaluated and updated regularly and any changes are reflected in practice.
- The governing authority undertakes an assessment of the agency's capacity to maintain ongoing compliance, prior to expanding its provision of services.
- The governing authority seeks opportunities to participate in whole of sector improvements and initiatives, where these are relevant to the services they provide.



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