

## **Child Protection Inquiry Questions on Notice**

General Purpose Standing Committee No. 2

Department of Family and Community Services

Hearing: Tuesday 27 September 2016

**Answers due by: Thursday 27 October 2016**

**1. Is there official guidance on where you set the line? You might not think that the carers are providing the best possible care that you could provide but is there guidance on how far you are supposed to micromanage the parental responsibilities of the caring parents?**

When a child is placed in out-of-home care, supervisory responsibility may rest with either Family and Community Services (FACS) or a Non Government Organisation depending on who the child is placed with.

As per Section 140 of the [Children and Young Person \(Care and Protection\) Act 1998](#), the agency with supervisory responsibility is responsible for overseeing placement. Section 146 provides for the authority of an authorised carer to exercise 'daily care and control', with specific permissions and consents outlined in this Section.

FACS has a number of procedures that outline the responsibility of FACS caseworkers and managers in supervising placements and meeting the needs of children in out-of-home care. Case planning is the primary process for outlining responsibilities and making decisions about the care of a child.

FACS will publish a new set of procedures at the end of November 2016 that further clarify the role of FACS in supervising placements and supporting carers to exercise daily care and control.

The *Children and Young Persons (Care and Protection) Regulation 2012* provides for the Minister to issue a Code of Conduct for Authorised Carers and requires authorised carers to comply with the Code of Conduct as a condition of their authorisation. The Code of Conduct aims to foster stable and positive relationships between the child or young person, their carer and the designated agency.

FACS has produced a resource for authorised carers, *Caring for kids – A guide for foster, relative and kinship carers*, which has a section on decision making which is provided to FACS carers at authorisation.

Links to relevant policies and procedures are provided below:

- [Code of Conduct for authorised foster relative and kinship carers](#)
- [Caring for kids: A guide for foster, relative and kinship carers](#)
- [Caring Together – a guide on resolving concerns for foster, relative and kinship carers of children and young people in statutory care in NSW.](#)
- [OOHC Pathway: A carer's guide](#)
- [The OOHC Health Pathway: A caseworker's guide](#)
- [Medical and dental consent tool](#)
- [Consent for medical and dental treatment of children and young people in statutory OOHC](#)
- [Education planning for children and young people in OOHC: carer's guide](#)

In addition, the following documents are attached:

1. Case planning and review – current casework practice procedure
2. Excerpt from authorised carers procedure – authorised carers supervision, participation and responsibilities
3. Administrative functions of parental responsibility – casework practice procedure

**Question from Mr David Shoebridge**

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**2. Can you provide to the Committee, the rationale or a policy in place that says you must weigh up the risk of moving the child from a school, the risk in breaking up the siblings, the risk in removing from their parents and the risk in moving from the safe environment**

A FACS decision to take a child from their parents is based on the outcome of a safety assessment that has determined that a child is unsafe to remain in the care of their parents, even with additional interventions in place. The Children's Court makes the ultimate decision about whether the child's safety is at such risk that they are not able to live with their parents.

The [Permanency Principles](#) set out in the *Children's and Young Person's (Care and Protection) Act 1998* require caseworkers to assess restoration as the priority option for permanency.

When a child is taken from their parents, the caseworker conducts placement matching, and where appropriate, gives first preference to a placement with relatives or kin.

FACS decisions about a child's placement takes into consideration a range of factors, including the location of the placement, so that the child can have contact with their family and can remain in the same school, where possible and appropriate. FACS [Placement of Siblings in out-of-home-care policy](#) directs staff to place siblings together wherever possible.

Casework decisions involve the weighing up of various and complex risks to a child's wellbeing. Decisions are made in the context of individual and group supervision and as part of case planning with the family and other services involved.

**Question from the Hon. Daniel Mookhey**

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**3. Of the 41% new entries placed with kin/relative, how many are Indigenous children and young people**

Of the 3,048 children and young people entering out-of-home care for the first time during 2014/15, 1,231 (or 40.4%) were placed with relatives or kin (at entry), including 479 Aboriginal and Torres Strait Islander children and young people.

**4. What percentage of the 2,000 or so caseworkers have accessed these in-service training programs**

All (100%) FACS caseworkers have accessed at least one in-service training program. Between 2012 and 2015, 2,709 caseworkers undertook various learning programs related to practice skills, including:

- Accidental Counsellor
- Mental Health First Aid
- Motivational Interviewing
- Practice First Group Supervision
- Practice First Motivational Interviewing
- Predicting & Managing Occupation Violence
- Safety Planning for Adolescents

FACS Office of the Senior Practitioner (OSP) regularly coordinates a range of learning opportunities for FACS practitioners (caseworkers, their managers and casework specialists) as well as practitioners from across the sector, including seminars and conferences.

*Research to Practice* seminars are held approximately four times a year. They focus on the importance of research and on informing and improving consistency in practice. This year, these seminars were usually attended by 200 – 400 practitioners, and some practitioners live stream the event online. FACS publishes notes from the seminar online for all practitioners to access.

FACS OSP also holds a Practice Conference every year, to help bring FACS child protection practitioners from across NSW together.

This year, 625 practitioners attended the conference, with almost 1,000 people streaming online. Videos and presentations from each conference are available on the FACS intranet.

**Questions from Mr David Shoebridge**

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**5. Have you benchmarked the rates of removals in New South Wales against other jurisdictions in Australia and other comparable jurisdictions in the rest of the world?**

Data is not comparable with other jurisdictions due to different legislation, policy and practice. The comparability issues are further compounded when comparison is made to other countries.

As stated in the transcript, the rate of children in out-of-home care in NSW at 30 June 2015 was 9.9 per 1,000 children aged 0-17 years.

However, the number of children admitted to out-of-home care is a closer proxy for “rate of removal”. During 2014/15, the rate of children admitted to out-of-home care in NSW is 2.0 per 1,000 population. Notwithstanding comparability issues, this rate is similar to Queensland, Western Australia, South Australia and Tasmania. ACT and Victoria have slightly higher rates than NSW. Northern Territory had the highest rate of children admitted to out-of-home care.

**6. Tell me now about benchmarking. How does New South Wales compare with comparable jurisdictions around the world?**

Data is not comparable with other jurisdictions due to different legislation, policy and practice. Comparability issues are compounded for other countries.

**7. How does NSW compare with the rest of the world when you include the other huge chunk that are being removed through the Children's Court but going into kinship?**

NSW data is not comparable with other jurisdictions due to different legislation, policy and practice, service systems being designed differently and different definitions of terms such as out-of-home care and kinship care.

**Questions from the Hon. Matthew Mason-Cox**

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**8. Of the proportion of ROSH matters closed, can you give us the statistics of those cases that have come back through another risk of serious harm report?**

During 2014/15, 25.5% of the children and young people who had their case plan closed for any reason were re-reported at risk of significant harm within 12 months.

This is a different count to the Premier's Priority that measures the percentage of children and young people (aged 0-17) re-reported at risk of significant harm within 12 months of having their case plan closed, following a face to face assessment, with the closure reason 'case plan goal achieved' i.e. the family had achieved the goals in their agreed case plan.

**Question from the Hon. Daniel Mookhey**

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**9. We heard from the head of the child protection team that the helpline told them to ask the principal to conduct the interview to ascertain the meaning of the term "rape". Did you hear that evidence, by any chance? We are trying to understand the extent to which the helpline—or not necessarily the helpline but post the point of reporting—the extent to which investigations and assessments are not being prepared properly and occasions on which the burden is in fact being pushed back onto reporters as a result of resource scarcity. Can you explain to us what monitoring devices are around these interactions? What quality framework is there around these interactions?****The Joint Investigation Response Team**

Joint Investigation Response Teams (JIRTs) are made up of FACS, NSW Police and NSW Health professionals who undertake joint investigation of child protection matters.

Joint investigations link the risk assessment and protective interventions of FACS with the criminal investigation conducted by Police.

The JIRT Referral Unit (JRU) is based at the Child Protection Helpline. Its role is to make the best decision on the information available and within designated response timeframes. JRU reviews and assesses reports referred to the unit to determine if they meet JIRT criteria.

In 2015/16, 8,979 reports were referred to the JRU and of these, 4,500 were accepted for a JIRT response.

There are occasions where the JRU management team, which comprises a FACS Manager Client Services, Police Senior Sergeant and Health Manager, determine that additional information should be sought from the reporter to clarify the context or other aspects of the report.

The relationship of the reporter to the child is taken into consideration when seeking clarification. The reporter is not directed to talk to the child, but is asked for additional available information such as the context of the disclosure, the child's cognitive capacity or their understanding of the words used in their disclosure. If that information is not sufficient, and only when possible and appropriate, reporters are asked to engage the child and ask clarifying questions on the reported information.

If the reporter does not have the necessary information, the JRU will assess the report based on the available information.

All information gathered is then assessed to determine if the allegation constitutes a criminal offence and thereby a joint response. Where there is insufficient information to warrant criminal investigation, the matter is managed by a FACS Community Services Centre.

### **Monitoring devices**

The JRU management team jointly determines what, if any, clarifying information is required and jointly reviews the additional information provided.



Each report processed by the JRU is either accepted for a JIRT (tri-agency) response, or referred to a FACS Community Services Centre for assessment and investigation.

### **The Helpline**

All Helpline caseworkers are trained and use a Structured Decision Making tool - Screening and Response Priority Tool (SCRPT). The tool is applied to determine if the reported concerns meet the risk of significant harm threshold and what response priority is required by FACS.

For matters that are screened as 'non risk of significant harm' (non-ROSH), Helpline staff will provide information about services which may assist families and reporters, for example, referral to the Domestic Violence Line or information about Family Referral Services. Mandatory reporters with access to a Child Wellbeing Unit (CWU) are advised by the Helpline caseworkers to contact their CWU for assistance and advice about non-ROSH reports they have made to the Helpline.

For non-ROSH matters, the SCRPT policy asks caseworkers to consider if the non-ROSH matter requires an additional response in line with FACS policy (e.g. Hague Convention matters, Disaster Welfare, Underage Forced Marriage). Where an additional response is required, the caseworker sends the non-ROSH report to the relevant unit for their information.

Some reports meet the definitional threshold for ROSH but do not require FACS to investigate or intervene, for example, where the information contained in the report:

- is virtually identical to that made about the same child in a report that has already been received (duplicate report)
- is about an alleged incident that occurred more than one year ago and the person of interest no longer has access to the child and where the child is currently safe and no significant risk factors are present

- indicates that the child/young person has no contact with the person of interest and will not do so in the future
- indicates that it is a criminal matter that will be handled by Police.

Helpline staff always check the Key Information Directory System (KiDS) for relevant records pertinent to the reported child/young person, and make a holistic assessment of the risk to the child based on all information received from the reporter and gathered during the assessment process.

All decisions about non-ROSH matters are reviewed, quality assured and approved by a Helpline team leader. The team leader's role is to monitor the caseworker's adherence to legislation.

Helpline caseworkers are able to listen to recordings of their calls for their own training purposes and self-evaluation.

The Helpline Practice Support Unit regularly conducts evaluations and reviews of reports and feedback provided to the Helpline caseworker, team leader and manager. Any identified systemic practice issues are addressed by providing staff with practice guidance, coaching and briefing/training sessions as required.

**Questions from Mr David Shoebridge**

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**10. There are eight case studies in submission No. 67 from the Catholic Education Commission. Each of them is as troubling in their own way. Perhaps you might be able to respond on notice to each of those eight case studies.**

FACS has made contact with the Catholic Education Commission (CEC) and CatholicCare to discuss respective roles regarding escalation pathways and the seeking of advice. The Executive Director Community Services Statewide Services is meeting with CatholicCare and the CEC to discuss these issues and build interagency relationships.

Both the CEC and CatholicCare have committed to providing the Executive Director Community Services Statewide Services identifying details about each of their case studies by the end of October 2016. Once provided, FACS will review these matters and develop appropriate strategies to address the issues raised and minimise recurrence.

**Question from the Hon. Daniel Mookhey**

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**11. Provide full statement of the full assurance framework for interaction between the reporter and FACS Helpline and post the point of reporting**

Please refer to response above.

**Question from the Hon. Dr Peter Phelps**

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**12. Do you have any statistics on children who have been removed subsequently having to have their own children removed at a later date—in other words, intergenerational removal?**

Between 1 July 1987 and 30 June 1990, around 16 per cent of the children and young people involved with the child protection system (i.e. those who were the subject of a report and/or were in out-of-home care) subsequently had children who were the subject of a report or in an out-of-home care placement.

The intergenerational removal link is stronger for children who were in out-of-home care as children. Almost 30 per cent of those children who were in out-of-home care at some time from 1987/88 to 1989/90 have a child who is known to FACS compared to around 13 per cent of those who had a report only, but were not in out-of-home care. People who had been in out-of-home care were also more likely to have their own children enter out-of-home care, with 12.5 per cent having a child who had entered out-of-home care, compared to around 4 per cent of people who had been reported only (not in out-of-home care).

Of the children and young people who were reported at ROSH and/or were in out-of-home care in 2014/15, around a third had at least one parent who was known to FACS as a child (i.e. they had been reported or were in out-of-home care).

The intergenerational link was strongest for children and young people who have been in out-of-home care during 2014/15, with almost half having a parent who was known to FACS as a child (either reported or in out-of-home care) and around 1 in 5 having a parent who was in out-of-home care as a child.

**Question from the Hon. Paul Green**

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**13. You talked about people hosting helplines. What is the average time taken for a ROSH report? Is there a waiting time? Is the helpline busy? Do you keep performance indicators [KPIs] on that?**

#### **Wait time**

The average wait time for callers to the Helpline in September 2016 was 9 minutes 14 seconds. Data for the last 6 months is:

- August 2016 – 7:58 minutes
- July 2016 – 9:04 minutes
- June 2016 – 11:21 minutes
- May 2016 – 8:49 minutes
- April 2016 – 7:39 minutes

#### **Is the Helpline busy?**

In 2015/16 the Helpline received 196,874 contacts in relation to 278,521 children and young people.

The following is a breakdown of the types of contacts received:

- 164,558 calls
- 7,893 faxes
- 19,743 eReports
- 4,680 emails.

**Do you keep performance indicators [KPIs] on that?**

The Helpline keeps data on call volume and response times. These are reported on annually.

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**14. Finally, the comparison with Victoria in terms of the Children's Court situation. Do we have the same sort of thing, where it is an interim order and five days and then the next process is five weeks, four weeks, to the next—**

Like Victoria, NSW Children's Courts can make interim orders however, the law, practice and procedure for making interim orders is different in Victoria to that in NSW.

For example, in Victoria the court can make orders called interim accommodation orders and family reunification orders. These interim and short term orders are made where the court is satisfied that a child can be safely reunified with his or her parents. In the case of family reunification orders, the Secretary of the Victorian Department of Human Services is allocated parental responsibility for the child for a maximum of 12 months during which time the child is reunified with his or her parents.

The courts in Victoria can also make long term and permanent care orders where parental responsibility for the child can be allocated to the Secretary until the child turns 18.

In NSW, the Children's Court has powers to make interim orders and often does make interim orders, for example, allocating parental responsibility to the Minister for Family and Community Services for a limited period of time. The Children's Court can make an interim order for whatever time period it considers appropriate, including that the interim order be made until further order of the court. The NSW *Children and Young Persons (Care and Protection) Act 1988* does not impose any timeframes on interim orders.

**a. And then you have a care plan that has to be tendered with the court. Is Victoria's the same? Is it comparable?**

FACS must file a care plan for a child with the Children's Court before the court can make any final orders for the child regarding restoration or long term care. These care plans are comparable to case plans prepared by the Secretary of the Victorian Department of Human Services for the Victorian courts.

Both the Victorian and NSW case plans are required to include details of the current and future plans for the child including whether the child is to be restored to his or her parents, remain in long term care or be adopted. These are often referred to as the permanency plans for the child.

The plans are comparable in that they can both include goals to be achieved by parents aimed at improving their capacity to meet their child's needs so that the child can be safely restored to their care. The plans usually also contain details of how the child's health, education and cultural needs will be met and arrangements for the child to have contact with parents and any siblings or other significant people.

In Victoria and NSW these case plans or care plans must be served on parents and parents are given an opportunity to respond.

**b. You might give us the averages between Victoria and New South Wales**

FACS does not hold this data and, in the time available, is unable to obtain it. FACS is also unable to comment on the practices in Victoria since it does not appear in the Victorian courts.

**Question from the Hon. Paul Green**

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**15. Provide information on the outcomes of the Pathways of Care research**

The aim of the Pathways of Care Longitudinal Study (POCLS) is to build a robust evidence base on outcomes for children and young people in out-of-home care in NSW and provide knowledge that will help inform improvements to those outcomes.

It is the first large-scale prospective longitudinal study of out-of-home care in Australia.

The study follows children and young people aged 0–17 years who entered out-of-home care for the first time between May 2010 and October 2011 on Children’s Court orders in NSW. The first time entries cohort allows review of the current out-of-home care system.

Three waves of data collection follow a cohort of 1,789 children at 18 month intervals who agreed to participate in a face to face interview:

- 1,285 children and their caregivers participating in Wave 1
- 1,200 participating in Wave 2
- 1,033 participating in Wave 3
- Wave 4 data collection will commence in January 2017.

Measured child outcomes include children's safety, physical health, socio-emotional well-being and cognitive/learning development.

Data collection includes direct assessments of child behaviours from 12 months, language comprehension and non-verbal reasoning from the age of three years, and 'felt security' from the age of seven years.

A wide range of information is collected in the face to face interviews, including establishment of the placement, caregiver and household characteristics, child well-being and development, school and child care experiences, children's relationships with the caregiving family, services and support, contact and perceptions of closeness with birth family and other important people.

The compilation of longitudinal data will allow for a more robust and thorough examination of children's developmental trajectories and what factors influence their outcomes.

### **Wave 1 findings**

Findings of the first wave published in 2015:

- 897 carers of 1,285 children completed a Wave 1 face to face interview – 469 were Aboriginal.
- Research shows that many children in out-of-home care have developmental vulnerabilities, high levels of behavioural problems and less-developed language and cognitive abilities (consistent with related studies).

Understanding the developmental status of children when they come into care helps FACS to establish an accurate picture of their needs and a point from which to measure their development and wellbeing over time.



- Overall, at Wave 1:
  - three-quarters of pre-schoolers (ages 0-5) are meeting typical developmental milestones
  - 96% of older children (7-17 year-olds) say they're happy or very happy in their new home.
- The large majority of children at Wave 1 were in contact with their birth mothers (83%), about half were in contact with their birth fathers (52%) and birth siblings if not placed with them (49%). Only 1% of children had no contact with birth family or other relative.

## **Wave 2**

- Early analyses of Wave 2 data (unpublished) shows children in out-of-home care are improving over time. Three years after coming into care, reductions in behavioural problems for Aboriginal and non-Aboriginal children (3-17 years) were statistically significant
- Wave 2 data will be available early 2017.

In-depth analysis on Wave 1 & Wave 2 data by academic experts is underway, including: family contact and felt security; placement type; Aboriginal children and carers; child needs, services and support; placement stability; and educational outcomes.

Longitudinal analyses with three waves of data will commence in 2017.

Information about the Pathways of Care Longitudinal Study is on the study webpage at [www.community.nsw.gov.au/pathways](http://www.community.nsw.gov.au/pathways)

**16. Is there a policy in place that mothers who are the subject of a high-risk birth alert are notified that they are the subject of a high-risk birth alert so they can address any of the concerns before their child is removed?**

NSW Health has the primary role in ensuring the health related needs of vulnerable pregnant women and unborn children are met through the provision of antenatal and specialist health services.

Section 25 of the *Children and Young Persons (Care and Protection) Act 1998* allows for prenatal reports to be made to FACS where there are concerns that an unborn child may be at risk of significant harm when born. This allows for assistance and support to be provided to a pregnant woman to reduce the likelihood of the child's removal at birth and to provide early information about the risks to a child subsequent to his/her birth.

A high risk birth alert (HRBA) is issued by FACS to NSW Health or a public or private health facility/maternity hospital following a prenatal report to FACS where a high risk pregnant woman is:

- a. unable to be engaged with services and/or
- b. resistant to support intervention and/or
- c. transient.

The purpose of a HRBA is to alert health providers that they may need to advise FACS subsequent to a birth where further protective action may be required.

The FACS Responding to Prenatal Reports Policy (the Prenatal Policy) is silent on whether mothers who are the subject of a HRBA are notified.

In assessing prenatal reports, the Prenatal Policy states that FACS is required to consider the need to make telephone contact with the pregnant woman to:

- discuss the reported issues
- alert her to the potential risks
- provide information about appropriate support services, including local health services
- refer or facilitate a referral to relevant antenatal or specialist health services, with her permission.

**a. Is the mother even notified?**

Refer to question 16

**b. If the mother is not notified, how could there be a team working with her?**

Refer to question 16

**c. How many children have been removed in the last two financial years, and over the last five years following high-risk birth alert**

Data on high risk birth alerts is not available in a reportable format. High risk alerts are recorded as case file notes.

Local child protection information exchange on high risk birth alerts occurs in consultation between health staff, interagency partners and FACS caseworkers and the family on a case by case basis.

**17. A huge amount of the evidence we have received stems from this theme that there is an inequality in power between the department and parents when it comes to the Children's Court system. There is a lot of concern that there is a lot of abuse of power—that is, documents not being furnished at the appropriate times, records produced under subpoena not being full— Or just exculpatory evidence not being presented. Do you think that that is a concern?**

FACS does not abuse its power in the way it conducts Children's Court proceedings. FACS is required to act as a model litigant under the NSW Government's [Model Litigant Policy for Civil Litigation](#) (Model Litigant Policy). The Model Litigant Policy requires more than the Department acting honestly and in accordance with the law and court rules. It requires FACS to act with complete propriety, fairly and in accordance with the highest professional standards.

FACS complies with the law, relevant policies and a code of ethics in the conduct of Children's Court proceedings. These include:

- the Children and Young Persons (Care and Protection) Act 1998
- the Children's Court Practice Notes
- the Model Litigant Policy (as mentioned above)
- FACS Policy Directive for the Management of Legal Matters
- FACS Code of Ethical Conduct.

The applicable law and policies require FACS to put all relevant evidence before the Court including all exculpatory and positive evidence held about parents, their parenting capacity and their relationships with their children.

In acting as a model litigant FACS must not take advantage of a party who lacks resources.

The Children's Court has established standard directions for the Secretary to file and serve documents and evidence.

**a. Has your code or policy been reviewed or updated to take into consideration any of these concerns?**

FACS has not conducted any recent reviews of relevant FACS policies or procedures in the conduct of Children's Court proceedings. However the Children's Court regularly reviews its procedures and practice notes.

**b. Or is it the case that that is just the nature of litigation?**

Children's Court proceedings are conducted more informally and in a less adversarial manner than other civil litigation.

The nature of care proceedings is that the paramount consideration for FACS and the court is the safety, welfare and well-being of the child or young person the subject of the proceedings – see section 9(1) of the *Children and Young Persons (Care and Protection) Act 1988*.

Section 93 (2) of the *Children and Young Persons (Care and Protection) Act 1988* requires that Children's Court proceedings are to be conducted with as little formality and legal technicality as possible. Section 93(1) of the *Children and Young Persons (Care and Protection) Act 1988* also requires that proceedings not be conducted in an adversarial manner.

**c. What is the interaction of FACS and parents in the Children's Court system. We are particularly interested in whether there is a power inequality there and, if so, how it can be adjusted, corrected or mitigated**

The nature of Children's Court proceedings may be distressing for parents, especially when their child has been removed from their care by FACS caseworkers.

Attempts to address this power imbalance include the relative informality of the proceedings and that, generally, legal assistance is available to parents through Legal Aid, the Aboriginal Legal Service, private solicitors (who may be funded by Legal Aid), or other legal services.

The court has an obligation to ensure there is a fair hearing and that parents have a proper opportunity to appear and be heard by the court. Parents have a right of appeal to the District Court or Supreme Court (if their case was determined by the President of the Children's Court), if they are dissatisfied with the decision of the Children's Court (s.91).

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**d. Provide details of those cases that are reported as open cases in other agencies. What are the proportional percentages? Provide regional/District breakdown and explanation of discrepancies between metro and regional FACS districts**

Where case management is with another agency it is Departmental policy to close a child or young persons' case. The *FACS Plan Closure Reasons Guide* April 2016 requires cases to be closed when a decision has been made to refer a child or young person to a FACS contracted specialist service including Brighter Futures, Youth Hope or an Intensive Family Program.

Reports which are received while children and young persons are involved in these specialist programs (i.e. the case is open with an agency) are difficult to interpret as they may be appropriate reports which come to light as a result of the involvement of the family in these specialist programs rather than reflecting an immediate safety concern.

Consequently, it is more appropriate to focus on reports or re-reports which occur for children and young persons who have exited these specialist programs following their program goals being met. For example, the FACS Annual Statistical report publishes data on the re-report rate within 12 months after case plan closure with goal achieved for children who have exited the

Brighter Futures Program. 19.1% of children who exited Brighter Futures with goal plans met in 2013/14 were re-reported in the following 12 months. The data is not published by Districts.

# Case planning and review

Used when undertaking case planning and review for a child or young person

## Practice

Case planning is an element of case management. The case planning cycle is made up of planning, implementation, monitoring and review.

Case plans must be developed and regularly reviewed for all children and young people assessed as being in need of care and protection or in out-of-home care/prospective guardianship. Case plans are developed by the CSC, unit, or agency with case management responsibility. The case plan identifies strategies and tasks to address a child or young person's safety and care needs and promote their wellbeing. Case plans are informed by comprehensive assessment and the views of the child or young person, their parents, extended family, carers and relevant others.

Case planning decisions and outcomes are recorded in the Case planning/review template, including decisions about who is responsible for actioning each task, relevant timeframes and any dissenting views. Children and young people must be provided with age and developmentally appropriate information about how and when decisions relating to them are made. All participants are provided with a copy of the case plan unless detrimental to the safety of the child or young person or for reasons of confidentiality.

When developing or reviewing the case plan, it may be appropriate to consider developing a Parent Responsibility Contract (PRC) or to seek a Parent Capacity Order (PCO). PRCs and PCOs can be used to provide further structure to case plan tasks and support the attainment of the case plan goal.

## 1. When to develop a case plan

### 1.1 Use the:

- [Child Protection case planning/review template](#) for children who are assessed as being in need of care and protection, but remain in the family home
- [OOHC case planning/review template](#) for all children in an out-of-home care placement and prospective guardianship (including those children who are in care and have a case plan goal of restoration)

Completed by: CW



### 1.2 A case plan is developed:

- **within 45 days** of it being assessed that a child or young person is in need of care and protection. This means that for child protection, a case plan must be completed no more than 15 days after the completion of a SARA (Safety and Risk Assessment) for cases that will remain open for ongoing casework.
- **within 30 days** of a child or young person entering statutory out-of home care, including those on interim orders, a case plan must be developed with them.
- The OOHC template can also be used to assist case planning and reviews of case plans for children and young people in supported out-of-home care.

Completed by: CW

## 2. Preparing to develop or review the case plan

### 2.1 Gather information:

Use the information gathered from significant and relevant people during the assessment stage to inform the development or review of the child or young person's case plan.

Where relevant and available, obtain recent copies of the following:

- assessment and progress reports
- medical and dental records
- NSW Health management plan for children and young people in statutory out-of-home care
- current behaviour management plan
- school report and education assessment reports
- Education plan for children and young people in statutory out-of-home care
- contact order.

Completed by: CW

### 2.2 Determine the case plan goal.

There must be one goal only, select a goal from the following:

- maintain child/young person with parent/primary care giver
- restoration
- guardianship
- adoption
- parental responsibility to the Minister
- leaving care

The case plan goal determines which CSC has case management responsibility. In child protection cases, case management will be where the child's family lives. In out-of-home care and guardianship cases, case management will be where the child lives unless the goal is restoration. Where restoration is the goal, the CSC in the area in which the parent or family lives, and with whom restoration is planned, has case management.

**Important note:** If the case plan goal is 'leaving care', the out-of-home care case plan serves as the leaving care plan. Where 'restoration' is the goal, the case plan serves as the restoration plan.

Completed by: CW

Approval by: MCW

### 2.3 Identify strengths that may promote the goal

Use the results of all current assessments and any additional information gathered from significant and relevant people contributing to the case plan to help identify the family, child or young person's strengths. Significant people may include the child, where age and developmentally appropriate, or young person, their parents, siblings, extended family and carers. Relevant people may include:

- units that share aspects of case management responsibility, for example JIRT
- health professionals, specialists and current service providers
- the child or young person's teacher or school counsellor
- Aboriginal Consultation Advisory Panel (ACAP), Aboriginal caseworker or representative from the Aboriginal or Torres Strait community
- Multicultural caseworker
- FACS psychologist
- other community members or representatives.

Examples of the parent's strengths that may assist in promoting the case plan goal include attempting to address substance abuse by attending services, working cooperatively with FACS, or wanting to support the placement of their child in long term care.

Examples of the child or young person's strengths that may assist in promoting the case plan goal include having a close relationship with a grandparent, being settled in a stable placement, wanting to return home, or working part- time.

**Practice Tip:** PRCs and PCOs can be used to provide further structure to case plan tasks and support the attainment of the case plan goal.

Completed by: CW

## 2.4 Consider each measure of wellbeing

The [Case planning framework](#) provides detailed information and practice guidance around each of the eight measures of wellbeing. For OOHC cases, additional practice notes for each measure are also embedded in the [OOHC case planning/review template](#) and are accessible by clicking the i symbol.

For each applicable measure of wellbeing, record:

- Strengths of the child, young person, or family, that support the child or young person's wellbeing. For example, the child or young person is doing well at school, making friends and engaging in healthy and age appropriate activities, hobbies or interests.
- Current needs for the child, young person, or family, to be addressed in order to promote the specific area of wellbeing. For example, the child or young person is refusing to attend school, parents did not attend a parenting program as agreed, disagreements over contact, or the young person does not have the necessary independent living skills to successfully leave care.
- Objectives that are specific, measurable, achievable, realistic and time limited. For example, a young person demonstrating adequate independent living skills prior to leaving care.
- Tasks that need to be done to achieve the objectives. For example, assisting a young person leaving care to open a bank account and obtain their drivers licence.
- Person or agency responsible for completing tasks.
- Current progress in meeting case plan objectives.

For a child or young person in need of care and protection, only those measures of wellbeing which are relevant at the time of case planning or review need to be completed.

Completed by: CW

## 2.5 Identify required service and support options

It is important to manage the expectations of children, young people, parents and carers regarding what assistance can be provided. Where possible, discuss services and supports required to meet the assessed needs of the child, young person, family or carer before the meeting.

- Consider FACS psychologist
- Consider services and supports that have been provided in the past and are currently being provided.
- Consider the parent's or carer's willingness to accept support and work cooperatively with services. A PRC or PCO may assist in structuring, directing and monitoring the parent or carer engagement with the service.

Contact potential service providers to:

- ensure the child, young person, or family is eligible for the service
- confirm referral processes
- determine service availability, waiting times and costs.

Consult with the manager casework about alternative options where no services are available to meet an assessed need. The manager casework will obtain in principle approval for any anticipated expenditure exceeding their delegation prior to the case planning meeting.

For financial delegations see [Financial support for children and young people in OOHC policies and guidelines](#).

**Important note:** An [OOHC financial plan pre-meeting checklist](#) outlining expenditure for an individual child or young person must be developed and approved as part of the Case Plan prior to any financial assistance being paid.

Completed by: CW

Approval by: MCW

### 3. Arranging and conducting the case planning meeting

#### 3.1 Decide who will attend the meeting:

A case planning meeting is held to inform the development of the case plan/review. A case review discussion between a caseworker and a manager casework *does not* constitute a case planning meeting.

- The manager casework's approval is required to hold a case planning meeting.
- While significant people must be given an opportunity to participate, decisions about who else to invite is based on whether the person's attendance is in the child or young person's best interest and their capacity to contribute to the development of the case plan.
- The following people must be given an opportunity to participate:
  - the child or young person, where age and developmentally appropriate
  - their parents, significant others, including extended family, and carers
  - any support person nominated by the child, young person, or parent
  - Aboriginal caseworker, community member, or representative for an Aboriginal or Torres Strait Islander child or young person
  - community member or representative for a child or young person from a culturally and linguistically diverse background
  - service providers working with the child, young person, or parents with capacity to contribute to development of the case plan
  - anyone who may have responsibility for carrying out tasks in the case plan.

See the [Record a Case Plan using the Case Plan template](#) for how to create a Case Meeting Record in KiDS.

Completed by: CW

Approval by: MCW

### 3.2 Encourage child or young person's participation.

Well ahead of time, talk to the child or young person about the purpose of the case planning meeting, who is likely to attend, what will be discussed at the meeting, and how they can participate in the decision making process.

Also talk about any worries they may have, such as what happens if they:

- do not want to see someone who is coming to the meeting
- get bored and want to leave before the end of the meeting
- have trouble understanding what is being talked about
- disagree with what someone is saying.

Give the child or young person a copy of the information sheet [Case meetings – information for children and young people](#). Use the My Plan or ATSI My Plan brochures to help explain and enable younger children to participate in case planning meetings. The views of very young children can be represented through the observations of parents, significant others, carers and service providers.

Let the child or young person know that they can bring a support person with them to the meeting if they want and can choose to attend all, or part, of the meeting. If they do not want to attend, talk to them about how they may like to participate in some other way such as:

- having someone speaking on their behalf
- speaking or listening by telephone, web cam or video conference
- writing down their views for participants to read individually
- writing their views on a whiteboard and displaying this at the meeting
- recording their views on audio tape to be played at the meeting.

Talk to the child or young person as soon as possible after the meeting, even if they did not attend. Answer any questions they may have, help them understand what was discussed and what is going to happen next.

Completed by: CW

### 3.3 Arrange meeting:

- decide if the meeting involves getting everyone together face-to-face or over the phone. In deciding the format of the case planning meeting, consider:
  - the views and wishes of the child or young person
  - the need for discussions to be inclusive and focus on the child or young person's wellbeing
  - issues of transport, location, safety and participant availability (for example, a teleconference may facilitate the participation of all significant and relevant people and promote the timely completion of a case plan)
  - advice obtained from a relevant Aboriginal, CALD or other community member or representative
  - family violence issues that may require a separate meeting
  - any potential OH&S issues including any special travel or disability access requirements of participants
  - strategies to reduce risk and maintain the safety of all participants in consultation with the manager casework.
- book an appropriate venue, teleconference facilities and an interpreter, if required. Organise resources that may be needed such as a whiteboard, pens, paper and water.
- develop a case planning meeting agenda that clearly states the purpose of the meeting, what will and will not be discussed, what records of the meeting will be kept and what type of decisions can be made as a result of the meeting. Using the eight measures of wellbeing as a guide, outline any issues to be discussed and where decisions need to be made.
- invite participants using the appropriate invitation to a case planning meeting template which can be generated from the Templates view tab of the Case Meeting Record. Distribute the agenda and other information such as reports that participants may need time to consider before the meeting. Make sure carers and parents receive a copy of the information sheet [Case meetings – Information for parents and carers](#).

Completed by: CW

### 3.4 Obtains views of people not attending the meeting:

- before the meeting, obtain and document the views of any significant or relevant person unable, unwilling or not invited to attend. Record the reason for their non attendance on the attendance page of the Case planning/review template.
- make every reasonable effort to engage a parent who has decided not to participate through, for example, a parent's legal representative, family member, service provider, or community advocate.

Completed by: CW

### 3.5 Conduct the case planning meeting:

The manager casework attends all case planning meetings, usually as chair, and makes decisions within their financial and administrative delegation. When a more senior officer has delegation, the manager casework will refer the matter for their decision.

- the manager casework identifies who will chair the meeting and who will take the minutes. This should not be the same person.
- if the manager casework is unable to attend the meeting, they will delegate chairing to another worker. They will also be readily contactable to authorise decisions and discuss any variations to the expected financial or other major decision making aspects of the case plan.

The chair has responsibility to:

- introduce participants
- clarify FACS policies, procedures, requirements and decisions in jargon free language
- support all participants to participate and contribute positively to case plan development.

The minute taker is usually the caseworker. The minute taker has responsibility to accurately record:

- attendance and apologies
- views of participants, including dissenting views
- objectives, tasks, responsibilities and timeframes
- how implementation of the plan will be monitored. For example, by receiving a report from a service provider, the caseworker checking that parents are regularly attending contact, or confirming with the child's school that they are attending more regularly.

The minute taker will need to make a copy of the attendance list from the case plan template and ensure all attendees sign the sheet.

The minute taker is also responsible for noting where the chair is unable to provide information sought by a participant and providing the person with the information as soon as possible after the meeting.

Completed by: MCW / CW

### 3.6 Document and distribute the minutes:

- the manager casework determines who receives a copy of minutes. It may not be appropriate for documents to be distributed to all participants, for example, a person invited to attend only part of the meeting. Use the [Meeting record minutes](#) template on KiDS to record the minutes as soon as possible after the meeting and complete either the CP or OOHC Case or Guardianship planning/review template.

Under the [Government Information \(Public Access\) Act 2009](#), meeting participants may access minutes and other file records. For more about the public's right to access government information refer to FACS [Right to Information](#) unit.

- distribute a copy of the minutes and case plan to participants as soon as possible after the meeting. Advise any person who is given only partial minutes the reason for this.
- endeavor to clarify any issues raised by a participant and inform the chair where aspects of the minutes are disputed. If the participant remains dissatisfied with the wording, invite them to raise their concerns as soon as possible after the meeting. If agreed by other participants, amend the previous minutes accordingly.

Completed by: CW

Approval by: MCW

## 4. Recording and approving the case plan

**4.1** Following the case plan/review meeting, complete the applicable Case planning/review template (either Child Protection case plan template or OOHC case plan template or Guardianship template). Use plain English and age appropriate language when filling out the My Plan or ATSI My Plan section.

My Plan or ATSI My Plan only needs to be completed for younger children between 4 and 12 years of age. The 'Having fun and my friends' section of My Plan or ATSI My Plan combines two measures of wellbeing – emotional and behavioural development and social/peer relationships.

Completed by: CW

**4.2** The case plan, including My Plan or ATSI My Plan is approved by the manager casework. Where financial aspects of the case plan are outside the manager casework's delegation, approval is required by the person with the required level of delegation.

Completed by: MCW

**4.3** Attach the Case planning/review template and the Meeting record minutes to a Case Plan Record in KiDS. Instructions on how to create a Case Plan Record in KiDS and attach the Case planning/review template can be found in the [Record a Case Plan using the Case Plan template](#) on the KiDS support page on the intranet.

Completed by: CW

**4.4** Place a hard copy of the approved case plan/review template on the child or young person's case file.

Completed by: CW

## 5. Distributing the case plan

**5.1** In consultation with the manager casework, consider the safety and confidentiality aspects of information before distributing the case plan. In some cases, only parts of the case plan relevant to a particular individual are distributed to them and the rationale is documented.

Completed by: CW

Approved by: MCW

**5.2** Regardless of whether they attended the meeting, a copy of the case plan, or My Plan or ATSI My Plan, should be provided to the child or young person depending on their age and developmental capacity.

Completed by: CW



**5.3** Ensure the child or young person understands their case plan and clarify any questions or concerns they may have.

Completed by: CW

## 6. Implementing and monitoring the case plan

**6.1** Follow up that case plan tasks are being undertaken and monitor the case plan through agreed processes such as contact with the child, young person, their parents, carers or reports from agencies or people responsible for completing specific tasks.

**Important note:** If tasks are not being completed or the parent/s are not engaging with the support service, consider the use of a PRC or PCO. If a PRC is developed or a PCO made, maintain regular and ongoing communication with the family to monitor progress against the PRC or PCO. Refer to: [Statutory Support Arrangements and Court Orders](#).

Completed by: CW

**6.2** Use this feedback to assess the progress made towards achieving the case plan objectives and determine what action needs to be taken if tasks are not being completed within the timeframe.

Completed by: CW

**6.3** Record all relevant information in the progress notes within the case plan/review template. Instructions for this are located in the [Record a Case Plan using the Case Plan template](#) on the KiDS support page on the intranet.

Completed by: CW

## 7. Reviewing the case plan

**7.1 A child protection case plan** must be reviewed when there is a significant change in the child, young person, or their family's circumstances. It must also be reviewed:

- before case plan closure
- when a case is being transferred to another FACS unit or interstate
- when a care application is being made to the Children's Court
- when a PRC or PCO ends.

A **statutory out-of-home care case plan** must be reviewed at least annually. It must also be reviewed:

- within 4 months after an interim order is made
- within 2 months after a final order is made for a child less than 2 years of age
- within 4 months after a final order is made for a child or young person over 2 years of age
- within 21 days after the death of the authorised carer
- within 21 days before a planned change of placement
- within 21 days after an unplanned change of placement.

A **case plan with the goal of guardianship** must be reviewed;

- When an application for a guardianship order has been lodged,
- Following completion of a guardianship assessment/s
- When the care plan is finalised

Completed by: CW

**7.2** As part of reviewing the case plan, finalise aspects of the case plan in the Case planning/review template. Add progress notes to the template and tick completed tasks.

Completed by: CW

**7.3** The Case Plan record containing that case plan/review document is then completed. Detailed instructions on how to complete these steps are contained in the [Record a Case Plan using the Case Plan template](#) on the KiDS support page on the Intranet. The review of the case plan must be approved by the manager casework.

Completed by: CW

Approved by: MCW

## 8. Closing the case plan

A case plan cannot be closed when a child or young person is subject to a current order of the Children's Court. An out-of-home care case plan must not be closed until the child or young person's care order has been discharged or rescinded and adequate leaving care preparations are made and implemented. A case plan with a goal of guardianship must not be closed until the final order is made.

**8.1** A child protection case plan is closed when the case plan goal has been achieved. Wherever possible, a decision to close a case plan is made in consultation with the people who contributed to the development and implementation of the current case plan.

Completed by: CW

**8.2** All parties to the case plan must be informed of case plan closure. Record the decision to close a case plan in the Case Plan Review/Closure record in KiDS.

Completed by: CW

## Legal framework

### Policy

[Case management policy](#)

[Case planning framework](#)

[Delegations manual](#)

[Financial support for children and young people in OOHC policies and guidelines](#)

## Legislation

### [Children and Young Persons \(Care and Protection Act\) 1998](#)

- Section 9 What principles are to be applied in the Administration of this Act?
- Section 10 The Principle of Participation
- Section 12 Aboriginal and Torres Strait Islander participation in decision making
- Section 135 Definition and types of out-of-home care
- Section 135A Statutory out-of-home care
- Section 146 Involvement of authorised carer in decision making
- Section 150 Review of placements effected by order of Children's Court
- Section 160 Maintenance of Records

## Standards

### [NSW Standards for Statutory Out-of-Home Care](#)

Standard 2 Building a Positive Care Environment

Standard 4 Identity

Standard 5 Family and Significant Others

Standard 6 Participation in Decision Making

Standard 8 Emotional and Social Development

Standard 9 Health

Standard 10 Education

Standard 12 Case Planning and Review

Standard 13 Case Work and Monitoring Placements

Standard 15 Planning for Leaving Care

Standard 16 Documentation and Record Keeping

## Helpful links

### Related resources

- [Aboriginal consultation guide](#)
- [Case meetings – information for children and young people](#)
- [Case meetings – information for parents and carers](#)
- [Engaging families](#)
- [Working with Aboriginal people and communities](#)
- [Working with culturally and linguistically diverse \(CALD\) people and communities](#)

### KiDS resources

- [Record a Case Plan using the Case Plan template](#)
- Kids guides and business rules [listed by keyword](#)
- Kids reports and templates: [Casework](#)

## Forms

- Child Protection case plan & review template
- [OOHC case plan and review template](#)
- [Case planning template guide](#)
- [My Plan](#)
- [ATSI My Plan](#)
- [OOHC financial plan pre-meeting checklist](#)

## Excerpt from the Authorised Carers procedure

### Authorised carers – supervision, participation & responsibilities

#### Practice

Used when supporting and supervising an authorised foster or relative/kinship carer; providing authorised carers with appropriate information about the C&YP in their care; facilitating the participation of authorised carers; de-authorisation of carers.

For guidance related to responding to Allegations Against Employees, see Casework Practice topic: [specific report types](#)

Where an authorised carer or an adult household member is issued a Working with Children bar or interim bar they must be immediately removed from their role as a carer. The bar makes it an offence for FACS to engage them as an authorised carer or adult household member while the bar is in place. For further information regarding how to respond to bars refer to [Working with Children Check \(WWCC\) bar of an authorised carer or adult household member](#).

All Legal enquires regarding WWCC bars should be forwarded to the Legal Services Mailbox: [LegalServices.CSExecutiveGroup@facs.nsw.gov.au](mailto:LegalServices.CSExecutiveGroup@facs.nsw.gov.au). Queries regarding practice should be sent to [WWCC.CarersEnquiries@facs.nsw.gov.au](mailto:WWCC.CarersEnquiries@facs.nsw.gov.au)

Supervision and support is provided to Authorised Relative /Kinship Carers and Authorised Foster Carers throughout the placement of a child or young person in their care. Additional support is provided to Authorised Foster Carers through the Carer Development Plan, which aims to develop effective working relationships between FACS and Authorised Foster Carers.

Carers and prospective carers are to be provided with the Partnership Agreement between FACS and carers which outlines how we work together to achieve the best possible outcomes for children and young people in care, see: [Partnership agreement between Community Services and carers](#).

#### Roles and Responsibilities

It is preferable for a single caseworker to support the child, authorised carers and birth parent. Tasks can be allocated to multiple officers to improve the service to these individuals when for reasons such as, leave or geographical distance it is not practical for one caseworker to provide sole support, in these instances clear lines of communication need to be maintained to ensure adequate service provision.

Responsibility for placement supervision of the child or young person placed with the authorised carer is with the caseworker / team who manage the child / young person's Case Plan. This also includes responsibility for support and supervision to authorised relative carers.

Responsibility for supervision and support of the authorised foster carer is with the caseworker / team who manage the Carer Development Plan.. Consult with a local Child and Family District Unit (if one exists) if there is uncertainty or concern around roles and responsibilities, otherwise talk to your manager.

At times the caseworker with responsibility for the case management of the child or young person in the placement may also be responsible for the Carer Development Plan. Responsibility will vary according to whether the District maintains separate Foster Care Support or Out-of-Home-Care teams.

## Support for Authorised Relative or Foster Carers who are Aboriginal or Torres Strait Islander

Authorised Relative or foster carers who are Aboriginal or Torres Strait Islander must have access to Aboriginal support staff. Caseworkers consult with Aboriginal staff on the best options for supporting the child or young person's placement and or the authorised carer. The Aboriginal State-wide Foster Care Support Service is a resource for Aboriginal carers and for carers who may be caring for an Aboriginal child or young person. Contact details:

Aboriginal State-wide Foster Carer Support Service:  
Tel: 9281 8822  
Freecall: 1800 888 698  
Website: <http://www.absec.org.au>

## Support for Authorised Relative or Foster Carers who are from culturally and linguistically diverse backgrounds (CALD)

Authorised Relative or Foster Carers who are from culturally and linguistically diverse backgrounds (CALD) should have access to support staff or workers from the same cultural and/or linguistic background. The supervising caseworker is to consult with a Multicultural Caseworker, a generalist caseworker, or a worker from a community organisation who shares the same background as the carer on the best options for supporting the child or young person's placement and or the authorised carer. If appropriate, this person may participate in the support process.

For carers from African backgrounds, caseworkers can obtain cultural advice from a pool of sessional workers contracted by FACS under the African Sessional Workers Program. The African Sessional Workers Program is funded by FACS. Contact details

The Hills Holroyd Parramatta Migrant Resource Centre  
Tel: 9687 9901  
Email: [african\\_coord@bhhpmmc.org.au](mailto:african_coord@bhhpmmc.org.au)

Carers who cannot communicate in English may require interpreting assistance and information to be provided in their first language. The Translating and Interpreting Service on 131450 or the Community Relations Commission on 1300 651 500 can be contacted to arrange for a professional onsite, telephone interpreter and/or translation services.

When seeking to engage non-English speaking carers in support groups, consider the following strategies:

- using an onsite interpreter to assist the carer engage in the English based activity/process;
- providing carer groups in specific languages with the assistance of an interpreter or having a bilingual worker run the group in the community language.

## Support for Authorised Relative or Foster Carers who are also Family and Community Services employees

When a child or young person is being cared for by an authorised relative or foster carer who is also a Family and Community Services employee the supervision of the worker as a Family and Community Services employee must be separate from their supervision as an authorised carer. This applies whether the employee is authorised as a relative or foster carer.

Due to the potential for conflict of interest, the Director Community Services holds the delegation for decision making in relation to the following points:

- updating the Carer Development Plan
- authorising a FACS employee as an authorised carer
- approving any placement of child or young person
- appointing the staff member responsible for supervising the child or young person's placement
- appointing the staff member responsible for supervising the authorised foster carer
- approving of the recommendation of the carer review record

- approving the level of allowances to be paid to the employee for the care of the child or young person

Family and Community Services employees who are authorised carers, or live with an authorised carer, must ensure the security and confidentiality of information relating to the child or young person in their care. They must comply with Family and Community Services principles of service [FACS Code of Ethical Conduct](#), as well as the [Code Of Conduct For Authorised Carers](#) .

## Financial Support for Authorised Relative or Foster Carers

Financial assistance is provided in accordance with Family and Community Services policy as outlined in Financial Support for Children and Young People in Out-of-Home Care. The care allowance is intended to meet the day-to-day expenses such as food, shelter, clothes, footwear, energy, household goods and services, pocket money, health, transport, leisure, holidays and personal care.

For other areas associated with the care of the child or young person contingency payments can be made; such as birth family contact, professional therapy, medical or dental treatment.

Carer payments are the responsibility of the caseworker with case management of the child or young person

The caseworker ensures carer payments are made promptly according to the assessed needs of the child or young person and FACS policy

The caseworker must advise the carer of their rights and responsibilities with regard to payment of allowances, contingencies and back payments

## Placement information

Children and young people should be informed about what information will be provided to prospective or current carers, and to other persons or agencies, and due regard must be given to their expressed wishes. Information can only be disclosed under lawful grounds and for the purpose for which it was provided, or with the consent of the person from whom the information was obtained (ie. the person the information is about).

Consideration must be given to the child or young person's right to privacy and confidentiality, their right to participate in decisions that have a significant impact upon them, and their right to express their views and have them considered.

In an emergency placement situation, critical information that is available is given to the authorised carer at commencement of the placement and additional information as soon as possible after the start of the placement.

## Parental responsibility

Where the Minister has parental responsibility for a child or young person an authorised carer may be given the authority to exercise specific aspect(s) of parental responsibility on behalf of the Minister (i.e. delegated aspects of parental responsibility).

Delegation of the Minister's parental responsibility should never be used as a means to give sole parental responsibility to an authorised carer. The appropriate action for allocation of sole parental responsibility to an authorised carer is through the Children's Court.

Details of any proposed aspect(s) of parental responsibility to be exercised by the authorised carer must be discussed and documented in the child or young person's approved case plan. Aspects of parental responsibility that can be delegated to an authorised carer can include:

- authority to give consent to non-urgent medical and dental treatment involving surgery;
- authority to make decisions concerning the education and training of the child or young person, or;
- authority to give consent on behalf of the child or young person, or to make an application on his or her behalf, for any purpose for which parental consent or authorisation is required.

- aspects of parental responsibility that may not be delegated to an authorised carer are:
- the decision to reside outside of NSW;
- making an application for a passport for the child or young person, or;
- giving consent to marriage.

The responsibility to exercise a specific aspect(s) of the Minister's parental responsibility given to an authorised carer ceases when the child or young person is no longer in their care.

## Certificate of Eligibility for Special Family Circumstances Exemption

Registered and active Family and Community Services foster carers, relative/kinship carers and child specific carers under Section 5B of the [Employment and Workplace Relations Legislation Amendment \(Welfare to Work and Other Measures\) Act 2005](#) who have received either the Statutory Care Allowance or Supported Care Allowance in the last 6 months are eligible for a Certificate for Eligibility for Special Family Circumstances Exemption.

The Certificate for Eligibility for Special Family Circumstances Exemption demonstrates eligibility for exemption from work requirements of the principal carer under section 502D of the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005

In order to be recognised as an active carer, FACS has determined that the relevant evidence will be that the carer has received a supported care or statutory care allowance in the previous six months.

Managers Casework are authorised to issue an exemption certificate to FACS authorised foster, relative and kinship carers using the templates under FORMS in the [Authorised Carers](#) (link) casework practice procedure

The certificate can only be used to demonstrate to Centrelink the primary carers eligibility for exemption from work requirements under the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005, see: [Certificate of Eligibility for Special Family Circumstances information](#).

## Suspension, De-Authorisation or Placing of Conditions on carers Authorisation

Where there is a need to review a carer's authorisation or make decisions about suspension of a carer's authorisation, cancellation or the placing of conditions on a carer's authorisation, these should be communicated to other relevant designated agencies, when:

- any other designated agencies have case management of children or young people placed with the carer and/or
- any other designated agencies with which the carer/s hold authorisation.

Reasons to cancel an Authorised relative carer's authority

Managers Casework need to exercise sound judgement based on evidence gathered during a review to make the decision to cancel an Authorised relative carer's authority. The decision to cancel an authority is a reviewable decision and must be made in writing with an appropriate rationale supporting the reasons to cancel.

Possible reasons to cancel an authority include (note this list is not exhaustive):

- a decision by the authorised relative carer to stop caring for the child / young person
- a recommendation from any further child protection assessment/s involving the child, young person or relative carer
- a repeated or serious breach by the carer of the [Code of Conduct for Authorised carers](#)
- as a result of a medical review indicating that the carer does not have the capacity to provide adequate care to children and young people
- as a result of a review of a carer's home not being a safe and healthy environment for the care of children and young people



- the carer has been barred from working with children as a result of a WWCC bar. The *Child Protection (Working with Children) Act 2012*, makes it an offence for FACS to continue to engage the carer in child related work. The carer must have their authorisation cancelled pending a review, refer to factsheets [WWCC Bar – Guidance regarding actions](#) and [WWCC Bar of an authorised carer or an adult household member](#)

The decision to cancel an Authorised relative carer's authorisation should not be made lightly and the Manager Casework should discuss with the Manager Client Services before confirming the decision.

## Administrative review by the NSW Civil and Administrative Decisions Tribunal (NCAT)

Authorised carers should always be informed of decisions that affect them, the reasons for the decision and their rights to have decisions reviewed. Family and Community Services practice is to offer an internal review of all significant decisions even where there is no right to review under legislation. Advice about significant decisions or potentially controversial decisions should be given in writing. Written advice about a decision may be made in a letter or by providing a copy of the child or young person's case plan.

Authorised carers must be informed of their rights regarding decisions that are reviewable by the NSW Civil and Administrative Decisions Tribunal (NCAT). Advice about NCAT reviewable decisions must be given in writing. NCAT reviewable decisions include:

- a decision to impose any conditions on their authorisation;
- any decision to cancel or suspend their authorisation;
- any decision to remove responsibility for the daily care and control of a child or young person placed in their care;
- a decision to disclose high level identifying information about placement to birth parent's and significant others;

The [Suspension of foster carer authority](#) template is used to generate a letter to the authorised carer advising them of conditions imposed on their authority, or cancellation or suspension of their authority. In other circumstances the letter [Informing persons of reviewable administrative decisions](#) letter is used, see also: [Reviewable administrative decisions](#)

## 21. Provide information to the authorised carer

21.1 Discuss what information about a child or young person should be provided to the proposed authorised carer prior to the placement.

The placement information should include:

- gender and age of child or young person
- planned duration of placement
- schooling / child care arrangements
- cultural and linguistic background and religion
- details of any known special needs, medical requirements or behavioural issues
- general disposition of child or young person (where known)
- details of any safety concerns or considerations
- details of any contact arrangements with parent(s), sibling(s) and significant others
- Care/Case plan goals
- contact with carers can be recorded in KiDS using various records including Phone Records, Home Visit records and Meeting Records.

Completed by: CW

Approval by: MCW

**Important Note:** The authorised carer requires information about the child or young person prior to the placement being made in order to make an informed decision about whether or not to accept the placement and help determine if the placement meets the care needs of the child or young person. It is acknowledged that the caseworker may have only limited information about the child or young person in some circumstances, such as emergency placement. Exceptions to this would be an after-hours response where regional protocols for placement with authorised carers after hours would apply.

21.2 Discuss with the child or young person what information is proposed to be provided to the authorised carer prior to the placement and consider the child or young person's views.

Completed by: CW

Approval by: MCW

21.3 Record the information to be provided to the proposed authorised carer on the child or young person's file.

Completed by: CW

Approval by: MCW

21.4 Contact the authorised carer by phone or in person to provide and discuss the placement information regarding the child or young person.

Completed by: CW

Approval by: MCW

21.5 Record the authorised carer's decision about the placement on the authorised carers file.

Completed by: CW

Approval by: MCW

21.6 Update the authorised carer's availability status on KiDS if the placement is accepted.

Completed by: CW

21.7 At the time of the placement, complete the [At placement checklist](#) in consultation with the authorised carer and the name and contact details of the caseworker supervising the placement.

Completed by: CW

**Important note:** When the Helpline Crisis Response Team makes a placement, the owning CSC is responsible for providing the checklist to the authorised carer within 24 hours or one working day of the placement after discussion with the carer

21.8 At the time of placement, the caseworker making the placement (excluding Helpline After Hours Crisis Response Team) may provide the carer with the Local Contacts Sheet (available from the local CSC)

Completed by: CW

21.9 Provide a copy of the checklist to the authorised carer and place a copy on the child or young persons file.

Completed by: CW

21.10 Discuss with manager casework what additional information about a child or young person, including necessary medical information and documentation, can be provided to the authorised carer.

Completed by: CW

Approval by: MCW

21.11 Discuss what additional information is proposed to be provided to the authorised carer with the child or young person and consider their views.

Completed by: CW

Approval by: MCW

21.12 Complete the following paperwork:

- [Confirmation of placement](#)
- [Placement Agreement](#)
- [Placement information sheet for carers](#) – to provide the authorised carer with details about the child or young person, including medical information
- Placement information – medical reports to carer letter – to explain confidentiality/disclosure requirements in relation to medical information

Completed by: CW

21.13 Submit paperwork to the Manager Casework for approval.

Completed by: CW

Approval by: MCW

21.14 Provide the authorised carer with the approved documents including a copy of any court order concerning the child or young person

- Ask the carer to sign the Placement Agreement to acknowledge they understand the requirements
- Sign the Placement Agreement also
- Advise the carer that information provided is to be treated as confidential and medical information can only be provided to medical practitioners or dentists for the purpose of advice or treatment.

Completed by: CW

21.15 Place a copy of all paperwork and details of when it was provided to the carer on the child or young person's file and place the [Placement Agreement](#) on the authorised carer's file.

Completed by: CW

Approval by: MCW

21.16 Inform the child or young person of all information provided to the carer.

Completed by: CW

## 22. Informing the authorised carer of their care responsibilities

22.1 Consult with the manager casework to determine if there are any aspects of care responsibility that should or should not be exercised by the authorised carer.

Completed by: CW

Approval by: MCW

22.2 Consult with the carer regarding their care responsibilities and what consent and authority they have for the child or young person in their care, including:

- consent to medical and dental treatment that does not involve surgery or involves minor surgery on the advice of a medical practitioner or dentist
- consent to medical or dental treatment that involves surgery provided that the medical practitioner or dentist certifies that the surgery needs to be carried out as a matter of urgency and is in the child or young person best interest
- correct and manage the child or young person behaviour in accordance with practices approved by the designated agency
- give permission for the child or young person to participate in activities such as school excursions
- make other decisions required in the day to day care and control of the child or young person
- informing the carer of the child or young persons right not to be coerced or compelled to attend church or any religious activity and that their views must be considered
- informing the carer that they are required to keep a record of any religious instruction or activities and provide this information to the caseworker as part of the case planning process

The Children's Guardian has developed [Guidelines – NSW Office of the Children's Guardian](#) on the exercise of care responsibility by authorised carers and requires the caseworker to inform the carer of their care responsibility for the particular child or young person.

Completed by: CW

Approval by: MCW

22.3 Provide written advice to the carer to clarify what they should or should not do.

Completed by: CW

Approval by: MCW

## 23. Supporting the authorised carer when there is no current placement

23.1 Record the carers unavailability on KiDS and the date (if known) when they will become available.

Completed by: CW

Approval by: MCW

23.2 Maintain contact with the carer (if appropriate) and record all contact on KiDS.

Completed by: CW

Approval by: MCW

23.3 Consider offering the carer training and provide links to local support meetings and groups.

Completed by: CW

Approval by: MCW

## 24. Managing authorised carers records

24.1 Maintain authorised carers KiDS records by obtaining all relevant documentation relating to the carer and update the Carer Development Plan

This may include critical events or issues relating to a placement breakdown.

Completed by: CW

Approval by: MCW

24.2 Update the carers KiDS records including:

- availability and status
- service provider details
- change of address

Completed by: CW

Approval by: MCW

24.3 All KiDS records relating to the authorisation, review and support of the carer must be printed for the carer's paper file (for foster carers) or copied to the child or young person's file (for relative carers).

Completed by: CW

Approval by: MCW

## 25. Transferring an authorised carers file

25.1 When preparing to transfer an authorised carer's file, the sending CSC alerts the Manager Casework at the receiving CSC within 5 working days of the impending transfer.

Completed by: MCW

25.2 Arrange a handover meeting with the receiving CSC prior to the file being sent

- This meeting may be face to face or via teleconference depending on the distance between the CSC's
- Document the Handover in a Transfer/Handover Meeting record in KiDS.

Completed by: CW

Approval by: MCW

25.3 The caseworker responsible for the management of the carer is to:

- enter new address details for the carer on the Person and Service Provider fields in KiDS
- ensure the Carer Development Plan is up to date
- check that all paper records are attached and ensure the file is up to date, see Carer Paper Files topic below
- advise the carer in writing using [Case Transfer Letter](#) template
- complete the [CSC Case Transfer Form](#) and attach duplicates to the paper file
- mark the papers “confidential” and courier to the receiving CSC

Completed by: CW

Approval by: MCW

25.4 The receiving CSC will:

- re-allocate the Carer Development Plan and assign a caseworker to manage the Case Plan
- review the Carer Development Plan with the caseworker

Completed by: CW

Approval by: MCW

25.5 The caseworker will:

- DX the receipt for the transfer to the sending CSC
- advise the carer in writing that the transfer is complete and provide their contact details
- undertake a review of the carer’s new home

Completed by: CW

## 26. Reviewing an authorised Carer (Annual Review)

26.1 Complete a review annually; and when a change in circumstances occurs (e.g. the carer has a new partner, or there is a new member of the household, placement breakdown, a report of allegation of abuse/reportable conduct on the carer’s etc.).

Completed by: CW

Approval by: MCW

26.2 Review any previous assessments, placements or Carer Development Plans.

Completed by: CW

26.3 Conduct a home visit and discuss with carer/s:

- any difficulties encountered

- supports or training that may benefit the carer
- improving skills and knowledge
- check current circumstances of the carers household in terms of their authorisation and any other changes in circumstances such as a new partner or any change in household members
- undertake a review of the Home Inspection Checklist and ensure that any home safety issues have been identified and addressed

If the home has a swimming pool, ensure that the pool is compliant with [Swimming Pools Act 1992](#) and [Swimming Pools Amendment Act 2012](#) by checking that:

- A child resistant pool fence/barrier is properly installed and maintained
- The pool is registered with [NSW Swimming Pool Register](#)
- A valid Pool Compliance Certificate has been issued by the local council or an accredited certifier (the Certificate is valid for 3 years)

Completed by: CW

If the carer's home has a swimming pool (includes spa and portable/inflatable pool), ensure that a child resistant barrier/fence that meets Australian standards is properly installed and maintained. The [Swimming Pools Act 1992](#) describes a swimming pool as an excavation, structure or vessel that is capable of being filled with water to a depth greater than 300 millimetres. To find out which Australian standard applies to the pool see the checklists available at: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au) and [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au). All swimming pools must comply with the [Swimming Pools Amendment Act 2012](#). Under this Act all swimming pools must be registered with the [NSW Swimming Pool Register](#) and must have a Pool Compliance Certificate from their local council which is valid for 3 years. If the pool doesn't have a valid Pool Compliance Certificate, pool owners must contact their local council for a pool inspection and a certificate of compliance will be issued (if the pool is compliant). Local councils are required under the Act to carry out its Swimming Pool Program to ensure all pools comply with the required standards. There is a fee charged for pool inspection and Pool Compliance Certificate, refer to factsheet [Water Safety](#) and [FAQs Swimming Pools](#).

Completed by: CW

Approval by: MCW

26.4 Gain consent and conduct a KiDS check on the carer and household members 16 years old and over.

Completed by: CW

26.5 Gain consent and conduct probity checks on any new household members including:

- A Working With Children Check (WWCC) on any new adult (18 years and over) household members.
- A national criminal history record check (including COPS events) on any new household members 16 years and over
- A [Community Services Check](#) on any new household members 16 years old and over.

See [Probity Checks Practice Tool](#)

26.6 Consult manager casework regarding the decision to authorise, de-authorise or cancel the carer's authorisation upon completion of the above checks.

See: 'Reasons to cancel an authorised relative carer's authority' in the Practice section of this document.

Completed by: CW

Approval by: MCW

26.7 Document support and training needs and the date for the next review in the Carer Development Plan.

Completed by: CW

Approval by: MCW

26.8 Complete a report on annual review on the authorised carer/s and update KiDS as appropriate.

Completed by: CW

26.9 Record the annual review in the "Authorised Carer Review" record on KiDS and attach the report.

Completed by: CW

Approval by: MCW

26.10 If the review has commenced due to an allegation of abuse, the matter is to be referred to the Reportable Conduct Unit who will liaise with the District Director.

The Service Provider Status in KIDS needs to be updated to "Authorised-AAE investigation." To update this status a request needs to be made through the Business Systems Portal

Completed by: CW

Approval by: Reportable Conduct Unit / DD

26.11 If there is a change in circumstances with the carer/s (e.g. the carer has a new partner, or there is a new member in the household) then this needs to be recorded in KiDS Carer Development Plan, Service Providers Maintenance and also the Carers Register.

Completed by: CW

26.12 Complete the [Carers Register Update Form](#) form. Attach the form on KiDS to the "Authorised Carer Review" record.

Completed by: CW

26.13 Update Carer/household details on the Carers Register

Completed by: Authorised staff member who has access to create carers on the Carers Register.

## 27. Reviewing an authorised carers authority (5 Yearly Review)

27.1 Review an authorised carers authority every 5 years by conducting an annual review and ensuring that probity and medical checks are completed for authorised carers (and household members if applicable) as part of the 5 yearly review:

- Current Working with Children Check clearance for authorised carer/s and all adult household members.
- National Criminal History Record Check on authorised carer/s and all residential household members 16 years and over
- KiDS check on all residential household members 16 years old and over.



- medical check (carers only)

See: [Probity Checks Practice Tool](#)

Completed by: CW

Approval by: MCW

**Important Note:** WWCC clearance will be triggered every 5 years from the date of the last clearance, which won't necessarily coincide with the carer's 5 yearly review. Carers and all adult household members must complete a WWCC if clearance has expired/expiring soon, refer to step 3.4 Coordinate WWCC in this procedure. The new WWCC clearance must be recorded on KiDS Service Providers Maintenance and Carers Register.

27.2 Complete the '[Carers Register Update](#)' form. Attach the form on KiDS to the "Authorised Carer Review" record.

Completed by: CW

27.3 Update the new WWCC clearance for carer/s on Carers Register.

Completed by: Authorised staff member who has access to create carers on KiDS.

27.4 Conduct a home visit and discuss with carer/s:

- any difficulties encountered
- supports or training that may benefit the carer
- improving skills and knowledge
- check current circumstances of the carers household in terms of their authorisation and any other changes in circumstances such as a new partner or any change in household members
- undertake a review of the Home Inspection Checklist and ensure that any home safety issues have been identified and addressed

If the home has a swimming pool, ensure that the pool is compliant with [Swimming Pools Act 1992](#) and [Swimming Pools Amendment Act 2012](#) by checking that:

- A child resistant pool fence/barrier is properly installed and maintained
- The pool is registered with [NSW Swimming Pool Register](#)
- A valid Pool Compliance Certificate has been issued by the local council or an accredited certifier (the Certificate is valid for 3 years)

Completed by: CW

Approval by: MCW

If the carer's home has a swimming pool (includes spa and portable/inflatable pool), ensure that a child resistant barrier/fence that meets Australian standards is properly installed and maintained. The [Swimming Pools Act 1992](#) describes a swimming pool as an excavation, structure or vessel that is capable of being filled with water to a depth greater than 300 millimetres. To find out which Australian standard applies to the pool see the checklists available at: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au) and [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au). All swimming pools must comply with the [Swimming Pools Amendment Act 2012](#). Under this Act all swimming pools must be registered with the [NSW Swimming Pool Register](#) and must have a Pool Compliance Certificate from their local council which is valid for 3 years. If the pool doesn't have a valid Pool Compliance Certificate, pool owners must contact their local council for a pool inspection and a certificate of compliance will be issued (if the pool is compliant). Local councils are required under the Act to carry out its Swimming Pool Program to ensure all pools comply with the required standards. There is a fee charged for pool inspection and Pool Compliance Certificate, refer to factsheet [Water Safety](#) and [FAQs Swimming Pools](#).

27.5 Consult manager casework regarding the decision to authorise, de-authorise or cancel the carer's authorisation upon completion of the above checks.

See: 'Reasons to cancel an authorised relative carer's authority' in the Practice section of this document.

Completed by: CW

Approval by: MCW

27.6 If the carer is a Foster carer complete the Authorised Foster Carer Review record and submit for approval.

**Important note:** If the carer is a Relative carer (with a Legal order) complete the review as part of the child or young person's Case Plan review process and all details relating to the review must be documented in the Kin/Relative Carer Assessment record

Completed by: CW

Approval by: MCW

27.7 Update the Carer Development Plan with any further support or training.

Completed by: CW

Approval by: MCW

27.8 If the decision is to renew the authorisation, the caseworker will:

- discuss the contents of the authorised foster carer review record with the carer and provide them with a copy
- provide the carer with an authorisation advice and a Code of conduct for the carers to sign
- file copies of all documents in the carers paper file
- update all carers records and profile on KiDS including their current status.

Completed by: CW

Approval by: MCW

27.9 If the decision is to de-authorise or cancel, the caseworker will:

- consult with the Manager Casework regarding the need to move any child or young person still with the carer to another suitable placement
- update the Service Provider Status in KIDS to "Authoris'n cancelled-DoCS"
- advise the carer in person and in writing of the decision and the reasons for the decision
- discuss the contents of the authorised foster carer review record with the carer and provide them with a copy
- advise the carer they may ask for an internal review of the decision by writing to the Manager Client Services
- advise the carer (if the internal review is unsuccessful) they may apply to the NSW Civil and Administrative Tribunal
- remove the carers details from any mailing lists held at the CSC or District
- Complete the Carer Development Plan on KiDS.

Completed by: CW

Approval by: MCW

27.10 Follow the steps outlined in Section 18: De-authorisation and cancellation of a carer's authorisation

## 28. Processing loss or damage claims

28.1 Prepare a report that includes:

- details of the child or young person (including legal status) and the carer
- current placement details and reason for placement
- a detailed account of the incident, the claimants statement and the statement of the child or young person
- details of any previous claims relating to this child or young person
- if the claim relates to a child or young person who frequently causes incidents, a Behaviour Support Plan is required and a plan to manage that behaviour developed
- details of property loss or damage including one written quote for claims less than \$2000 and three written quotes for claims of \$2000 or more. Where this is not possible, the reason must be documented
- if the claim relates to loss or damage as a result of an injury to an individual, provide an estimate of the claim and complete a [Claims for Loss or Damage Release Form](#)
- details of any insurance cover
- arguments for and against the claim
- recommendations as to whether the claim should be met

Completed by: CW

Approval by: MCW

28.2 In KiDS, attach the report to the Ad-Hoc Financial and Request

MCW to ensure that the Financial and the report are escalated to the appropriate delegate.

Completed by: CW

Approval by: MCW

## 29. Delegation of aspect(s) of parental responsibility to the authorised carer

29.1 Determine that delegation of any aspect of parental responsibility to the carer is in the best interests of the child or young person in consultation with the Manager Casework.

Completed by: CW

Approval by: MCW

29.2 Obtain and record the authorised carer's views concerning accepting the specific aspect(s) of parental responsibility.

Completed by: CW

29.3 Obtain and record the child or young persons view and those of their parents.

Completed by: CW

29.4 Determine what aspect of parental responsibility and whether it should be exercised with or without consultation with Family and Community Services and the reasons for the decision and submit to the Manager Casework for approval.

Completed by: CW

Approval by: MCW

29.5 When approved:

- Prepare a Briefing Note to the Director Community Services seeking approval to delegate specific aspect(s) of parental responsibility
- Prepare a letter of authorisation to the authorised carer for signature by the Director Community Services
- The letter of authorisation must identify what specific aspect(s) of parental responsibility the authorised carer is given authority to exercise on behalf of the Minister and any conditions to the authority.

Completed by: CW/MCW

Approval by: DCS

29.6 Make a copy of the signed letter of authorisation and the Briefing Note and place on the child or young person and authorised carer files.

Completed by: CW

29.7 Provide the authorised carer with the letter of authority to exercise a specific aspect(s) of parental responsibility on behalf of the Minister and discuss any conditions and/or requirements where relevant.

Completed by: CW

Approval by: MCW

## 30. Facilitate the authorised carer's participation in decision making

30.1 Inform the carer of their right to participate in decision making and discuss the various opportunities for this to occur.

Completed by: CW

30.2 Inform the authorised carer of dates for case planning meetings, see: [Case Meetings-Information for carers and parents](#).

Completed by: CW

30.3 Provide information or resources to help the carer participate in case planning effectively e.g. interpreter, support person or child care.

Completed by: CW

30.4 Ensure the carer has a copy of the child or young person's most recent care/case plan

Completed by: CW

30.5 Provide the authorised carer with information about their rights regarding internal and external avenues for review and appeal of decisions by Family and Community Services.

Completed by: CW

## 31. Participation of the authorised carer in care proceedings

31.1 Ensure that carers are advised of all forthcoming court matters concerning the child/ren in their care, not just where a final order is being sought. Inform the carer, in a timely manner, of the outcome of any court action.

- Add a General File Note record within the carer's KiDS Carer Development Plan with the description "court matter" and subtype "correspondence" to document that the carer has been advised and provided with relevant information regarding the court matter.

Completed by: CW

31.2 If a final order is being sought with regard to a child or young person or a variation is being sought to an existing order:

- the authorised carer may seek to be involved or the Court may request the involvement of the authorised carer in Children's Court proceedings (this is more likely to occur when the carer has had care of the child or young person for some time).

Completed by: CW

Approval by: MCW

31.3 Advise the authorised carer that they may:

- seek to have their views on a significant matter that impacts on them included in the material for the Secretary and, if they do not consider that this has been done, seek an opportunity from the Children's Court to be heard
- seek the leave of the Children's Court to be heard by the court in relation to a matter that may have a significant impact on the carer or their family
- seek the leave of the Children's Court for the right to appear as a separate party to care proceedings involving a child or young persons in their care
- may be required to attend Children's Court if they have provided care to the child or young person who is the subject of a matter before the court, or if the court has reasonable cause to believe the carer knows or has information concerning the whereabouts of the child or young person if the whereabouts of same is unknown to the Court.

Completed by: CW

31.4 If an application is made to the Children's Court for the rescission or variation of a care order, discuss with the authorised carer how they can participate in the decision making process

Completed by: CW

31.5 Record the key issues discussed on the child or young person and carers file including:

- the carers views
- the child or young persons views
- decisions made at court.

Completed by: CW

31.6 In most cases the carer's interests may be represented by Family and Community Services legal representative however if the carer wishes to be a separate party to proceedings they must obtain, at their own expense, their own legal representative who will seek leave (which may not necessarily be granted) to be joined as another party

If an authorised carer is to make separate representations to the Children's Court, the caseworker must contact Legal Services Branch

Completed by: CW

Approval by: Legal Services Branch

31.7 If the child or young person has been in the continuous care of an authorised carer for 2 years or more and the child or young persons case plan goal is NOT restoration discuss the possibility of a guardianship order with the carer. See [Guardianship orders](#).

Completed by: CW

## 32. Recognising Authorised Foster Carer Achievements

**Important Note:** Authorised foster carers undertake a personally rewarding but often demanding and challenging role. There are times when special recognition of the contribution by an authorised foster carer is warranted. Examples include the care of a child through a terminal illness, assisting the child or young person to achieve outstanding results academically, in sport or through a special interest.

32.1 Prepare a Briefing Note if the caseworker or Manager Casework is of the opinion that the authorised carer's achievement warrants formal recognition. The Briefing Note should be prepared providing background information about the Authorised foster carer and the reason why recognition is recommended.

Completed by: CW

Approval by: MCW

32.2 Forward the briefing Note to the District Director for endorsement.

Completed by: MCW

Approval by: DD

32.3 Forward the Briefing to the Secretary and Minister. Formal approval for any recognition should be gained through the District Director and FACS Ministerial and Communications Services.

Completed by: DD

Approval by: Chief Executive

32.4 Forward the Briefing Note to the Minister for endorsement.

Completed by: DD or Chief Executive

Approval by: Minister

32.5 Notify Ministerial and Communication Services.

Completed by: DD

## Carer paper files

### Practice

Used when preparing or maintaining a paper file for a Family and Community Services authorised carer

The carer paper file is an essential record in the management of carers. The information contained within the carer paper file complements the information held about the carer on KiDS..

Clear and concise documentation on the carer file is important for providing the context for decisions made by Family and Community Services. The information can also be used when reviewing the ongoing suitability of a carer. A decision made by Family and Community Services to take action against a carer due to ongoing concerns may be reviewed by the NSW Civil and Administrative Tribunal (NCAT). Information on the file may be required by the NCAT for this review.

Documents placed on the carer paper file should be chronologically filed by the date of receipt or creation, and paginated. All significant documents added to the carer paper file are to be recorded on the index. This index is to be kept at the front (top) of the file.

Access to carer's personal information is restricted to staff who have direct casework or supervisory responsibilities for the carer. Family and Community Services staff involved with a carer are responsible for appropriately managing and securely storing the carer's information. The State Records Act 1998 states that Community Services carer files should not be destroyed.

See References: Related Links: [Privacy](#)

Different files are created that identify the type of carer and the information that is kept on their files.

- Blue file is used for Family and Community Services authorised foster carers;
- Green file is used for authorised relative / kinship carers;
- Yellow file is used for supported carers

See Forms: [Family and Community Services filing consumables order form](#)

## Creating a file for Family and Community Services authorised foster carers

As all records relating to pre-authorisation are stored in a paper, and some on KiDS. A paper file (blue file) is created by the Carer Support Team Where the applicant is a Family and Community Services employee, the carer support team create a paper file (blue file) and the file is held by the Manager Casework.

## Creating a file for authorised relative/kinship carers and supported carers

When a person contacts the Helpline or the CSC (or is identified during ROSH assessment as being able to provide care) expresses an interest in becoming an authorised relative/kinship carer or a supported carer, the person's details are recorded on KiDS and a Carer Development Plan is created. This plan is where all assessment and authorisation information will be recorded throughout the process. A green file is used for authorised relative/kinship carers, and a yellow file is used for supported carers. The creation of these files will generally be when the person makes a formal application to become a carer and a Carer Development Plan has been created on KiDS. Each carer should only have one file, with new volumes created as required.

## Contents on a Family and Community Services authorised foster carer file

The following documents should be recorded in KiDS and should be placed on the FACS authorised foster carer file:

**Important note:** if the applicant is an employee of Family and Community Services the file is kept by the Manager Casework

- Family and Community Services Carer Assessment report
- the letter of authorisation to be a carer and any changes to the number of placements permitted or placement conditions
- letters, forms and reports regarding placements for example, Advice of placements forms, Completed placement forms, Placement agreements, Placement breakdown reports, and Annual review reports.

**Important note:** Placement information can assist with keeping a record of the matching process including any assessment of the impact of a placement on the carer. This information may be used to assist decision making regarding future placements. When placing information on the carer file regarding a child or young person keep in mind the privacy issues surrounding that information.

- review of KiDS and criminal record checks every five years
- notes on training provided to the carer
- copies of all papers relating to allegations of carer misconduct, allegations of reportable conduct, and misconduct

**Important note:** Records of allegations of reportable conduct are not to be placed on the child file. The Reportable Conduct holds all original documents.

- records relating to an administrative file of the carers being held at Head Office or Regional Office
- documents that record decisions and events, such as file notes, emails, and meetings.

## Contents on an authorised relative/kinship carer and supported care file

The following documents should be recorded in KIDS and placed on the authorised relative/kinship carer and the supported carer file:

- the initial application to become a carer
- Authorised Relative Carer Assessment Report (full and provisional)
- Code of Conduct and Placement Agreement signed by the carer
- the letter of authorisation to be a carer and any changes to the conditions of authorisation such as number of placements permitted



- KiDS check of the applicant/s and all children to determine previous FACS history. If the person is secured, apply to the Directors Community Services or District Directors who assess, determine and allocate access on a case-by-case basis. Reference checks and probity checks for carers and household members, for example the prohibited employment declaration form and pre-employment and other screening consent/request forms, and NSW Police checks.
- Letters, forms and reports regarding placements for example, Advice of placements forms, Completed placement forms, Placement agreements, Placement breakdown reports, and Annual review reports.

**Important note:** Placement information can assist with keeping a record of the matching process including any assessment of the impact of a placement on the carer. This information may be used to assist decision making regarding future placements. When placing information on the carer file regarding a child or young person keep in mind the privacy issues surrounding that information.

- review of KiDS and criminal record checks every five years;
- notes on training provided to the carer;
- copies of all papers relating to allegations of carer misconduct, allegations of reportable conduct.

**Important note:** Records of allegations of reportable conduct are not to be placed on the child file. The Reportable Conduct Unit holds all original documents.

- records relating to an administrative file of the carers being held at Head Office or District Office;
- documents that record decisions and events, such as file notes, emails, and meetings.

## Team responsible for maintaining a carer file

Maintaining accurate and up-to-date records is an essential component of effective casework practice.

Carer Support Teams have the responsibility of supporting all newly authorised carers for the first 12 months. After 12 months Carer Support Teams (or placement officers depending on District) have primary responsibility of supervising carers who are approved to provide emergency and short term placements and therefore maintain these carer files.

For the first 12 months of a long term carers authorisation the Carer Support Team retains primary responsibility for the long term carers and their files. After 12 months the responsibility for the carer with a long term placement transfers to the respective OOHC team.

Duplicate files are not to be created by the Carer Support Team or CSC. Child protection and OOHC caseworkers should keep Carer Support caseworkers and/or placement officers up to date with significant events and issues relating to carers and placements to ensure the carer file are maintained.

## Transferring a carer file

Carer files for long term placements should be transferred from the Carer Support Teams to the respective OOHC team after 12 months. The transfer of the carer's files should be timely, especially when the Carer Support Team is not co-located, to prevent a duplicate carer file being created.

Carer files may be transferred between CSCs if the carer moves to a new area.

Where a FACS carer has agreed to become an authorised carer for a new designated agency, FACS will seek the consent of the carer to transfer the relevant information from the carer's file to the agency for the purposes of reauthorisation of the carer.

Carer paper files that are no longer required by Family and Community Services are to be stored offsite by transferring the files to the NSW Government Records Repository (GRR) in accordance with current instructions as advised by Businesslink.

It is recommended that where files containing confidential documents or client/child protection files are to be transferred between CSC and Business Units the current Courier/Freight Service Contractor is to be

utilised along with the electronic tracking. This is to ensure that the items are tracked and receipted electronically.

The DX, Courier and Freight Services Fact Sheet provides the information on the current contractor and processes for the delivery and tracking of the files and documents

See Related Links: DX, Courier and Freight Services [fact sheet](#)

See References: Related links: [Records management](#) and Related Casework Practice Procedures: [Case transfer](#)

## Responding to requests for information on carer files

Anyone who has information collected about them by FACS can formally request access to this information under the [Government Information \(Public Access\) Act 2009](#), the [Privacy and Personal Information Protection Act 1998](#), or the [Health Records and Information Privacy Act 2002](#).

Requests should be directed to the Community Services Right to Information (RTI) Unit. The RTI unit charges a processing fee for services. See References: Related Links: [Right to information](#).

## 33. Creating a carer file

33.1 Conduct a search on KiDS to determine whether there is an existing file

Completed by: CW

33.2 Create a file:

- blue carer file for a person (people) authorised as a foster carer
- green file for a person (people) applying to be an authorised relative/kinship carer
- yellow file for a person (people) applying to be a supported carer

Completed by: CW

Approval by: MCW

33.3 Create a General File Note (GFN) record:

- with description "Carer File (File identifier, file number and/or name)"
- select File Note Sub Type "Paper File Movement" within the carer development plan.
- include: Where the file is located in the FACS Worker field (Transferred to ... CSC)
- leave GFN incomplete.

Completed by: CW

33.4 Record on the front cover:

- file number (use the Service Provider row ID)
- volume number details & date created
- authorisation date
- conditions of authorisation – details about number of children and ages
- carer details including Names, Person No, Phone No and Address
- carer's Aboriginal and Torres Strait Islander status

- carer's culture or religion
- interpreter required
- carer development plan number

Completed by: CW

#### 33.5 Record on the inside front cover:

- family name
- service provider carer development plan number
- primary allocated worker contact details and period covering carer support responsibilities for the carer
- contact details for the carer
- authorisation details and conditions and review date (including 5 yearly KiDS and criminal record check review)

Completed by: CW

#### 33.6 Filing

- file documents in chronological order of receipt or creation with the most recent entry placed at the top of the file
- file documents containing a number of pages (eg court report) on the file with the front page as the most recent entry
- replace duplicate documents with original documents when they are received. If the duplicate documents have any hand written notes on them place on the file along with the original document
- place the officer's full name and role to accompany any signatures
- file emails in chronological order when the string of emails is completed
- stamp the date received on documents from other agencies and file in chronological order from when they were received not from when they were created
- file promptly any correspondence from the Minister, the Ombudsman, the Office of the Children's Guardian, Right to Information and Complaints Unit
- file promptly any concerns held about a carer's conduct.

Completed by: CW

#### 33.7 Storing documents on the file

- remove staples, metal pins or clips from documents
- place documents which cannot be hole punched into a plastic sleeve and attach to file
- place small documents (less than A5 size) inside a plastic sleeve and attach to file

Completed by: CW

#### 33.8 Pagination of documents

- paginate each newly created volume beginning with page one
- paginate each page on the top right hand corner
- paginate multiple page documents with the final page paginated first and the front page paginated last

Completed by: CW

### 33.9 Using the index sheet

- place the [Carer File index sheet](#) as the top sheet of the carer file
- complete details at the top of the index sheet fill in the family name, file volume number and year created details
- record on the index sheet the page numbers of significant documents placed on the file
- record on the index sheet documents that have special confidentiality requirements

Completed by: CW

### 33.10 Closing a volume

- close a volume when the paper file reaches 3.5cm in thickness and open the next volume of the file
- place a [Closed Volume \(Cover Sheet\)](#) on top of the closed file and write the date the file was closed and the next volume number
- record in the existing General File Note in KiDS the date the file was closed and the date and the new volume number if another volume is created

Completed by: CW

### 33.11 Creating a new volume

- follow procedure as detailed when creating a new file
- copy the closed volume(s) file index sheets and place them in a plastic sheet at the front of the new volume of the carer paper file

Completed by: CW

## 34. Maintaining a carer file

### 34.1 Record file creation, allocation and movement of the carer paper file on KiDS in a General File Note (GFN) record with the description "Carer File (File identifier, file number and/or name)"

Select File Note Sub Type "Paper File Movement" within the carer development plan.

Include where the file is located in the FACS Worker field (Transferred to ... CSC) and leave GFN incomplete.

Completed by: CW

### 34.2 Store carer files in the identified locked records storage facilities within the CSC when not in use

Completed by: CW

### 34.3 Print off the record/s from KiDS and place it on the carer file when action has been undertaken by another CSC or other FACS unit

Completed by: CW

34.4 Record a file note in the carers file when the CSC is made aware that an administrative file (eg. relating to an issue raised with the Minister) is held by Head Office or District Office for a subject child or young person.

Add a Comment in the Incomplete General File Note record with the description "Carer File (File identifier, file number and /or name)" and Sub Type "Paper File Movement"

Completed by: CW

34.5 Copy file and follow instructions from District Office or Head Office, if they request a copy of the file

Completed by: CW

34.6 Copy file and follow procedures as set out in Casework Practice Procedure [Family Law, responding to subpoenas in different jurisdictions and AVOs in child protection](#) if file has been subpoenaed by a Court

Completed by: CW

34.7 Complete a [Notice Copied File Insert Sheet](#) and place on the original file, when a carer paper file is copied

Completed by: CW

34.8 Follow procedures as set out in Casework Practice Procedure [Case transfer](#) if required

Completed by: CW

34.9 Give approval for the original file to leave the office (only under exceptional circumstances) and record file movement in KiDS stating the approval reason and the projected time the file will be away from the office

Completed by: MCW

## 35. Closing a carer file

35.1 Close of a carer file if:

- the application to be an authorised relative/kinship carer or supported carer is declined or withdrawn and all relevant paperwork has been finalised
- the carer is de-authorised

Completed by: CW

Approval by: MCW

35.2 If there has been a variation, suspension or cancellation to the carer/s authorisation Attach a copy of endorsed [Suspension of Foster Carer Authority](#) (generated in KiDS) to the carer file.

Completed by: CW

Approval by: MCW

35.3 Document the reasons the carer/s application has been declined or withdrawn, or the reasons their authorisation has been varied, suspended, cancelled

Completed by: CW

35.4 Close the carer development plan on KiDS

Completed by: CW

Approval by: MCW

35.5 Update the Service Provider status on KiDS

Completed by: staff nominated by MCS and approved by DCF

35.6 Send the closed carer file to the NSW Government Records Repository, see related links: [Records management](#)

Completed by: SSM

35.7 Record the movement of the carer paper file to archives on KiDS.

Completed by: CW

Approval by: MCW

## Legal Framework

### Legislation

[Adoption Act 2000](#)

[Children and Young Persons \(Care and Protection Act\) 1998](#)

[Children and Young Persons \(Care and Protection\) Regulation 2012](#)

[Child Protection \(Working with Children\) Act 2012](#)

[Government Information \(Public Access\) Act 2009](#)

[Health Records and Information Privacy Act 2002](#)

[Privacy and Personal Information Protection Act 1998](#)

[Ombudsman Act 1974](#)

[State Records Act 1998](#)

### Policy Framework

[NSW Standards for Statutory Out-of-Home Care](#)

[Service provision guidelines](#)

[Transfer of Community Services records to NSW Government Records](#)

## Helpful Links

### Related resources

[Aboriginal Consultation Guide](#)

[African Sessional Workers Program](#)

[Carer Assessment Manual](#)

[Caring for kids – a resource for foster, relative and kinship carers](#)

[Cultural support planning for culturally and linguistically diverse children and young people in care](#)

[FACS Code of Ethical Conduct](#)

[Interpreters & language services](#)

[Multicultural Caseworker Consultation Guide](#)

[Multicultural caseworker contact register](#)

[Our Carers for Our Kids – Trainers Guide, Participants Work book, Overheads.](#)

[Protocol for the Transfer of Child Protection Orders and Proceedings and Interstate Assistance](#)

[Working with Aboriginal People and Communities](#)

[KIDS Recording Guides](#)

### Related links

[Authorised Carer Personal Reference Form](#)

[Emergency Placement Referral Form](#)

[WWCC FACS District Verifier Contact List](#)

[Relative and kinship carer application form](#)

[Health Checklist for foster/relative/kinship care applicants](#)

[Medical reference check and cover letter](#)

[How to apply for a WWCC – for carers and adult household members factsheet](#)

[Home Inspection Checklist](#)

[Emergency Placement Brief Assessment Report for Provisional Authorisation of Relative or Kinship Carer](#)

[Relative Kinship carer full authorisation assessment report](#)

[Carer authorisation advice for relative or kinship care](#)

[Certificate of eligibility for special family circumstances exemption](#)

[Certificate of eligibility for special family circumstances exemption letter to carers](#)

[Fact sheets - NSW Office of the Children's Guardian](#)

## Administrative functions of Parental Responsibility

Used when working with children and young people. The procedure includes guidance around:

- Birth certificates, names and registration
- Death certificates and registration of deaths
- Marriages
- Inheritance, wills and trust accounts
- Passports
- Residency, Permanent Residency and Citizenship
- Publication of identifying information and public performances

### Practice

FACS has delegated responsibility to exercise certain functions on behalf of the Minister for children and young persons who the Minister has parental responsibility. FACS will exercise these functions in accordance with the relevant legislation, whilst maintaining a focus on the rights of children and young persons, their families, kin and carers.

It is critical that practitioners consider the principles of the [Care and Protection Practice Framework](#) when making decisions on behalf of children and young people.

### Birth certificates, names and registration

A copy of a child or young person's birth certificate is to be filed in the Children's Court Registry prior to the finalisation of care proceedings. This is to ensure that the final care order accurately reflects the child or young person's name, date and place of birth, and parentage.

**Important Note:** If Non-Government Organisations (NGO) have case management responsibility for children or young persons for whom the Minister has parental responsibility and a birth certificate is required, FACS will complete a birth certificate application process and send the original copy of the birth certificate to the NGO. The CSC will keep a certified copy of the birth certificate on file.



## 1. Obtaining an original birth certificate

### 1.1

- Complete the [Birth Certificate Application Form](#) from the NSW Registry of Births, Deaths & Marriages
- Prepare the [Birth Certificate Application Letter](#) on FACS letterhead. Address it to the Registry of Births, Deaths & Marriages indicating that the child is in the parental responsibility of the Minister (or interim parental responsibility) and attach a copy of the order.
- Create a General File Note record in KiDS to document the application and select sub type “Birth Certificate” and attach the application to the record.

Completed by: CW

- Sign the Birth Certificate Application letter
- Approve payments on KiDS
- Ensure that the correct values are selected, see: [Financial support for children and young people in out-of-home care: guidelines and policy](#)
- Program “Out-of-Home-Care”
- Sub Program “Maintain identity and culture”
- Expenditure type “Official Documents e.g. Passport”
- Ensure that the “Cheque to CSC” field is ticked as the cheque will need to be posted by the CSC to the Registry of Births, Deaths & Marriages with the Application

Completed by: MCW

- Attach the signed application form and letter on KiDS
- Send the application form, letter and payment to the Registry of Births, Deaths & Marriages
- Update all birth details held at FACS once you receive the birth certificate
- Confirm the “Date of Birth Status” to “confirmed” in the Person’s Profile tab in KiDS
- Certify a copy of the certificate (by a Justice of the Peace or qualified professional) and scan and attach to KiDS the General File Note record that was created to document the application
- Place the original birth certificate in a clear plastic sleeve at the front of current file volume
- Provide a certified copy of the birth certificate to the carer or service provider and the child for inclusion in their [My Life Story Book](#).

**Important note:** The original birth certificate is given to the child or young person when they leave care as part of their leaving care plan

Completed by: CW

## 2. Registering a birth and obtaining a birth certificate for - a child born in NSW

### 2.1

- Ask the child's parents if they have the "Birth Registration Statement Form" provided to them by the hospital which includes a [Birth Certificate Application Form](#).

**Important note:** Every effort should be made to encourage both parents' names to be recorded on the birth certificate.

- If the parents do not have the form, obtain the "Birth Registration Statement" from the hospital, birth centre or midwife and ask the parent's to complete the birth details and complete the "Birth Registration Statement Form" and the [Birth Certificate Application Form](#)
- If the parents appear unable to register the birth and name their child, make all reasonable efforts to assist the parents to fill out the form.
- If parents' whereabouts are unknown, make all reasonable efforts to locate the parents before proceeding.

**Important note:** If after making all reasonable efforts the caseworker is unable to assist the parents in completing the "Birth Registration Statement" including obtaining the correct spelling of a child's name, refer to Section 4.

- Follow and complete all steps in Section 1.
- Lodge the "Birth Registration Statement Form", letter, payment and supporting documentation within 60 days of the birth to the NSW Registry of Births, Deaths & Marriages, PO Box 30, Sydney NSW

**Late registrations** (longer than 60 days after the birth of a child) are more complex. You will save delays in getting the child's birth certificate in the future if the child is registered on time. It is the State's priority to support parents to register their child. Late registrations involve strict verification of the child's details, and more proof of identification will be required. For this reason, it is not always possible to process these applications urgently due to the extra requirements.

Completed by: CW

## 3. Registering a birth and obtaining a birth certificate for - a child born outside NSW

### 3.1

- Contact the relevant authority for a child born interstate or overseas to seek advice on the procedure and fees required for registering the child's birth. For contact information for other Australian states, territories and overseas Registries, go to the Links provided on the [NSW Registry of Births, Deaths & Marriages](#) website

- For adoption matters, contact FACS Adoption and Permanent Care Services for advice (02 9716 3000)
- Follow the procedures for registration of the child's birth and obtain a birth certificate as advised by the relevant authority

**Important note:** Every effort should be made to encourage both parents' names to be recorded on the birth certificate

- Update all birth details held at FACS once you receive the birth certificate
- Confirm the "Date of Birth Status" to "confirmed" in the Person's Profile tab in KiDS
- Certify a copy of the certificate (by Justice of Peace or qualified professional)
- Create a General File Note record in KiDS selecting sub type "Birth Certificate" and attach the certified copy of the certificate
- Place the original in a clear plastic sleeve at the front of current volume
- Provide a certified copy of the birth certificate to the carer or service provider and the child for inclusion in their [My Life Story Book](#).

**Important note:** The original birth certificate is given to the child or young person when they leave care

Completed by: CW

## 4. Registering a birth and obtaining a birth certificate for - an unnamed child

The following steps should only be followed if the child has not been given a name by a parent or the spelling of a name has not been confirmed by a parent.

### 4.1

- Contact [the NSW Registry of Births, Deaths & Marriages](#) and be advised of the process to follow
- If advised by the NSW Registry of Births, Deaths & Marriages to register the child with a name, approval to register a name for the child must be provided by the Director FACS
- Record why FACS named the child, and why a particular name was chosen in the General File Note record in KiDS (same file note created to document the application)

**Important note:** Include what attempts were made to locate and engage the family in the decision to name the child and the spelling of the name.

- Follow steps in Section 1.

Completed by: CW

## 5. Amending the child's birth record to include the details of the biological father

**5.1** If FACS receives information from a person claiming to be the father of a child under the Minister's parental responsibility requesting his name be placed on the child's birth certificate, verify the person's claim to be the father through confirmation by the birth mother/birth family, paternity testing or information on FACS files. If verified, proceed to Step 5.2.

- If the details of a person thought to be the child's father are identified but there is not a request from this person to add his details as the child's father, consult with the Manager Casework so a decision can be made as to further necessary action. If appropriate, also consults with the child's mother, to confirm whether information should be provided to this person, assisting him to be recognised as the child's father.

Completed by: CW

**Important Note:** The [Add Father's Details](#) form can ONLY be used to add the details of a child's biological father to the birth registration if the birth is registered in NSW.

### 5.2

- Complete the [Add Father's Details](#) form located on the NSW Registry of Births, Deaths & Marriages website
- Prepare the [Birth Certificate Application Letter](#) on FACS letterhead. Address to the Registry of Births, Deaths & Marriages indicating that the child is in the parental responsibility (or interim parental responsibility) of the Minister and attach a copy of the order. Request the birth father's details to be registered and a birth certificate issued to FACS
- Create a General File Note record in KiDS selecting the sub type of "Birth Certificate" and attach the application letter and form to the record

Completed by: CW

- Sign the Birth Certificate Application letter
- Approve payments on KiDS
- Ensure that the correct values are selected, see: [Financial support for children and young people in out-of-home care: guidelines and policy](#)
- Program "Out-of-Home-Care"
- Sub Program "Maintain identity and culture"
- Expenditure type "Official Documents eg Passport"
- Ensure that the "Cheque to CSC" field is ticked as the cheque will need to be posted by the CSC to the Registry of Births, Deaths & Marriages with the Application

Completed by: MCW

- Attach the signed application form and letter on KiDS

- Lodge the [Add Father's Details](#) form, letter, payment and supporting documentation with the NSW Registry of Births, Deaths & Marriages, PO Box 30, Sydney NSW
- Update all birth details held at FACS once you receive the birth certificate

**Important note:** If required, update the relationships on the child's Person screen in KiDS

- certify a copy of the certificate (by Justice of Peace or qualified professional) and attach to KiDS the General File Note record that was created to document the application
- place the original in a clear plastic sleeve at the front of current volume
- provide a certified copy of the birth certificate to the carer or service provider and the child for inclusion in their [My Life Story Book](#).

**Important note:** The original birth certificate is given to the child or young person when they leave care

Completed by: CW

## 6. Legally changing a child or young person's name

Children and young people in out-of-home care have the right to have their **name**. A person's 'name' includes the first name, middle name(s) and surname by which they are usually known. The child or young person's birth certificate identifies the name to be used in all official documents, including school enrolment and identity preserved, in accordance with s.9 of *the Child and Young Persons Care and Protection Act (1998)*. Changing the name of a child or young person is usually only permitted in cases: where a Court has made an order requiring a change of name, when a very young baby is being placed for local (NSW) adoption (refer to Part 11, s. 101, *Adoption Act 2000*), or in extraordinary circumstances.

Changing a child or young person's name is subject to Part 5 of the [Births, Deaths and Marriages Act 1995](#) and where the child or young person has been adopted, to Part 11, Section 101 of the [Adoption Act 2000](#)

**6.1** If a child or young person requests a legal change of name, this should be discussed in a case planning meeting so that all relevant parties have the opportunity for input into the decision.

- Speak with the child or young person and carer separately to obtain their views and the reason for the change of name request.
- Encourage the child or young person to be known by a 'preferred name' instead of legally changing their name, follow steps in Section 7.

**Important Note:** In the case of "Protected Persons" who are non-citizens, staff must consult with the [Commonwealth Department of Immigration and Citizenship](#) (DIAC) prior to taking any action to change the child or young person's name. You can call the General Enquiries line on 131 881.

Completed by: CW

**6.2** Approve or decline the request for a legal name change. Usually the approval will only be granted if:

- a child or young person who is 12 years of age or older has made the request to change their name;
- the child or young person is assessed as competent to make an informed decision;
- there is no indication of coercion by any other party;
- the child or young person has been in a stable long-term placement of at least two years' duration and there is no plan for restoration to the birth family;
- the child or young person is fully aware of their identity.

**Important Note:** The Director CS may approve a request to change the name of an Aboriginal child by "registration" only after consultation with family/extended family members, appropriate elders, and/or community and cultural representatives as outlined in [s12](#) of the Act that relates to Aboriginal and Torres Strait Islander participation in decision making.

Approval by: MCS / DCS

**6.3** Inform the child or young person if it is approved or declined.

**Important note:** If the request to change a name is declined and the child or young person continues to express a desire to change their name, refer them to the [Change of Name](#) link located on the NSW Registry of Births, Deaths and Marriages which supplies a 13 77 88 contact number

Completed by: CW

**6.4** If approved:

- Complete the [Change of Name \(Under 18 years\) Application Form](#) from the NSW Registry of Births, Deaths and Marriages following the instructions provided
- Obtain the written consent, on the application form, of the child or young person if they are aged 12 years or over and record it in a Consent record
- Prepare the [Change of name request letter](#)
- On FACS letterhead to the Registry of Births, Deaths & Marriages requesting a birth certificate in the new name and indicating that the child is in the parental responsibility of the Minister (or interim parental responsibility) and attach a copy of the order.

**Important note:** If the child or young person's birth was registered overseas a Change of Name Certificate will be issued instead of a Birth Certificate

- Request the Manager Client Services or the Director CS, if the child or young person is Aboriginal, to sign the [Change of Name \(Under 18 years\) Application Form](#)
- Approve payment of required fees on KiDS

Approval by: MCW

- Attach a copy of the signed form on KiDS in a General File Record selecting sub type "Birth Certificate"

- Lodge the Change of Name request letter, the [Change of name request letter](#) payment and other relevant documentation with the NSW Registry of Births, Deaths and Marriages
- Once received, get the certificate certified
- Update all FACS records (paper file and KiDS) and the child or young person's name on the Person Screen. If the new registered name has already been entered in KiDS as a "preferred name", update the name type to "legal name". If the new registered name has not yet been entered in KiDS, add the new name as name type "legal name" and change the name type of the previous name to "previous/maiden name"
- Place the original certificate in a clear plastic sleeve at the front of current volume
- Provide a certified copy of the birth certificate to the carer or service provider and the child for inclusion in their [My Life Story Book](#).

**Important note:** The original birth certificate is given to the child or young person when they leave care

Completed by: CW

## 7. Informal change of name by use of a "preferred name"

**7.1** Use of a "preferred name" is approved by the Manager Casework (or Director CS in the case of Aboriginal children and young people following consultation with family/extended family members and/or community and cultural representatives)

**7.2** Record the change of name type on KiDS as a "preferred name"

Completed by: CW

Approval by: MCW / DCS

## Death certificates and registration of deaths

### 8. Registering the death of a child or young person for whom the Minister has some or all aspects of parental responsibility

**8.1** FACS must ensure that the death of a child or young person, for whom the Minister has parental responsibility, is registered.

**8.2** Request that the person who will make the funeral arrangements instruct the funeral director to register the death with the NSW Registrar of Births, Deaths & Marriages. It is common practice for funeral directors to complete the death registration process (within seven days of a burial or cremation) however it is also possible for the next of kin or relative of the deceased to register the death.

#### Practice Tip!

It is suggested that caseworkers encourage parents/family/carer to allow the Funeral Director to register the child or young person's death due to the amount of documentation required during a very emotional time in their lives

Completed by: CW

**Important Note:** Where the provision of financial assistance for funeral costs for a child or young person is considered, the CW must consult with the MCW and any payment must be approved by the District Director or Deputy Chief Executive of Operations as outlined in 2.12 Out of Guidelines Payments contained in the [Financial Support for Children and Young People OOHC – Policies and Guidelines](#).

Approval by: DD or DCE of Operations

### 9. Obtaining a death certificate for a child or young person for whom the Minister has some or all aspects of parental responsibility

**9.1** A death certificate must be obtained by FACS after the death of a child or young person for whom the Minister has parental responsibility.

- Complete a [Death Certificate Application Form](#) and the [Death Certificate Request for CYP](#) accompanying letter.
- Create an Ad-Hoc Financial in KiDS for the payment of the death certificate fee. In the Ad-hoc financial, tick the "Cheque to CSC" field in the Financial Line Item

Completed by: CW



- Sign the death certificate application form and the letter requesting the death certificate, approve payment of associated costs

Completed by: MCW

- In KiDS, create a General File Note record and select Sub Type “Correspondence”, attach a copy of the signed form and letter
- Submit the form, letter and payment by cheque of the required fee to the NSW Registrar of Births, Deaths & Marriages. Forwarded with the application form and letter documents establishing custody or guardianship (current Care Order)
- Once all records, financials and tasks have been completed the child’s plan can be closed. Ensure that the Person details in KiDS have been updated with the child’s Date of Death, Date of Death status and Life Status

Completed by: CW

Approval by: MCW

## 10. Obtaining a death certificate for a parent of a child or young person for whom the Minister has some or all aspects of parental responsibility

**10.1** A death certificate must be obtained for the parent of a child (or young person) for whom the Minister has some or all aspects of parental responsibility.

- Complete a [Death Certificate Application Form](#) and the [Death Certificate Request for Parent/other](#) accompanying letter

**Important note:** If the parent has died overseas or interstate, see: [Births, Deaths & Marriages Links](#) which has links to all other Australian states and territories registries as well as some overseas registries. If these links do not provide the appropriate information, contact the Legal Services Branch for further assistance

- Create an Ad-Hoc Financial in KiDS for the payment of the death certificate fee. In the Ad-hoc financial, tick the “Cheque to CSC” field in the Financial Line Item
- Ensure that the Person details in KiDS have been updated with the parent’s Date of Death, Date of Death status and Life Status

Completed by: CW

- Sign the death certificate application form and the letter requesting the death certificate, approve payment of associated costs

Completed by: MCW

- In KiDS, create a General File Note record and select Sub Type “Correspondence”, attach a copy of the signed form and letter
- Submit the form, letter and payment by cheque of the required fee to the NSW Registrar of Births, Deaths & Marriages. Forwarded with the application form and letter documents establishing custody or guardianship (current Care Order)

Completed by: CW

Approval by: MCW

**10.2** Upon receipt of a parent's death certificate:

- certify a copy of the death certificate (by Justice of Peace or qualified professional) and attach to KiDS
- discuss with the child or young person (dependant on age and appropriateness) if they wish to have a copy of the death certificate at that time or have the death certificate held on file until they wish to have it or when they leave care.

Completed by: CW

Approval by: MCW

**10.3** If a child or young person or care leaver requests the parent's death certificate which has been held on file: complete a [Notice of original document release](#) form to record that an original document has been removed from the file

## **Marriages**

### **11. Marriage requests**

**11.1** In certain exceptional circumstances, a minor aged 16 or 17 (a young person) may be permitted under the Marriage Act 1961 to enter into a marriage. The young person may consult with the caseworker about their intention to seek permission from a court to marry. If the young person and their partner decide to proceed with obtaining court permission to marry:

- prepare a briefing note to the Director CS providing information and outlining the exceptional and unusual circumstances in line with Section 12 of the Marriage Act 1961 and requesting approval to seek Court permission for the marriage.

Completed by: MCW

Approval by: DCS

**11.2** Attach the briefing note to a General File Note selecting Sub Type "Correspondence". Do not complete the record until a decision has been made by the Director CS

Completed by: CW

**11.3** If the Director CS grants approval to proceed, contact Legal Services for advice on which court may deal with the application (Local, Supreme, Federal Circuit or Family Court) and requirements for making the application. Document the decision by the Director CS in the General File Note with Sub Type “Correspondence” and complete the record

Completed by: CW / Legal Services

**11.4** If the Director CS does not grant approval, the decision and reasons for the decision is discussed with the young person and also provided to him/her in writing. Inform the young person, their parents/carers or other significant persons that they have the right to seek consent to the marriage from a Magistrate in the absence of parental consent. Advise the young person to contact a Chamber Magistrate at their local court house for legal and procedural advice.

Completed by: CW / Legal Services

**11.5** In consultation with Legal Services:

- prepare a report for the court outlining the circumstances of the young person’s request to marry
- make a copy of the application and report to the court and place in the young person’s file
- add a Legal record in KiDS and document the court proceedings using Other Act and attach all reports
- submit the application, report and any supporting documents to the relevant court

Completed by: CW / Legal Services

**11.6** When a decision is received from the court, inform the young person, carer/parents and/or other significant person about the courts decision to grant or deny the application and update the Legal record in KiDS

Completed by: CW

Approval by: MCW

**11.7** If the court grants consent, advise the young person, carer/parents and/or significant others that the marriage must occur within 3 months

Completed by: CW

Approval by: MCW

**11.8** Obtain and complete the [Notice of Intended Marriage](#) form on behalf of the young person and send the application to the Director FACS for endorsement.

Completed by: CW / Legal Services

Approval by: DCS

**11.9** If court permission is given for a young person who is under the Minister's parental responsibility (some or all aspects) to marry, consideration should be given to making an application to the Children's Court under section 90 of the *Children and Young Persons (Care and Protection) Act 1998* seeking to terminate or vary the Minister's parental responsibility following the marriage. See related procedure [Statutory support arrangements and care orders](#).

Completed by: CW

Approval by: MCW

**11.10** Convene a case planning meeting to determine appropriate action and document the case meeting in a Case Meeting record in KiDS. If the case plan goal is for termination of the Minister's parental responsibility: develop and implement a Leaving Care Plan immediately, see related procedure: [Leaving care and after care support](#).

Completed by: CW

Approval by: MCW

## Inheritance, wills and trust accounts

If a child or young person is under the Minister's parental responsibility and has:

- a **property** 'Property' is defined by the Trustee Act 1925, and includes money and investments (including monies owed), real estate or an interest in any real property, personal property (assets) and any other right or interest, whether in possession or not and/or assets of their own
- inherited a property or assets of significant value
- received compensation through Victims of Crime

it may be necessary to make a will, and/or arrange a trust account for the child or young person, to ensure that the child or young person's rights and interests are protected. In these circumstances, FACS Legal Services should always be contacted for advice.

**Important note:** If the child or young person is under the parental responsibility of the Minister, and case management, care responsibility, or aspects of parental responsibility, have been delegated to an identified non-government agency, the obligation to arrange a trust account or make a will remains with FACS.

## 12. Inheritance – claiming against a carer’s estate

**12.1** When the Minister has parental responsibility of a child or young person, the Director-General has a duty to pursue any legal claims that the child or young person may have. This may include their rights regarding possible eligibility to claim against the carer’s estate under the [Succession Act 2006](#).

- Any such claim must be made to the Court within 12 months of the date of death of the deceased unless the court otherwise orders on sufficient cause being shown.
- If a child or young person in the care of the Minister is not provided with legal advice and loses the opportunity to make a claim because of the statutory time limits, that child or young person may have a cause of action against FACS.
- If however a possible claim arises after the Minister has ceased to have parental responsibility for the child or young person then there is no responsibility on FACS to be contacting the child or young person either to inform them of the carer’s death or advise them as to possible claims on the carer’s estate.

**12.2** Contact your Care Legal Support Officer for advice if you become aware of the death of a person who at any stage was the carer for a child or young person in out-of-home care and if the child or young person is currently under the parental responsibility of the Minister.

### Additional information!

Under chapter 3 of the Succession Act 2006, there are provisions to protect people from being unfairly disinherited. The family provisions apply whether or not a will has been made.

Any person who was at any particular time wholly or partly dependent upon the deceased person and who was considered part of the deceased person’s household may be eligible to make a claim. A child or young person who has been in the care of an authorised carer and accepted as part of the family may be entitled to apply for a share of the carer’s estate.

Where this situation arises then advice should be sought from Legal Services.

Completed by: CW

**12.3** Request information and advice from Legal Services about the eligibility of the child or young person to make a claim against the carer’s estate.

Completed by: CW

**12.4** Provide advice to the caseworker about the eligibility of the child or young person to make a claim against the carer’s estate.

**Important note:** The legal advice is not to be documented on or attached to KiDS. All that needs to be said in KiDS is that a claim/legal action should/should not be pursued. A hard copy of the legal advice should be placed on the client file and appropriately labelled “Legal Professional Privilege” so that if the client file

is subpoenaed to a court an appropriate claim of privilege can be made.  
A claim must be made to the Court within 12 months of the date of death of the deceased to be eligible

Completed by: Legal Officer

**12.5** Advise the child or young person that they may be entitled to claim against their carer's estate, and discuss as necessary. Document this in the most appropriate record (i.e. if contact was made by phone, record in a phone call record). Once a young person has left the Minister's parental responsibility, they are to seek independent legal advice if their carer dies.

Completed by: CW

### 13. Establishing a trust account for a child or young person

**13.1** A trust account should, generally, only be established if the benefit from obtaining professional financial management outweighs the cost of administering the trust account.

Completed by: CW

**13.2** If it is determined that the establishment of a trust account is not required or financially viable, funds should be held in an interest bearing account with a financial institution (e.g. bank or building society).

- Funds held in trust may be accessed for a use that will benefit the child or young person.
- FACS staff, in their private capacity, must not access money or private assets that are the property of a child or young person or otherwise manage property or funds that are held in trust.
- Leaving care plans must address the provision of financial management information and/or advice, in consultation with the young person.

Completed by: CW

**13.3** If it is considered appropriate to establish a trust account, prepare a briefing note to the Director CS if a decision is made to seek approval to establish a trust account. Attach the briefing note, with the response of the Director CS, in KiDS to a General File Note record with the sub type of Trusts, Wills & Inheritance. Do not complete the General File Note record until you have the details of the trust.

Completed by: CW

**13.4** If a trust account is approved, liaise with the Public Trustee of NSW to establish a trust and be appointed to administer the trust in accordance with the Trustee Act 1925 (i.e. manage property and invest monies). See related link: [The Public Trustee of NSW](#)

- Obtain and complete relevant forms for establishing a children's trust from the Public Trustee of NSW
- Sign the trust account forms where the signature of a parent is required. Nominate the Director CS as the position holder and as a person with authority to request an advance of funds
- Submit the forms to the Public Trustee of NSW
- Record trust details on the child or young person's file. In KiDS record the details in the General File Note record with the sub type of Trusts, Wills & Inheritance which you created earlier. Once this process is finished, set the General File Note record to Complete.

**Important Note:** Fees and commissions will be charged for the administration of an ongoing trust fund. FACS does not cover the costs for the administration of the trust fund, these costs are deducted from the trust fund. For further information see: [Fees – Financial management](#).

Completed by: CW

**13.5** FACS holds a limited number of trust accounts that were established in the past where the funds have not yet been released to the ex-wards. If an ex-ward contacts FACS seeking access to their trust funds, contact FACS Legal Services (Head Office) for advice.

Completed by: CW

## 14. Arrange for an advance of funds from the trust account

**14.1** Consider whether to endorse the writing of a submission for an advance of funds, as part of the child or young person's case plan

Completed by: MCW

**14.2** (If endorsed) Contact the Public Trustee for procedural information

**14.3** Prepare a briefing note to the Director CS seeking approval for the advance of funds

Completed by: MCW

Approval by: MCS

**14.4** If approved:

- process the request for advance of funds according to the Public Trustee procedures
- place a copy of the request signed by the Director CS and all documents sent to and received from the Public Trustee on the child or young person's file and attach on KiDS in a General File Note record with the sub type of Trusts, Wills & Inheritance
- Once this process is finished, set the General File Note record to Complete.

Completed by: CW

## 15. Making a will

**15.1** Identify 'special circumstances' (e.g. the need for alternative arrangements for the distribution of the child or young person's estate, assets or compensation money) that would warrant the child making a will

Completed by: CW

**15.2** Discuss with the Manager Casework and obtain their endorsement to proceed with a proposal for the making of a will for the child or young person.

Completed by: CW

**15.3** Prepare a briefing note to the Director CS, seeking approval to make application to the Supreme Court for the making of a will. Attach the briefing note with the Director CS response on KiDS in a General File Note record with the sub type of Trusts, Wills & Inheritance

**15.4** If approved:

- Contact Legal Services for assistance to make an application to the Supreme Court
- Identify a suitable person to be nominated in the application to the Supreme Court as a 'tutor'. If it is determined that this should be a FACS staff member, the relevant District Director or their delegate should be nominated

Completed by: CW

- Prepare the application to the Supreme Court, in consultation with the manager casework and caseworker. File a 'consent' to act as tutor with the Supreme Court, including a certificate declaring that the nominated tutor has no interest in the proceedings adverse to that of the child. Provide information as necessary and lodge the application with the Supreme Court. Provide information as necessary and lodge the application with the Supreme Court

Completed by: District Director or their delegate / Legal Services



- In KiDS, document this in the Legal record by selecting Supreme Court Order – (Other) in the application section and attach the application under the Attachment tab

Completed by: CW

#### 15.5 If the Supreme Court grants approval for making a will:

- determine who will be appointed as the executor of the will (Public Trustee or a significant person). It is FACS policy that the Public Trustee of NSW is engaged to write the will on behalf of a child or young person for whom the Minister has parental responsibility. The executor should not be a FACS staff member. If the Public Trustee is appointed as the executor there is no fee for making the will.
- Contact the Public Trustee of NSW to engage the Public Trustee to write the will, see: [The Public Trustee of NSW](#)

Completed by: CW

- sign documents where the signature of a parent is required (the signature must be endorsed “Delegate of the Minister for Family and FACS” pursuant to the provisions of the Children and Young Persons (Care and Protection) Act 1998”)

Completed by: MCW

- arrange for the child or young person to provide information to the Public Trustee about their wishes for the distribution of their assets, or provide information on behalf of the child or young person

Completed by: CW

**15.6** If the child or young person is placed in long-term care and the child or young person dies, the child or young person’s will can be contested as no will is beyond challenge from a person who is an ‘eligible person’ according to chapter 3 of the [Succession Act 2006](#). The list of the eligible persons is provided in [section 57 of the Succession Act 2006](#). If the child’s carer is a relative of the child, then there may be a basis for challenging the will if the relative is considered to be the child’s next-of-kin.

## Passports

### 16. Making an application for a passport

An application for a passport should be made on behalf of a child or young person under the parental responsibility of the Minister if approval has been given for overseas travel and the child or young person does not already have a valid passport issued in their name.

- If the child or young person is not eligible for an Australian Passport, you will need to make enquiries with the relevant Consulate or Embassy for the child's or young person's country of birth.
- Consultation should also occur with the Department of Immigration and Citizenship (DIAC) about what documentation will be needed to ensure the child or young person can re-enter Australia. You can call the General Enquiries line on 131 881.
- As the caseworker will be acting on behalf of the child or young person, they will have to complete an **Advise by a Migration agent / exempt person of Providing Immigration Assistance** form or a [Form 956](#).

**Important note:** Where known, you should provide DIAC with information relating to the child or young persons resident status (Permanent or Temporary), whether they are considered a "Protected Person", whether they were processed on-shore or off-shore, where they planning to travel to and any other information that may be pertinent to the request.

**16.1** Advise the child or young person's parents, in writing, that an application is being made for a passport and that approval has been given for the child or young person to travel overseas. See: [Travel Approval Letter to Parents](#)

Completed by: CW

Approval by: MCW or MCS

**16.2** Obtain and complete an Australian [Passport Application Form](#) for a 'child'.

Completed by: CW

**Important Note:** When deciding who should complete the section headed "Guarantor" on the passport application, the guarantor must be a person who:

- is an Australian citizen and is over 18 years
- is not be residing in the same address as the child
- is not related to the child
- has known the child for 12 months (some latitude in time known is allowed for FACS cases so, if the proposed guarantor meets the other criteria and there is no one else suitable, then please discuss with the Passports Office)

While it is not necessary for the FACS delegate to complete the guarantor section, there may be times where this is unavoidable if no other suitable person can act as guarantor. If staff members are acting as guarantor, the only personal information they need to provide is their name, address and date of birth however they should make it clear on the form or in the covering letter that they are providing this guarantee in their capacity as either a delegate and/or supervisory caseworker.

**16.3** Obtain parental consent for the Passport Application.

**Important Note:** The Passport Application requires the written consent of all persons with parental responsibility for the child or young person. The person/people with parental consent can either sign the Passport Application Form or provide a letter containing their written consent. The Passport Application Form must only be signed within the box provided.

Completed by: CW

Approval by: MCW or MCS

**16.4** If the child or young person is in the full parental responsibility of the Minister, obtain written consent from either the MCW or MCS.

Complete the following forms and attach the forms to the Passport Application:

- [Form B10 – Child subject to a State/Territory child welfare Law](#)
- [Form B7 - No further Court Orders \(Child Application\)](#)

Completed by: CW

Approval by: MCW or MCS

**Important Note:** Parenting Orders under the [Family Law Act 1975](#) will have to be considered in relation to applying for a Passport and the approval of travel.

**16.5** If the child or young person is in shared parental responsibility of the Minister, obtain written consent from all persons with parental responsibility (including the MCW or MCS). This consent may be provided by the relevant people/persons signing the Passport Application Form or by providing a letter containing their written consent.

Complete the following forms and attach the forms to the Passport Application:

- [Form B10 – Child subject to a State/Territory Child Welfare Law](#)
- [Form B7 - No further Court Orders \(Child Application\)](#)

**Important Note:** If after exhausting all avenues, written consent from a person with parental responsibility could not be obtained, complete [Form B9 – Child without full parental consent](#) and attach the form to the Passport Application. The Form B9 must be completed in addition to the Forms B10 and B7. A separate [Form B9 – Child without full parental consent](#) is required for each person with parental responsibility who has not provided their written consent. If you wish to provide information about the attempts made to obtain the consent of the people/persons with parental responsibility, complete [Form B11 – General Declaration by Passport Applicant](#) and attach the form to the Passport Application.

Completed by: CW

Approval by: MCW or MCS

**16.6** Attach a copy of the child or young person's Children Court order/s to the Passport Application.

Completed by: CW

**16.7** Obtain documentation that establishes eligibility for an Australian passport (i.e. a birth certificate or a residency visa) for the child or young person. Attach a copy of the child or young person's birth certificate or residency visa to the Passport Application.

**Important Note:** If the child was born overseas or no birth certificate is available, complete [From B6 – Child Born Overseas and No Birth Certificate](#) and attach the form to the Passport Application.

Completed by: CW

**16.8** If the mother's name only is on the child or young person's birth certificate, complete [From B8 – Mother's name only on birth certificate](#) and attach the form to Passport Application

Completed by: CW

**16.9** To prove the child is an Australian citizen or to prove that one of the child's parents was either an Australian citizen or a permanent resident of Australia at the time of the child's birth. Obtain and attach a copy of one of the following documents to the Passport Application:

- One parent's full Australian birth certificate (parent born prior to 20/08/1986)
- One parent's Australian passport (issued on/after 20/08/1986)
- One parent's Australian citizenship certificate
- One parent's Australian permanent resident status

**Important Note:** If the parent was born in NSW, an application for a parent's birth certificate can be made to the NSW Registry of Births, Deaths and Marriages. Complete a birth certificate application form for the parent, attach a copy of the child or young person's Children's Court order and include a cheque in accordance with the birth certificate application fee. For further information refer to [NSW Registry of Births, Deaths and Marriages](#). If the parent was born in another State, contact the relevant Registry of Births, Deaths and Marriages for specific advice.

**16.10** Obtain two (2) recent identical colour passport size photographs of the child or young person. One of these photographs must be [endorsed by your guarantor](#) with the words "this is a true photo of (insert name)".

Completed by: CW

**16.11** Complete a [Passport application letter](#) which is to be sent with the Passport Application. This letter must be signed by either a MCW or MCS.

Completed by: CW

Approval by: MCW or MCS

**16.12** Arrange petty cash payment for the Passport Application fee in accordance with the current fee, refer to <https://www.passports.gov.au/web/queries/fees.aspx>. Generate an Ad-Hoc on KiDS, with the Sub Program of 'Maintain Identity and Culture' and the Expenditure Type of 'Official Documents eg Passport'.

Completed by: CW

Approval by: MCW

**16.13** Make a copy of the Passport Application Form, Passport Application Letter and all supporting documents. Attach a copy to KiDS and place a hard copy on the child's file.

Completed by: CW

**16.14** Lodge the Passport Application Form, Passport Application Letter and supporting documentation at an Australia Post Office or a Passports Office. The Australian Post Office or Passports Office will need to sight the originals of all supporting documents (e.g. court order/s, birth certificates) at the time the application is lodged.

Completed by: CW

**Important Note:** Determine the urgency of the passport application. If the application is urgent, check with an Australia Post Office or a Passports Office to determine the best method for lodging the application. An additional fee may be incurred.

## Residency, Permanent Residency and Citizenship

### 17. Securing the child or young person's residency in NSW during Care Proceedings

For children and young people who are neither Australian permanent residents or citizens, FACS must secure their ongoing residency in NSW during care proceedings.

**Important note:** Your Care Legal Support Officer can be contacted for advice on confirming the child or young person's residency/visa status and securing ongoing residency in NSW during care proceedings.

**17.1** At the time the child or young person enters statutory OOHC, liaise with the Department of Immigration and Border Security to determine the child or young person's residency/visa status.

Completed by: CW

**17.2** If the child or young person is subject to a temporary visa or has no current visa, seek assistance from the Department of Immigration and Border Security to secure the child or young person's ongoing residency in NSW during care proceedings.

Completed by: CW

**17.3** As soon as it is clear that FACS will be seeking final orders for parental responsibility to the Minister or adoption, notify the Department of Immigration and Border Security of the intention to seek permanent residency on behalf of the child or young person.

Completed by: CW

**17.4** Updated the child or young person's "Australian Residency Status" and enter any visa information in their Persons Profile in KiDS.

Completed by: CW

## 18. Applying for Permanent Residency

Where a child or young person is to enter statutory out-of-home-care (OOHC), their residency status must be established through the provision of legal documents. For children or young people who are to remain in OOHC, they must have their residency status finalised in order to progress matters and secure the delivery of appropriate services (i.e. Medicare and Centrelink).

**Important note:** It is essential that matters involving children and young people who are foreign nationals and/or with visa permits are discussed with your Care Legal Support Officer, preferably prior to court action and orders.

**18.1** For a child or young person in OOHC without permanent Australian residency, ensure the following information is known:

- The name of the child/young person
- Date of birth
- Nationality
- Current residency status (e.g. Temporary visa and expiry date)
- Legal proof of identification (i.e. birth certificate, passport, visa)
- Plans to remain in Australia
- Permanency planning provisions with parents, extended family or alternate care options

Completed by: CW

**18.2** When a Care Plan is approved by the Children's Court that the child should remain in Australia in OOHC under the parental responsibility of the Minister's, or a decision is made that the child is to be

adopted in NSW, discuss with the Department of Immigration and Border Security when an application for permanent residency should be made.

Completed by: CW

**18.3** Consultation with your Care Legal Support Officer can assist with the application for Australian permanent residency.

Completed by: CW

**18.4** Advise the child or young person in writing that an application for Australian residency is being made on their behalf.

Completed by: CW

**18.5** Complete an [Application for Australian Permanent Residency](#) for the child or young person.

Completed by: CW

**18.6** Obtain the relevant supporting documentation for the Australian Permanent Residency application and arrange for copies to be certified as required. If documents are not in English arrange an official translation of the document by an accredited translator. Relevant documents include:

- Passport size photograph of the child or young person
- The child or young person's passport
- The child or young person's full birth certificate
- Identification documents for the responsible parent
- Copy of the parental responsibility order
- A copy of an overseas adoption order (where applicable)
- Official evidence of any name change

Completed by: CW

**18.7** Lodge the completed application and necessary documentation with the Department of Immigration and Boarder Security: GPO Box 794 Hobart TAS 7001.

Completed by: CW

**18.8** Document the application for Australian Permanent Residency in KiDS, in a General File Note and select subtype: "Other". In Record description enter: "Application for Australian Permanent Residency"

Completed by: CW

**18.9** Updated the child or young person's "Australian Residency Status" and enter any visa information in their Persons Profile in KiDS.

Completed by: CW

## 19. Applying for Australian Citizenship

Securing Australian citizenship is viewed as part of the permanency planning provisions for a child or young person born in another country. An application for Australian citizenship should be made on behalf of a child or young person under the parental responsibility of the Minister where 'permanent Australian residency' already exists for the individual.

**Practice Tip:** The Citizenship Office can be contact for advice. The Manager Citizenship Sydney can be contacted on ph: (02) 8862 6705.

**19.1** Determine whether it is appropriate to apply for Australian citizenship for the child or young person. An application for Australian citizenship should occur following final orders where:

- The child or young person has had permanent Australian residency for at least 12 months
- The child or young person has lived in Australia at least 2 years
- The case plan is for the child or young person to remain in Australia
- Securing citizenship is identified in the child/young person's case plan
- The child/young person is aware that Australian citizenship is being pursued
- The young person aged 16 years (and over) is willing to attend an interview with the Citizenship Office on their understanding of the responsibilities and privileges of Australian citizenship

**Important note:** Ensure the resident status (Permanent or Temporary) relating to the child or young persons is identified before citizenship is pursued. It is recommended that a child's citizenship application be lodged as early as possible and preferably before they turn 16 years.

Completed by: CW

**19.2** Advise the child or young person in writing that an Australian citizenship application is being made on their behalf.

**Practice Tip:** If the application is made after the young person has turned 16yo, ensure the young person understands their responsibilities and privileges of becoming a citizen (for the interview) and support the young person to obtain the necessary supporting documents.

Completed by: CW

**19.3** Complete an [Application for Australian Citizenship](#) for the child or young person.

**Practice Tip:** The Citizenship Office can be contact for advice. The Manager Citizenship Sydney can be contacted on ph: (02) 8862 6705.



Completed by: CW

**19.4** Obtain the supporting documentation for the Australian Citizenship application and arrange for copies to be certified as required. If documents are not in English arrange an official translation of the document by an accredited translator. Relevant documents include:

- Passport size photograph of the child or young person
- The child or young person's passport
- The child or young person's full birth certificate
- Identification documents for the responsible parent
- Copy of the parental responsibility order
- A copy of an overseas adoption order (where applicable)
- Official evidence of any name change

Completed by: CW

**19.5** Lodge the completed application and necessary documentation with the Department of Immigration and Border Security: GPO Box 794 Hobart TAS 7001.

Completed by: CW

**19.6** Document the application for Australian Citizenship in KiDS, in a General File Note and select subtype: "Other". In Record description enter: "Application for Australian Citizenship".

Completed by: CW

**19.6** Updated the child or young person's "Australian Residency Status" in their Persons Profile in KiDS.

Completed by: CW

## **Publication of identifying information and public performances**

### **20. Publication of identifying information and public performances**

**20.1** A media appearance or public performance must not identify the child or young person as being in out-of-home care. Refer to [s105\(3\)\(b\) of the Act](#) for exceptions if the Secretary deems identification to be beneficial to the child or young person.

Completed by: CW

**20.2** Ensure that the name or identifying information of a child or young person may not be broadcast or published (where they might be identified as being involved in care proceedings, the subject of a report under sections 24, 25, 27, 120, 121 or 122 of the [Care Act](#) or a care order) while they are involved (or are likely to be involved) in any Children's Court matter unless consent is obtained from:

- the Court (in the case of a child), or
- the young person (in the case of a young person), or
- the Director General in the case of a child or young person for whom the Minister has parental responsibility.

**Important note:** This includes publication of information in a newspaper, broadcast by radio, by television, by the internet, by social media (e.g. facebook and twitter) or by any other means. Publishing or sharing information on a public or private website is prohibited under [s105C of the Act](#) as it provides the opportunity for such information to be further disseminated.

Completed by: CW

**20.3** Refer all media inquiries and requests to publish/broadcast photographs, film or to otherwise identify a child or young person as being in out-of-home care, including publishing the name(s) of their parents, to the Media Unit, located at Head Office at [Media.Unit@facs.nsw.gov.au](mailto:Media.Unit@facs.nsw.gov.au)

Completed by: CW

**20.4** If a child under 15 years of age is to appear in a public performance (radio, television/film or stage) in a paid capacity, contact the Children's Employment Team at the Office of the Children's Guardian (phone 02 9025 4200) if there are any concerns about whether the employer is authorised to employ children, or if there are concerns about the child's welfare or safety.

Completed by: CW

## Legal framework

Policy

[Care and Protection Practice Framework](#)

[Guidelines on the provision of leaving and after care assistance](#)

[Financial support for children and young people in out-of-home care: guidelines and policy](#)

[Delegations](#)

Legislation

[Children and Young Persons \(Care and Protection\) Act 1998](#)

[Children and Young Persons \(Care and Protection\) Regulation 2012](#)

[Victims Rights and Support Act 2013 No 37](#)

[Births, Deaths and Marriages Registration Act 1995](#)

[Adoption Act 2000](#)

[Family Law Act 1975](#)

[Trustee Act 1925](#)

[Succession Act 2006](#)

[Marriage Act 1961](#)

Practice tools

[Children and young people participation and rights](#)

[Participation and rights – parents and others](#)

Related links

[List of approved counsellors](#)

[Charter of Victims Rights](#)

[Schedule of Injuries](#)

[Immediate family of a homicide victim](#)

[Public Trustee of NSW](#)

[Department of Foreign Affairs and Trade](#)

KiDS resources

[KiDS Support Page for KiDS Guides and KiDS Business Rules](#)

Forms

[Birth Certificate Application Form](#)

[Birth Certificate Application Letter](#)

[Add Father's Details](#)

[Change of Name \(Under 18 years\) Application Form](#)

[Death certificate request for CYP](#)

[Death certificate request for parent/other](#)

[Passport application letter](#)

[Travel Approval Letter to Carer](#)

[Travel Approval Letter to Parents](#)

[Travel Authorisation Declined-Letter to Carer](#)