

Child Safety POLICY

Title: Care agreements

Policy No: 415-6

Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety), is committed to taking appropriate action, when necessary, to place a child in care for the purpose of assessing or responding to the child's safety and protection needs. When this is necessary, consideration will be given to whether, in the first instance, seeking the parents' consent for a care arrangement is an appropriate option.

An assessment care agreement may only occur when a child is subject to an investigation and assessment and there is a need to secure the safety of the child outside of the home while the concerns are assessed. The agreement can only occur if the parents agree to the arrangement. The parents retain all custody and guardianship rights and responsibilities during the agreement. An assessment care agreement is for a period of up to 30 days and cannot be extended. In certain circumstances an assessment care agreement can be entered into with the consent of one parent, with an obligation to make a reasonable attempt to give the other parent a copy of the agreement and obtain their consent (Child Protection Act 1999, section 51ZE) (the Act).

A child protection care agreement may only occur when a child has been assessed as being a child in need of protection, is currently subject to ongoing intervention and a short-term care arrangement is required to secure the safety of the child outside of the home while Child Safety continues to work with the parents to address child protection concerns for the child.

A child protection care agreement cannot be used if a child is subject to a child protection order granting custody or guardianship to the chief executive or another person, or if there are concerns that the child would be at immediate risk of harm if the agreement was to be ended prematurely by the parents. The agreement can only occur if the parents agree to the arrangement and are able and willing to work with Child Safety to meet the child's safety, belonging and wellbeing needs. For the duration of a child protection care agreement, the chief executive will have custody of the child and the parents retain guardianship rights and responsibilities. The child protection care agreement is for an initial period of 30 days and may be extended for periods of up to 30 days, for up to six months within a 12 month period.

Note: There is no legislative basis to enter into an assessment or child protection care agreement for a child subject to a child protection order granting long-term guardianship to a suitable person.

Child Safety is committed to respecting, protecting and promoting human rights. Under the Human Rights Act 2019, Child Safety has an obligation to act and make decisions in relation to the use of care agreements in a way that is compatible with human rights, and to give proper consideration to human rights.

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country will be a key consideration when placing children using a care agreement.

Principles:

- The safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount.
- Actions taken, while in the best interests of the child, must not be unwarranted in the circumstances.
- Child Safety staff will act and make decisions in a way that is compatible with human rights and obligations under the Human Rights Act 2019.
- The preferred way of ensuring a child's wellbeing is through the support of the child's family.
- Actions taken, while in the best interests of the child, should maintain family relationships and be supportive of individual rights and ethnic, religious and cultural identity and values.
- The five elements of the child placement principle (prevention, partnership, placement, participation and connection) under the Child Protection Act 1999 (the Act), section 5C, apply to all processes, decisions and actions taken for an Aboriginal or Torres Strait Islander child.
- Proper consideration will be given to placing the child with family members or people of significance to the child, with the appropriate approval processes being followed.

Objectives:

This policy aims to ensure that Child Safety staff that place a child in care under an assessment or child protection care agreement take actions and make decisions in accordance with provisions in the Act.

Scope:

This policy refers to a child who requires a care arrangement for the purpose of assessing or responding to the child's safety and protection needs, where the child's parents consent to the care arrangement and a child protection order granting custody or guardianship to the chief executive is not required.

At any time, Child Safety or the parent can end the care agreement by giving at least two days notice. If this occurs, and it is determined that a child is not safe, or is in need of protection, Child Safety will take appropriate action to ensure the child's safety. A child subject to a care agreement must be placed with an approved carer.

Roles and Responsibilities:

- The roles and responsibilities of Child Safety staff in relation to care agreements are outlined in the Child Safety Practice Manual, Investigate and assess and Support a child at home, and associated resources.
- Parents retain custody of a child during an assessment care agreement and retain guardianship for both an assessment care agreement and a child protection care agreement.

Authority:

Child Protection Act 1999, sections 5, 6, 8, 9, 10, 11, 14, 51Z -51ZI, 74, 82, 82A, 83, 83A, 84, 88, 122

Child Protection Regulation 2011

Delegations:

Refer to instruments of delegation for delegations relevant to investigation and assessments and case planning.

Records File No.:	Not applicable
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Date to be reviewed:	23 October 2023

Office:	Office of the Chief Practitioner
Help Contact:	Child Protection Practice

Links:

Procedures

Child Safety Practice Manual

Related Legislation

Human Rights Act 2019

Public Guardian Act 2014

Related Policies

Intervention with parental agreement (343)

Supporting children in the care of long-term and permanent guardians (607)

Dual payment of carer allowances (289)

Forms

Approved carer payment form – Care agreement

Rescinded policies

415-5 Care agreements

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