



# Permanency Case Management Policy

## Rules and Practice Guidance

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This part of the Permanency Case Management Policy (PCMP) describes the minimum expectations of Department of Communities and Justice (DCJ) and service providers, in working together collaboratively to deliver the Permanency Support Program (PSP)



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# Introduction



The Permanency Case Management Policy (PCMP) supports collaborative assessment and case planning between the NSW Department of Communities and Justice ('the department') and PSP service providers ('service providers'). It sits alongside and is not intended to duplicate or supersede:

- the department's (internal) casework practice mandates and advice or
- the internal policies and procedures of service providers.

These Rules and Practice Guidance are part of the PCMP. They apply in conjunction with other parts of the PCMP including:

- the PCMP [Policy Statement](#) and PCMP [Resources](#)
- the [Aboriginal Case Management Policy](#) (ACMP)
  - supplementary policies and procedures including:
    - [PSP Family Preservation Program](#) framework
    - [PSP Away from Placement](#) policy
    - [PSP Critical Events](#) policy
    - [PSP Permanency Goal Review and Case Plan Goal Package Extension](#) policy
    - [Statutory out-of-home care \(OOHC\) agency recordkeeping](#) policy
- funding and financial support procedures, including the [Business Rules for Eligibility](#), which explain the PSP Packaged Care Service Model.

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<sup>1</sup> Use of 'department' or 'departmental' refers to the NSW Department of Communities and Justice.

# Definitions



Terms, keywords and/or abbreviations used throughout this document.

Term	Definition
Care Act, the	<i>NSW Children and Young Persons (Care and Protection) Act 1998.</i> All sections referred to in this document refer to the Care Act unless otherwise specified.
Carer	A carer engaged by a designated agency, authorised under <a href="#">section 137</a> of the Care Act. Unless otherwise specified, ‘carer’ refers to: <ul style="list-style-type: none"> <li>• an authorised carer (foster carer, relative/kin carer or respite carer) of a child in OOHC and</li> <li>• employees providing OOHC to a child in residential settings, including ITC.</li> </ul>
Case responsibility	Refers to primary case responsibility of a service provider for: <ul style="list-style-type: none"> <li>• providing residential care and control of a child in OOHC</li> <li>• supervision of the child’s placement</li> <li>• supporting carers to exercise care responsibility for the child</li> <li>• making decisions about the child, including decisions about managing behaviour</li> <li>• achieving the child’s case plan goal of restoration, guardianship or adoption within two years; or providing long-term care.</li> </ul> Or refers to primary case responsibility of a service provider for achieving a child’s case plan goal of preservation within two years (not in OOHC). Or refers to primary case responsibility of a service provider or other service for supervising SIL/TSIL placements for young adults (previously in OOHC). Also see Secondary case responsibility, SIL, TSIL.
Caseworker or Casework practitioner	See Practitioner

Term	Definition
Child	Unless otherwise specified, a child or young person under the age of 18 years: <ul style="list-style-type: none"> <li>• in OOHC or</li> <li>• not in OOHC with a case plan goal of preservation.</li> </ul>
CFDU	DCJ Child and Family District Unit
CSC	DCJ Community Services Centre
DCJ	The NSW Department of Communities and Justice
DCJ principal officer	This is the principal officer of a local district with responsibility for: <ul style="list-style-type: none"> <li>• supervising that district's arrangements for providing OOHC</li> <li>• responding to critical event reports by PSP service providers operating in that district (the principal officer's district).</li> </ul> Also see PSP service providers and OOHC providers.
department, the	See DCJ
Designated agency	An agency accredited by the NSW Office of Children's Guardian to provide OOHC services in NSW.
District	See Local district
FAP	Refers to Family Action Plan for Change. DCJ develops a FAP to support families to make meaningful change when a child's case plan goal is preservation or restoration.
ICM	Interim Care Model
ITC	Intensive Therapeutic Care
ITTC	Intensive Therapeutic Transitional Care
ITCH	Intensive Therapeutic Care Home
Local district	A DCJ district that is a designated agency. Refer to <a href="#">NSW Department of Communities and Justice districts</a> . Also see Designated agency, PSP service provider.
Minister	Minister for DCJ
Nominated unit	A DCJ unit exercising secondary case responsibility for a child in case responsibility of a service provider.  In many local districts the nominated unit will be the CFDU. However, depending on the local district's operating arrangements, it may be a CSC, an OOHC Hub or other specialist team.  Also see Case responsibility and Secondary case responsibility.
OOHC	Unless otherwise specified, statutory out-of-home care
OOHC provider	A designated agency accredited to provide OOHC in NSW. Also see Designated agency and Service provider.
Other service	An agency contracted to provide any other service (excluding OOHC) on a fee-for-service basis. Also see service provider and OOHC provider.



Term	Definition
Parent	Parent refers to a child's birth parent, or a person allocated parental responsibility or guardianship as the result of a court order.
PCMP	Permanency Case Management Policy
Placement	An OOHC placement ('placement') is a place, other than the usual home of a child, when care is provided to a child by a person other than their parents ( <a href="#">section 135(1)</a> ). A placement may be a relative/kin care or foster care placement; or ITC placement or another type of placement in OOHC.
Practitioner	A practitioner provides casework to a child (in or not in OOHC), their carer (if applicable), parents and family/kin. Unless otherwise specified, a practitioner can include a caseworker, case manager, casework manager, team leader, casework specialist.
Preservation service provider	A PSP service provider contracted to provide the PSP family preservation program. Also see PSP service provider.
Primary case responsibility	See Case responsibility.
PSP	Permanency Support Program. The PSP provides services to vulnerable children so they can grow up in stable, secure and loving homes.
PSP Service provider or service provider	A service provider contracted by the department to: <ul style="list-style-type: none"> <li>• arrange and supervise OOHC placements and/or</li> <li>• exercise case responsibility for achieving children's case plan goals of preservation, restoration, guardianship, open adoption and long term care.</li> </ul> Also see Case responsibility.
Regulations, the	<i>NSW Children and Young Persons (Care and Protection) Regulation 2012</i>
Secondary case responsibility	Secondary case responsibility, as distinct from primary case responsibility, is responsibility for carrying out the department's statutory role, including: <ul style="list-style-type: none"> <li>• safety and risk assessment (SARA) &amp; risk re-assessment</li> <li>• alternate assessment, to ensure a child's safety in care</li> <li>• exercising the residential aspect of parental responsibility on behalf of the Minister.</li> </ul>
Service provider	See PSP service provider.
SIL/TSIL	Semi-independent living. See <a href="#">SIL/TSIL fact sheet</a> .
Young adult	A young adult 18 years of age or over, previously in OOHC.

# Roles and responsibilities



## Statutory powers exercised by the department

The department is a statutory agency with powers conferred upon it by the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act), allowing it to:

- respond to child protection reports meeting the risk of significant harm (ROSH) threshold or that are otherwise screened in for assessment
- exercise functions of parental responsibility for children in out-of-home care (OOHC), allocated to the Minister
- enact statutory duties in relation to all orders made under the Care Act, whether or not they involve the re-allocation of parental responsibility
- initiates or consents to adoption or guardianship proceedings.

Also see PCMP Resources – [List: statutory powers exercised by the department.](#)

## Powers and functions of parental responsibility

The powers of parental responsibility exercised by the department include all the powers, duties, responsibilities and authority, which by law, parents have in relation to their children ([section 3](#)). This means making all the decisions parents would normally make in relation to children, when they are in statutory OOHC.

The Minister delegates particular functions of parental responsibility to the Secretary of the department ([section 249](#) and [section 250](#)). In turn, the Secretary delegates particular functions to Principal Officers of designated agencies ([section 250](#)), that is the departmental officers or employees of service providers.

Currently through a deed of agreement, the Minister has delegated powers to only one service provider<sup>2</sup> to exercise particular (but not all) functions of parental responsibility.

All other service providers are not delegated functions of parental responsibility. These providers are commissioned by the department to provide PSP services (including preservation and statutory OOHC), under a PSP [Program Level Agreement](#).

Also see PCMP Resources – [List: Functions of parental responsibility exercised by the department](#) and [List: legislation informing practice](#).

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<sup>2</sup> Barnardos NSW.

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## Case management

Case management comprises two types of case responsibility – primary case responsibility and secondary case responsibility.

### Primary case responsibility

When a service provider has primary case responsibility, the primary casework relationship is between the provider and the child, their carer, parents and family/kin.

Primary case responsibility includes:

- delivering individualised casework support, planning and review – with the child, their carers, parents, siblings and family/kin
- recognising, engaging and developing the unique strengths and capabilities of the child, their parents and family/kin
- using evidence-based models of practice to:
  - provide practical assistance and flexible wrap around services to meet the child’s identified needs and support their family
  - achieve the child’s case plan goal as soon as possible, or within two years, as described in the PSP Program Level Agreement (PLA)<sup>3</sup>
- providing information and data regarding each child’s progress towards achieving their case plan goal through:
  - ChildStory
  - centrally coordinated and local district reporting procedures
  - regular permanency goal reviews

For children in statutory OOHC, primary case responsibility includes:

- accepting responsibility for expenditure in relation to its exercise of primary case responsibility
- providing residential care and control ([section 135](#)), supervision of the placement ([section 138](#)) and supporting their carers to exercise care responsibility ([section 157](#))
- making decisions including consenting to some general or emergency medical/dental treatment, managing behaviour, giving permission to participate in activities and decisions about education and training
- working collaboratively with the department, the child, their carers, parents, family/kin and the services working with them, to achieve a child’s permanency goal.

### Limitations to primary case responsibility

For children who have achieved their case plan goal of restoration, adoption and guardianship, primary case responsibility is limited to:

- a defined period of [post-permanency casework support](#) (if approved) and
- delivery of the post-permanency casework support plan during this period.

For young persons who have attained the age of 18 years and exited long term OOHC, primary case responsibility is limited to:

- a period expiring upon the young person attaining the age of 25 years and

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<sup>3</sup> PLA, Schedule 1, 3.3.1(a).

- 
- the provision of [Aftercare support](#), during this period.

## Secondary case responsibility

Secondary case responsibility, when exercised by the department, is responsibility for:

- carrying out the department's statutory role, for example:
  - conducting risk re-assessment in relation to a child subject to an existing child protection report
  - responding to a new child protection report or
  - conducting an [Alternate Assessment](#)
- exercising the residential aspect of [parental responsibility](#) (for children in OOHC) on behalf of the Minister
- working collaboratively with the service provider to:
  - set the child's case plan goal
  - approve changes to the child's case plan goal (when proposed).

Exercising the residential aspect of parental responsibility on behalf of the Minister includes making decisions ([section 157](#)) in relation to:

- providing consent to some medical/dental treatment
- birth registration/certificates, name change, passports, residence and citizenship
- marriage requests, death certificates and registration of deaths
- inheritance, wills and trust accounts
- interstate and overseas movements
- publication of identifying information (when a child is in OOHC).

## The department's role

### Nominated unit

When a service provider exercises primary case responsibility, the department nominates which of their units will exercise secondary case responsibility.

The DCJ unit arranging transfer:

- notifies the service provider which departmental unit will be the nominated unit to exercise secondary case responsibility, no later than the transfer date
- arranges internal transfer of secondary responsibility to the nominated unit.

### Commissioning and planning

Commissioning and Planning teams in each local district work to improve the capability of the service system. They do this by:

- identifying gaps and building service system capacity
- responding to systemic, operational or governance issues and
- monitoring and reporting on the performance of the service system.

Contract managers also work closely with specific service providers, using a strengths based approach, to ensure:

- 
- PSP contracts are achieving better outcomes for clients
  - providers have capacity and capability to deliver the outcomes agreed in contracts
  - issues and risks are being managed to ensure stable service delivery
  - clarity and accountability as to how funds are being used to meet client needs.

Contract managers collaborate with Permanency Coordinators to:

- support providers to achieve better outcomes for children and their parents
- ensure service providers are 'on track' to achieve children's case plan goals and are receiving the correct PSP service packages for this purpose.

Also see PCMP Resources – [PSP Business Rules for Eligibility of PSP Service Packages](#) and [List: practice frameworks applied by DCJ](#).

## Permanency Coordinators

Permanency Coordinators are permanency consultants, advocates and advisors to Department of Communities and Justice (DCJ) and service providers. They help embed a culture that values and prioritises relational, physical, cultural and legal permanency for children and young people. They provide consultation and support to casework teams when considering different permanency pathways and how they can be achieved.

Permanency Coordinators adopt an approach that:

- regularly reviews permanency decisions based on the changing circumstances of children, young people, parents and carers
- focuses on permanency for children and young people when providing advice and supporting decision making
- negotiates the complexity of permanency with sensitivity, empathy and a sound knowledge of relevant legislation, policy and contractual requirements
- advocates for collaborative decision-making between DCJ and service providers, children, young people, families and carers.

Also see [Permanency Coordinator role scope](#).

## Child and Family District Units (CFDUs)

CFDUs act as the key interface between service providers and the department, exercising secondary case responsibility as the nominated unit. Responsibilities include:

- providing advice about this policy and local district operating arrangements
- finding placements for children including placement broadcasts to service providers
- preparation, oversight and management of [section 90](#) court proceedings
- decision making in relation to the Minister's exercise of parental responsibility for children in statutory OOHC
- decision making in relation to setting or changing a child's case plan goal
- decision making in relation to approval of PSP service packages (subject to delegations).

CFDUs are also the point of contact for service providers, especially when there has been a significant change in relevant circumstances for the child, their parents, siblings or family/kin requiring review by the department. A service provider may:

- notify of the occurrence of a [critical event](#)

- 
- notify of an [away from placement](#) event
  - notify in relation to the [achievement of a \(preservation\) case plan goal](#)
  - propose to [change a case plan goal](#)
  - notify intention to [cease case responsibility](#)
  - seek [transfer of case responsibility](#).

## Open Adoption and Permanency Services, OOHC Adoption

OOHC Adoption and Permanency Services has oversight, preparation and management of applications for adoption in the Supreme Court.

OOHC Adoption offers service providers access to Adoption Caseworkers in local districts, who each have extensive knowledge about adoption. Adoption Caseworkers are not contract managers or decision-makers. Rather, their role is to:

- help the department or service providers to identify children for whom adoption may be an appropriate permanency option
- provide adoption advice in relation to legislation and practice
- provide support, including consultation in complex adoption decision making
- assist in preparing court documents and filing the adoption application in court.

## Central Access Unit (CAU)

The CAU acts as a centralised referral pathway for children entering the Intensive Therapeutic Care (ITC) or being placed in residential care. It is responsible for suitability assessment, referral management and outcomes reporting.

ITC helps children over 12 years with high needs who are recovering from severe forms of trauma, neglect or abuse. These children:

- are unable to be supported in foster care
- require specialised services to maintain stability in their care arrangements
- are provided with therapeutic services, allowing them to step down into less intensive placements as they heal.

ITC draws on the [NSW Therapeutic Care Framework](#) and provides a range of therapeutic placement types.

## Joint Child Protection Response Program (JCPRP)

The JCPRP involves the department, NSW Police Force and NSW Health working together in responding to child protection reports of serious child abuse which may constitute a criminal offence.

The coordination of tri-agency JCPRP response (in relation to accepted referrals) is managed within the [JCPRP Local Planning and Response Procedures](#).

When there is a JCPRP response, the service provider (with primary case responsibility):

- acts to ensure the immediate safety of the victim child and other non-victim children
- takes JCPRP direction regarding preservation of evidence and criminal proceedings
- works collaboratively with JCPRP in relation to how decisions are made to enable a coordinated and effective response.

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The service provider's [legal and contractual role](#) does not change, that is the provider continues to supervise the child's placement and have case responsibility for achieving the child's case plan goal within two years.

The requirement to accept JCPRP direction is time-limited and only continues until the JCPRP SARA is completed.

### **Panel of Independent Assessors**

The department offers a [Panel of Independent Assessors](#) to help practitioners determine the best permanency option for a child, when objective independent advice is required to support decision making. The department have taken this approach to:

- provide a clear and transparent process for increasing the number of assessors
- support more consistent, predictable and timely outcomes
- describe departmental expectations of independent assessors.

Independent assessors are subcontracted by service providers to conduct assessments in relation to particular case plan goals, on a fee for service basis, including:

- restoration viability assessment (often referred to as a parenting capacity assessment)
- guardianship assessment
- adoption assessment and adoption plans (including non-OOHC adoption)
- permanency assessment.

# Assessment



Participation in Triage Assessment, SARA and Alternate Assessment by a service provider is good practice and occurs:

- by invitation from the department or at request of the provider
- when it is agreed it will be beneficial to a child, their parents, siblings or family/kin
- when the child, parents, siblings and family/kin agree to the provider's participation.

## Triage Assessment

### What is Triage Assessment?

The department has statutory responsibility for responding to child protection reports ([section 30](#)). It triages child protection reports made to the Child Protection Helpline (the Helpline) to prioritise and decide which families receive assessment and support.

In general, the department prioritises child protection reports:

- screened in as presenting a ROSH or
- screened in as requiring further assessment (non-ROSH).

For each report, the department considers the reported concerns, the Helpline's assessment, availability of local resources, and operational capacity of the department to respond.

Each report is reviewed regularly for a period of 28 days, to allocate, transfer, refer or close. Review usually occurs by:

- peer review, to encourage collaborative, shared decision making
- weekly allocation meeting (WAM), to prioritise reports against the CSC's capacity.

Children with the highest priority are allocated to a departmental caseworker for a Safety and Risk Assessment (SARA) or an Alternate Assessment.

If a child is not able to be allocated during the 28 day period, the department may:

- refer the child, their parents and family/kin to other services, request services from other agencies or provide other assistance ([section 17](#), [sections 20-22](#) or [section 113](#))
- hold an interagency case discussion (ICD) to facilitate collaboration and sharing of expertise among services involved with the child, their parents and family/kin.



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## Aboriginal cultural considerations in Triage Assessment

Practitioners take a curious stance to proactively identify a child's cultural background, history and heritage. Also see Identification of Aboriginal children & families.

A support plan for an Aboriginal child is developed through:

- Aboriginal family-led decision making
- planning to empower the child, their parents and family/kin to set their own goals, priorities and action plans.

Also see [Aboriginal family-led decision making](#) and [Aboriginal family-led decision making \(glossary\)](#).

## Collaborating in Triage Assessment

The department and a service provider currently or previously exercising primary case responsibility have complementary roles in conducting Triage Assessment.

The department conducts Triage Assessment. When a service provider exercises primary case responsibility, the department:

- informs the service provider of a new report
- consults with the provider and any other service provider known to be previously or currently involved with the child and their family
- invites the provider to participate in Triage Assessment (led by the department) by:
  - attending a departmental WAM or
  - participating in an ICD with the department.

The service provider assists the department's Triage Assessment by:

- continuing to exercise primary case responsibility while Triage Assessment occurs
- timely sharing of all information relevant to Triage Assessment
- responding to the department's requests for [information exchange](#).

## Assessing safety and risk

The department has statutory responsibility for responding to child protection reports ([section 30](#)). Departmental practitioners assess reports using Structured Decision Making (SDM<sup>®</sup>) or Alternate Assessment frameworks, alongside professional judgement. Also see PCMP Resources - [List: DCJ assessment tools](#).

### What is SARA?

Safety and Risk Assessment (SARA) is an SDM<sup>®</sup> assessment framework used in relation to a child protection report concerning care and supervision of a child by a person exercising parental responsibility (for the child)<sup>4</sup>. This includes birth parents, guardians, adoptive parents or relative/kin carers with parental responsibility.

An initial safety assessment helps the department to assess a child's immediate safety in the home where they live, with safety decisions of *safe*, *safe with plan* or *unsafe*. Departmental practitioners visit a child, their parents, siblings and family/kin to carry out a SARA. A safety assessment is recorded in ChildStory within two days<sup>5</sup> of the visit.

<sup>4</sup> There are a range of circumstances in which SARA is applied. For further information, see DCS Casework Practice or discuss with a departmental practitioner.

<sup>5</sup> Unless otherwise stated in this document, all references to a 'day' is a reference to a calendar day (not a business day).

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When a child is assessed as unsafe in their home, the department moves the child to live with another person, in a place other than their usual home, otherwise referred to as an [OOHC placement](#).

A risk assessment helps the department to assess the risk a child will experience abuse or neglect in future, in the home where they live. Possible risk outcomes are *low, medium, high or very high*. A risk assessment is recorded in ChildStory within 30 days after the safety assessment.

When a child is assessed as unsafe or safe with plan and/or at *high or very high risk*, they are considered to be in need of care and protection and in many cases protective action will be taken by the department. If so, a case plan is developed.

Protective action is taken through engaging the child, their parents, family/kin and community in decision making, supported by [case planning and review](#).

A review of the initial safety assessment is carried out if new information is received that would change the initial safety decision.

Risk re-assessment helps the department to re-assess the risk to a child following case planning and review of work towards achieving the child's case plan goal. A risk re-assessment is completed:

- 90 days following the development of a case plan when the risk was (initially) assessed as high or very high and
- every 90 days after (or more frequently, as required).

The department may cease involvement with the child and their family when:

- the risk re-assessment has an outcome of low or moderate and
- a closing safety assessment with outcome of safe shows no unresolved dangers.

### **Use of alternative dispute resolution (ADR)**

The department is required to offer [ADR](#) when responding to a child protection report screened in as risk of significant harm, before seeking a care order, unless there are exceptional circumstances ([section 37](#)).

The purpose of ADR is to resolve problems early and reduce the likelihood a care application will need to be made; and to divert the child away from the OOHC system. The department's preferred model of ADR when responding to a child protection report (if available) is:

- perinatal or [Pregnancy Family Conferencing](#) (PFC) for unborn children (Sydney Local Health District only) and
- Family group conferencing (FGC) in all other cases.

### **Aboriginal cultural considerations in SARA**

Before carrying out SARA for an Aboriginal child, the department engages and consults with an Aboriginal Community Controlled Organisation (ACCO) or other locally governed Aboriginal community group<sup>6</sup>. Also see [Aboriginal Community Controlled Organisation \(glossary\)](#).

When carrying out SARA, the department take steps to:

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<sup>6</sup> Some local districts refer to local Aboriginal Consultation Advisory Panels (ACAP) – see [DCJ Aboriginal Consultation Guide](#).

- 
- verify the Aboriginal child's indigenous status and cultural identity has been accurately recorded
  - identify the child's family/kin networks (which may include Family Finding as a practice approach)
  - visit the child, their parents and family/kin, with an Aboriginal caseworker (if possible)
  - use [Aboriginal family-led decision making](#)
  - engage and support participation of Aboriginal family/kin and communities, to make a culturally valid assessment
  - recognise Aboriginal family structures, environments and child rearing practices.

Also see [SARA](#) and [Aboriginal family-led decision making \(glossary\)](#).

An Aboriginal child, assessed as safe or safe with plan (no protective action taken by the department), is referred to Aboriginal family strengthening services, with an Aboriginal service provider (if possible). Also see [Triage](#).

For an Aboriginal child with a case plan goal of preservation, the department:

- makes [proactive efforts](#) to actively support their parents and family/kin, address risks threatening the separation of the child from their parents and family/kin
- refers the family to Aboriginal family strengthening services, to enable the child to remain safely at home and in their community.

For an Aboriginal child with a case plan goal of restoration, the department makes proactive efforts towards restoration and family reunification.

## Collaborating in SARA

The department and a service provider, previously or currently exercising primary case responsibility for a child, have complementary roles in carrying out SARA. Current or previous case responsibility includes circumstances when a service provider:

- previously exercised primary case responsibility and successfully achieved preservation, restoration, guardianship or adoption
- is currently exercising primary case responsibility for a child with a goal of:
  - preservation, whilst the child remains in the home (not in OOHC) or
  - restoration, after the child has returned home (has exited OOHC).

When a service provider *previously* exercised or currently exercises primary case responsibility for a child subject to SARA, the department:

- informs the service provider of the new report
- plans a joint response with the provider, for example inviting them to participate in a pre-assessment consultation (PAC) or post assessment consultation (AC)
- consults with the service provider and [JCPRP](#) when there are concerns of serious child abuse which may constitute a criminal offence
- includes the service provider in ADR, subject to consent
- includes the service provider in [group supervision](#) (if convened).

When a service provider *currently* exercises primary case responsibility for a child subject to SARA, the department:

- liaises with the provider, when seeking direct contact with a child, their carers, parents,

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siblings and family/kin in order to carry out the assessment

- informs the provider when contact is planned, or if not possible, immediately after it has occurred
- funds [ADR](#) using FGC (only for children with a case plan goal of preservation)
- provides relevant information to the provider about the outcome of the assessment within 10 business days after the conclusion of the assessment.

Whilst the SARA is ongoing, the service provider:

- may participate in the assessment (but not act as a secondary caseworker) by:
  - helping child, their parents or family/kin understand the assessment and concerns raised in the child protection report
  - providing support and advocacy during an interview by the department or subsequent case planning or
  - coaching parents and family/kin to increase safety and reduce risk
- accepts guidance from the [JCPRP](#) (if applicable)
- cannot participate in the exercise of statutory powers of assumption or removal ([section 43 and 44](#))
- shares all information relevant to SARA and responds to departmental requests for [information exchange](#).

## Alternate Assessment

### What is Alternate Assessment?

Alternate Assessment is an assessment framework used in assessing a child protection report concerning the care and supervision of a child in OOHC<sup>7</sup>.

Departmental practitioners use Alternate Assessment (also called 'SARA exception') to assess the child's immediate safety, including need for protective action. It considers a range of factors including:

- the child's vulnerability to harm
- the carer's response to the allegations and capacity to provide care and
- support available to the carer and protective factors contributing to the child's safety.

The department may contact or visit a child, their carers, parents, siblings or family/kin to carry out Alternate Assessment. The Alternate Assessment is recorded within:

- 28 days, if harm or risk is not substantiated
- 90 days, if harm or risk is substantiated.

A Judgement and Outcomes report is completed to:

- determine whether the child protection concerns are substantiated
- identify any person determined to have caused harm to the child and
- record whether the child is assessed as being in need of care and protection.

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<sup>7</sup> There are a range of circumstances in which an Alternate Assessment is applied. For further information, see DCS Casework Practice or discuss with a departmental practitioner.

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## Collaborating in Alternate Assessment

The department and a service provider have complementary roles in conducting Alternate Assessment.

When carrying out an Alternate Assessment, the department:

- informs the service provider of a new report
- consults with the service provider, to plan a joint response, for example inviting the provider to participate in a PAC or AC
- consults with the service provider and [JCPRP](#) when there are concerns of serious child abuse which may constitute a criminal offence
- liaises with the provider when seeking direct contact with a child, their carers, parents, or family/kin in order to conduct Alternate Assessment
- informs the provider when making contact is planned, or if not possible, immediately after it has occurred
- provides relevant information to the provider about the outcome of the assessment within 10 business days after the conclusion of the Alternate Assessment.

While an Alternate Assessment is ongoing, the service provider:

- continues to exercise primary case responsibility, unless the department and the service provider agree otherwise
- may participate in the assessment (but not act as a secondary caseworker) by:
  - helping the child, their carers, parents or family/kin understand the assessment and concerns raised in the child protection report
  - providing support and advocacy during an interview by the department or subsequent case planning
- accepts guidance from the JCPRP, if [JCPRP](#) are conducting an investigation
- conducts a carer review to:
  - discuss any difficulties or issues the carers are experiencing
  - ensure compliance with the [Carer Code of Conduct](#)
  - check the circumstances of the carer's household to ensure nothing has changed to affect their authorisation
  - provide training and support as required
- cannot participate in the exercise of statutory powers of assumption or removal under [sections 43 and 44](#)
- shares all information relevant to Alternate Assessment and responds to the department's Requests For [information exchange](#).

## Collaborating in investigating reportable conduct

The department and a service provider have additional complementary roles when a new child protection report contains allegations of reportable conduct by an employee or carers authorised by the provider.

Whilst the department conducts an [Alternate Assessment](#), the service provider is responsible for conducting a reportable conduct investigation. This includes:

- 
- investigating reportable or alleged criminal conduct of their employees and carers
  - responding to [critical events](#).

In most cases, an Alternate Assessment and reportable conduct investigation will occur concurrently. During this time:

- The department (in relation to Alternate Assessment) and the service provider (in relation to the reportable conduct investigation) plan and conduct a joint response using PAC or AC.  
Also see PCMP Resources - [Checklist: PAC and AC requirements](#).
- The department and the provider each accept guidance from the [JCPRP](#) if they are assessing concerns of serious child abuse which may constitute a criminal offence.
- The department and the provider coordinate joint interviews of the child, other children and carers (if appropriate).
- The department and the provider exchange information relating to:
  - the safety of the child and other children in their placement and
  - communication with the child's parents, siblings and family/kin
  - the conduct and progress of the department's Alternate Assessment and the provider's reportable conduct investigation.

Within 10 business days after the conclusion of the department's Alternate Assessment and the service provider's reportable conduct investigation (respectively):

- the department provides the Alternate Assessments to the provider
- the provider submits the reportable conduct investigation to the department.

Also see [Information exchange](#).

# Placement



## OOHC placement

### Arranging a placement

The department determines what type of placement is to be arranged for a child in OOHC, guided by:

- permanent placement principles for all children ([section 10A](#))
- placement principles for Aboriginal children ([section 13](#))
- the principles for administration of the Care Act, including the culture, disability, language, religion, sexual orientation, and gender identity, of the child to be:
  - protected and preserved and
  - taken into account in all actions and decisions ([section 9\(2\)](#)).

Placements may be arranged by local districts, other parts of the department or service providers – which are accredited to provide foster care, residential care and/or adoption services by the Office of the Children’s Guardian.

However under PSP, all placements are arranged and supervised by service providers.

### Paying the carer allowance

Service providers pay their carers an allowance to provide foster care placements for children in OOHC.

Each provider determines the rate of allowance paid to their carers. However the minimum allowance paid is at the [standard rate](#) published annually by the department.

### Aboriginal cultural considerations in placement

The department and service providers seek to arrange placement of Aboriginal children within their family/kin, community and culture, consistent with the Aboriginal and Torres Strait Islander Principles. This means practitioners:

- facilitate partnership and participation of Aboriginal people in the care and protection of their children with as much self-determination as is possible ([section 11](#))
- engage Aboriginal people in decision making concerning placement of their children and in other significant decisions ([section 12](#)) drawing on [Aboriginal family-led decision making](#)
- ensure the placement is arranged consistent with Aboriginal child placement principles ([section 13](#)).

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## Placement with an Aboriginal Community Controlled Organisation

The placement of an Aboriginal child is with an Aboriginal service provider that is an Aboriginal Community Controlled organisation (ACCO). If this is not possible:

- the placement may be made with another service provider (not an ACCO), in partnership with the child's local Aboriginal community
- case planning sets out a strategy to transition case responsibility for the child to a service provider that is an ACCO (if available).

## Placement with an Aboriginal carer

The placement of an Aboriginal child is with an Aboriginal carer. If this is not possible, case planning includes goals and tasks to support the non-Aboriginal carer:

- develop an understanding of the children's Aboriginal nation, lands, mob, totem, spiritual and cultural practices (lore, rites and rituals), language and other cultural connections and
- demonstrate commitment to maintaining the child's cultural identity, belonging and connection to family/kin, community and culture.

## Placement with siblings

The placement of an Aboriginal child is with their siblings. If this is not possible, case planning sets out arrangements to enable the child and their siblings to participate in family time and cultural activities as a sibling group.

Also see [Case Planning for siblings in OOHC](#).

## Placement on Country

The placement of an Aboriginal child is on Country<sup>8</sup> of their family's Aboriginal nation, lands or mob; or a placement located in the child's Aboriginal community of belonging<sup>9</sup>. If this is not possible, case planning sets out:

- a strategy for developing and maintaining the child's positive sense of identity, belonging and connection to family/kin, community and culture
- arrangements to help the child develop an understanding of their Aboriginal nation, lands, mob, totem, spiritual and cultural practices (lore, rites and rituals), language and other cultural connections
- arrangements, led and driven by family/kin, for cultural connections and experiences through participation in cultural activities, events and programs.

Also see [Aboriginal child safety](#), [Aboriginal family-led decision making \(glossary\)](#) and [Placement decision making](#).

Also see [Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle](#).

## Relative/kin care placement

Placement with family/kin will always be the best possible placement for a child as:

- it preserves their identity, language, cultural and religious ties

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<sup>8</sup> The term 'on Country' refers to the geographical location of an Aboriginal child's family's nation, lands or mob.

<sup>9</sup> The term 'community of belonging', refers to an Aboriginal community off Country to which an Aboriginal child or their family/kin feel a sense of belonging and/or have a cultural connection (note a child can have more than one community of belonging).



- it maintains relationships with people significant in their lives, including parents, siblings, extended family, peers, family friends and community
- it provides them with security and stability while in OOHC
- it aligns with the permanent placement principles ([section 10A](#)) and Aboriginal and Torres Strait Islander Child Placement Principles ([section 13](#)).

Identifying family/kin occurs in consultation with the child, their parents and family/kin.

- The department's preferred model is Family Finding<sup>©</sup>, a model that seeks to connect children with parents, siblings, family/kin and other supportive persons who will love and care about them now and throughout their lives.
- Family finding<sup>©</sup> aims to locate, connect and engage parents, siblings, family/kin or other supportive persons to build a child's lifetime support network and enhance placement permanency, whether through restoration, guardianship or long term care.

While not its main purpose, family finding can identify family/kin who may be able to provide relative/kin care, respite care or guardianship placements.

- Where appropriate, provisional or full assessment and authorisation is carried out early to ensure these placement options are available when required.

Service providers receive a baseline service package<sup>10</sup> including funding for recruiting, assessment and authorisation of relative/kin<sup>11</sup> carers (in addition to foster carers).

## Foster care placement

Service providers have a critical role to play in sustainably growing the capacity of the OOHC sector to provide foster care placements. Providers recruit, assess, authorise and maintain a pool of foster carers over the number of carers needed for the providers' actual contract volumes<sup>12</sup>, based on local demand and supply of foster carers<sup>13</sup>.

Foster carers are supported to provide:

- immediate placements<sup>14</sup> regardless of a child's need level, case plan goal, age, gender or other characteristics
- care to children with complex needs, stepping down from residential care/ITC<sup>15</sup>.

Prospective foster carers are provided information about permanent placement principles ([section 10A](#)). It is explained at the recruitment stage, that assessment and authorisation of foster carers to support restoration, guardianship and adoption<sup>16</sup> is prioritised in preference to long term care.

Service providers conduct recruitment campaigns to attract prospective foster carers capable of supporting the full range of permanency goals under PSP.

Foster carers are recruited, trained and supported to:

- provide emergency and short term care to a child and

<sup>10</sup> A range of other packages may also be available (specialist packages) subject to eligibility criteria. Also see [PSP Program description for service providers](#).

<sup>11</sup> Throughout this document, unless otherwise specified, kin of a child includes any person who shares a cultural, tribal or community connection with the child that is recognised by that child's family or community ([Section 3](#) & [section 10A](#)).

<sup>12</sup> PLA, Schedule 3, 3.4

<sup>13</sup> PLA, Schedule 1, 3.3.12, 5.3.1, 5.3.2

<sup>14</sup> PLA, 4.1

<sup>15</sup> PLA, Schedule 1, 5.3.1

<sup>16</sup> Adoption is the least preferred permanent placement for an Aboriginal child.

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- participate in permanency case planning and
  - work with a child’s practitioner, therapeutic services, and family/kin, to achieve restoration, arrange a permanent legal guardian, or support open adoption.

Providers also recruit, train and support Aboriginal foster carers to:

- supporting implementation of the Aboriginal child placement principles ([section 13](#))
- enable Aboriginal children to maintain meaningful connections to culture and country, for lifelong wellbeing
- provide emergency and short-term Aboriginal foster care
- contribute to an Aboriginal respite carer network<sup>17</sup>.

This includes recruitment of Aboriginal foster carers who are recognised as members of the local Aboriginal community and as custodians of the land upon which the provider operates. Otherwise, providers recruit Aboriginal or Torres Strait Islander foster carers from other communities or lands, who are residing locally.

## Arranging an OOHC placement

### Collaborating in arranging immediate placement

The department and the service provider have complementary roles in arranging immediate placements.

Service providers recruit and maintain a pool of foster carers, enabling the arrangement of immediate placements (sometimes referred to as ‘emergency placements’). When a service provider arranges an immediate placement, they commence [primary case responsibility](#). Also see [Transfer of primary case responsibility](#).

An immediate placement is arranged when:

- the department broadcasts a placement request through ChildStory, seeking a foster care placement
- a service provider submits a broadcast response (accepted by the department).

Also see [Collaborating in arranging foster care placements](#).

### Transition from an immediate placement

At the conclusion of an immediate placement:

- it may be possible to restore the child or to place the child with a relative/kin carer or
- it may be necessary to place the child in a foster care placement (only if a member of a child’s family/kin cannot be identified).

If the new relative/kin carer or foster carer is authorised by another service provider, the existing provider:

- develops a transition plan in consultation with the child’s parents and family/kin, the department, and the new provider
- provides necessary casework to support transition of the child to the primary case responsibility of the new provider.

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<sup>17</sup> PLA, Schedule 1, 5.4.1.

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## Conversion to permanent placement

In some cases a child's emergency carers may become their permanent carers when:

- a member of the child's family/kin cannot be identified and authorised as a relative/kin carer
- the conversion of the immediate placement to a permanent placement is agreed to by the carers, service provider and department.

Also see [Handling Disputes](#).

## Collaborating in arranging relative/kin placement

The department and a service provider have complementary roles in arranging relative/kin placements. Service providers assist the department to recruit, assess and authorise a relative/kin carers (in the first instance)<sup>18</sup>.

When arranging a relative/kin placement, the department:

- complies with the permanent placement ([section 10A](#)) and Aboriginal child placement principles ([section 13](#))
- identifies family/kin of the child who are appropriate to be assessed and authorised by the service provider, as a relative/kin carer for the child
- conducts a provisional relative/kin carer assessment before requesting the provider conduct full relative/kin carer assessment OR requests a provider conduct provisional or full relative/kin carer assessment
- provides information to the Children's Court about required reasonable timeframes for conducting a relative/kin carer assessment by a service provider, when court proceedings are underway.

When arranging a relative/kin placement in response to a request by the department, a service provider:

- assesses and authorises an identified relative/kin carer applicant, anywhere in NSW or in another jurisdiction<sup>19</sup>
- is responsible for incurring expenditure<sup>20</sup> in relation to relative/kin carer assessment
- may arrange more than one relative/kin carer assessment identified through family finding, subject to the needs of the child
- makes decisions about which assessment to prioritise with the family through FGC or Aboriginal family-led decision making, subject to operational capacity and court timeframes
- assesses and authorises relative/kin carers, in response to the administrative directions of the Children's Court, when court proceedings are underway:
  - making best endeavours to complete assessments within court-imposed timeframes and
  - requesting the department to seek leave of the court to extend timeframes for assessment (if necessary).

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18 PLA, Schedule 1, 5.3.1 and 5.3.2

19 Conduct of a relative/kin carer assessment in another jurisdiction may require a service provider to subcontract the assessment to a private or other practitioner in that jurisdiction (PLA, 4.2).

20 Service providers receive an Immediate Placement Supplement to recruit foster carers over contract volume (PLA, Schedule 3, 3.4) and baseline service packages to assess and authorise relative/kin carers. If the cost of assessment/authorisation becomes extraordinary (for example, due to subcontracting in another area outside of service boundaries), a Complex Needs payment may apply.

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## Collaborating in arranging foster care placements

The department and the service provider have complementary roles in arranging foster care placements if a member of a child's family/kin cannot be identified.

Arranging foster care placements occurs through the ChildStory placement broadcast system. This however does not limit the department and service providers using telephone calls and emails to facilitate good relationships, information sharing and placement matching.

When arranging a foster care placement, the department broadcasts a placement request seeking a foster care placement arranged by a service provider.

When broadcast of a placement request occurs:

- The practitioner requesting the placement completes a PNA, creating a Client Information Form (part A and part B) that supports placement matching.
- The CFDU contacts the practitioner who completed the PNA for further information, as required.
- The CFDU applies the CAT to determine:
  - the level of the child's needs in the placement and the corresponding Child Needs package tailored to the child's needs (Low, Medium or High)
  - whether a child is referred to the CAU for ITC placement (CAT score 5/6).
- The CFDU conducts a CAT review within 30 days of placement, if requested by the service provider.

When arranging a foster care placement, a service provider:

- proposes a foster care placement in response to broadcast of a placement request by the department, only if a member of a child's family/kin cannot be identified
- matches a child to a foster care placement, informed by the PNA and CAT outcome.

### Placement matching

Placement matching is the process of matching a child with suitable foster carers to promote the successful establishment of the placement and achievement of the child's case plan goal.

Placement matching relies on the placement needs assessment (PNA) and client information forms (CIF) Part A & B. Neither the PNA nor the CIF forms replace professional judgement regarding placement matching. Rather, they help the department and service providers make informed decisions based on a structured assessment of the child's needs.

Placement matching also addresses other factors such as:

- whether the proposed placement is consistent with the permanent placement principles ([section 10A](#)) and Aboriginal child placement principles ([section 13](#))
- other information exchanged between the department and service provider
- the placement type, that is, whether it is an immediate, shorter term, or long term foster care placement
- the needs and stability of other children in the placement.

### Placement needs assessment (PNA)

A PNA supports placement matching and results in a Client Information Form (part A and part B). It is an assessment compiling all known information about a child across domains of daily living skills, communication, emotional and behavioural functioning, social relationships,

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challenging or harmful behaviours, interests and recreation, personal identity, extended family and significant relationships, education/vocational training and child protection history.

## Child Assessment Tool (CAT)

### Placement matching

The [CAT](#) supports placement matching. It is informed by the information contained in the PNA (Client Information Form, part A and part B). The CAT:

- helps determine the service type and level of support to best meet the needs of a child (Child Needs package)
- enhances the transparency and consistency of placement decisions (foster care, residential care or ITC)
- creates a common framework for placement decisions between the department and the service provider
- considers the impact of certain behavioural issues and health and development issues on both the placements and carers, with the goal of minimising unplanned placement changes.

Also see PCMP Resources – [List: DCJ assessment tools](#).

### Review of a child's needs

A service provider can request a review of the [CAT](#) outcome if:

- there is new information about the child's behaviours, health or developmental issues
- if a child's circumstances have changed significantly, impacting the child's behaviour, the level of care they require or the stability of the placement.

A CAT review is completed by the nominated unit<sup>21</sup> in collaboration with the service provider:

- The nominated unit completes the CAT (review) in ChildStory.
- The service provider provides all relevant information about the child and their placement to the nominated unit, to support the CAT Review.

### Ensuring a placement is safe

Practitioners ensure a placement is physically safe when placing a child with carers for the first time.

The service provider arranging the placement ('authorising provider') provides a copy of the latest OOHC Home Inspection Checklist<sup>22</sup> (if practicable) to the caseworker responsible for placing the child ('placing caseworker').

The placing caseworker:

- uses the checklist to confirm any outstanding issues have been addressed in the placement and that no new issues have arisen
- seeks the carer's permission to walk around the placement including the house and front / back yards
- explains the reasons for this to the carers, and works with them to understand the cause of, and address, specific dangers.

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21 Barnardos is delegated certain powers and functions of parental responsibility under a deed entered into by the Minister for DCJ and Barnardos. This delegation allows Barnardos to conduct its own CAT reviews.

22 Practitioners are not required to conduct a new Home Inspection Checklist however they check for non-compliance based on their awareness of the standards.

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If there are any immediate or ongoing safety issues identified, the placing caseworker:

- alerts the authorising provider immediately
- does not leave the child at the placement if assessed as unsafe.

*For example, if a swimming pool at the placement was without secure fencing and a working gate, the child would be assessed as unsafe (as well as any other children in the placement) by the placing caseworker.*

At the case transfer meeting, the placing caseworker raises any immediate or ongoing safety issues with the authorising provider, including outstanding issues from the last home inspection.

The authorising provider considers a joint home inspection with the placing caseworker to ensure the child is safe in the placement. This recognises:

- a foster carer's circumstances and household may change at any time after their initial assessment or between annual reviews
- that we work collaboratively to uphold the rights of every child to a safe placement.

## Changing a child's OOHC placement

For changes in placement involving a change in primary case responsibility from one service provider to another, see [Transfer of primary case responsibility](#).

Service providers advise the [nominated unit](#) of internal changes to primary placements (excluding respite placements) between their carers within five business days<sup>23</sup>.

Service providers immediately advise the [nominated unit](#) of:

- proposed or actual changes to placements between service providers
- circumstances when a child is [away from placement](#) or away from a [TCA placement](#).

## Restoration placement

### What is a restoration placement?

A restoration placement occurs when a child:

- exits OOHC, but remains in the parental responsibility of the Minister and
- goes home to live with their parents (if safe to do so) under a restoration plan accepted by the court.

A restoration plan is considered to be approved when:

- a care plan has been filed in Children's Court proceedings with a goal of restoration ([section 78](#) and [section 83](#))
- the Children's Court accepts the care plan and has made a Shorter Term Court Order (STCO) to support achievement of the case plan goal
- a FAP has been developed, to support the child's family to make meaningful change
- an OOHC case plan has been prepared, to address the needs of the child, with a case plan goal of restoration (set by the department).

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<sup>23</sup> PLA, Schedule 1, 3.3.15

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Under a restoration plan accepted by the court, a child may go home for short period or longer periods at any time up to 12 months before the date of restoration ([section 136](#)).

A restoration placement before the expiry of the STCO allows the child's parent:

- to demonstrate the change in their behaviour and actions
- prepare for changes in their child's developmental need, behaviour and routine and
- begin to utilise a strengthened family and social network to increase the likelihood of successful restoration.

The date restoration is *legally* achieved is the date parental responsibility returns to the parents. This occurs when an STCO expires. It may also occur when the court rescinds a long term care order previously allocating parental responsibility to the Minister.

## Collaborating in restoration placement

The department and service providers have complementary roles in restoration as part of a restoration plan accepted by the court.

- Prior to commencement of a restoration the service provider:
  - requests a [permanency consultation](#)<sup>24</sup>
  - presents information to the DCJ nominated unit supporting the proposal to place the child with their parents
  - presents a transition plan spanning the period from the proposed day the child return home until expiry of the STCO.
- Service providers use evidence-based assessment to inform decision making about the commencement of a restoration placement<sup>25</sup>. The department's preferred evidence-based assessment tool is the SDM<sup>®</sup> Restoration Assessment and may be used by providers (under licence to the department).
- The service provider does not proceed with the restoration and return the child home until approved by the [nominated unit](#).
- Subject to local district operating arrangements, the nominated unit considers any recommendation made by a Permanency Coordinator, following [permanency consultation](#) or [group supervision](#).
- The nominated unit, considers evidence provided by the service provider, including previous [permanency goal reviews](#). If appropriate, the nominated unit approves the restoration placement and informs the service provider of this decision.
- The nominated unit informs the service provider of the decision regarding approval of the restoration placement.
- During the period of a restoration placement, and prior to the STCO expiring (or a long term care order being rescinded by the court), the nominated unit conducts assessment using:
  - a review safety assessment if subsequent information is received to change any dangers, protective capacities, or the prior safety decision
  - a risk re-assessment to demonstrate risk level has dropped to low or moderate
  - a closing safety assessment to demonstrate there are no unresolved dangers.

Also see [Changing the case plan goal](#).

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<sup>24</sup> Service providers can also use DCJ group supervision.

<sup>25</sup> PLA, Schedule 1, 3.3.1(a)(iii)

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## Away from placement

The [PSP Away from Placement policy](#) forms part of the PCMP. It supports service providers exercise case responsibility for:

- children in statutory out-of-home care (OOHC) placements and
- young adults previously in OOHC, in semi-independent living (SIL) or therapeutic SIL (TSIL) placements.

The policy describes separate rules and practice guidance for responding to an away from placement event when:

- a child or young adult is away from their primary placement for a temporary period or
- a child is not in a placement, after their primary placement has closed.

The policy supports collaborative case management by service providers and the department in:

- reporting and notification of children and young adults that experience an away from placement event
- continuing to provide daily care and support to children and young adults whilst away from, or not in a placement
- continuously managing risk, supported by consultation, practice advice and strong oversight
- facilitating ongoing case planning and review, with a child or young adult's meaningful participation in decision making
- maintaining a strong focus on achieving permanency for children, or transition to independence by young adults
- carrying out alternate assessment and investigation of reportable conduct.

## Placement-only services

The PSP Program Description does not extend to certain types of placements and programs. This section clarifies arrangements for case responsibility and funding for such placement-only services provided by service providers.

### Temporary care arrangements (TCAs)

#### What is a TCA?

A [TCA](#) may arise when:

- the department assesses a child to be in need of care and protection arising from a [safety assessment \(SARA\)](#)
- the child's parents consent to a TCA Agreement or are assessed as 'incapable of consenting'
- there is a permanency plan involving restoration of the child to their parents at the end of the TCA period ([section 151\(3\)](#)).

When considering entering into a TCA, the department:

- recognises the parents are able to end a TCA at any time
- considers how the child's safety needs may be met if the parents withdraw their consent and the child returns to their care
- weighs up the suitability of other options such as removal of the child without the parents'



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consent (assumption/removal).

Under a TCA, the child is placed with carers, in the care responsibility of the Secretary ([section 151](#)).

The period of a TCA is up to three months ([section 152](#)) and may extend for a further period of up to three months (in same 12 month period). The maximum period for a single or multiple TCAs is six months in any 12 month period ([section 152\(4\)\(a\)](#)).

During a TCA, a case plan (with a goal of restoration) is prepared within 30 days of the child entering supported OOHC. The case plan requires review if the period of the TCA exceeds three months ([section 155](#)).

Restoration from a TCA placement is different from restoration from statutory OOHC because there are no court proceedings, no court order, and parental responsibility remains with the parents. The TCA ends when:

the period of the TCA expires without being extended

- the child is restored by the department in accordance with the TCA agreement or
- the TCA agreement is terminated by:
  - the parents requesting return or actually resuming care of their child or
  - the department removing or assuming the child into care of the Secretary or filing a care application in the Children's Court seeking care orders.

Also see PCMP Resources - [List: case planning timeframes](#).

### **What is a TCA placement?**

The department always considers whether placement of a child subject to a TCA, may be with a relative/kin carer. Only the department arranges a relative/kin care placement necessary for a TCA.

A foster care placement may be arranged by a service provider for a TCA, if a member of a child's family/kin cannot be identified. When this occurs, the department broadcasts a placement request seeking a foster care placement (TCA placement), arranged by a service provider.

### **TCA placements are external to PSP**

TCA placements are not included in the PSP PLA (contract)<sup>26</sup>. This is because:

- TCAs are supported OOHC, *not* statutory OOHC arrangements
- TCAs operate as a function of SARA and Alternate Assessment, prior to a decision being made that a child will enter statutory OOHC
- case responsibility during the TCA is not transferred to the service provider arranging the placement:
  - the department continues to exercise case responsibility or
  - when used as part of a PSP preservation service, the service provider providing the preservation service continues to exercise case responsibility.

A service provider assists the department to arrange a TCA placement noting:

- the placement is *in addition* to the provider's PSP contracted volume and

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<sup>26</sup> Other than data/reporting requirements.

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- the funding approach is based on the equivalent application of PSP packages and invoiced on a fee-for-service basis (excluding the case plan goal package for TCA placements under three months).

Also see PCMP Resources – [Funding: Temporary Care Arrangement \(TCA\) Placements](#).

### Supervision of a placement under a TCA

Supervision of a TCA placement is different to supervision of a statutory OOHC placement.

- Despite the Secretary’s powers of delegation ([section 250](#)), care responsibility ([section 157\(1\)](#)) *cannot* be delegated to a service provider. Care responsibility may only be delegated to a foster carer ([section 151\(2\)\(b\)](#)).
- Although the service provider does not exercise primary case responsibility, the provider continues to supervise the placement.
- The provisions and conditions of the PSP PLA (contract) and PCMP (other than this section) do not apply.

### Collaborating in arranging a TCA

The department clarifies what information will be reasonably required from the service provider, to satisfy the department the TCA is safe, nurturing, stable and secure ([section 9\(e\)](#))<sup>27</sup>. This includes information obtained by the service provider:

- from carrying out home inspections and
- having conversations with the child and the foster carers about the child’s care.<sup>28</sup>

The department and service provider clarify how decisions will be made during a TCA placement<sup>29</sup> including:

- how parental responsibility decisions will be made, noting the parents continue to exercise *parental responsibility* ([section 157\(2\)](#)) (for example consenting to non-urgent medical and dental treatment involving surgery)
- how care responsibility decisions will be made by the department and the foster carers (for example giving permission for the child to participate in activities such as school excursions)
- how decisions will be made if an unplanned event occurs, for example if the parents terminate the TCA or there is a [critical event](#).

### Collaborating during a TCA placement

The department and service providers have complementary roles during a TCA placement.

During the entire period of the TCA, the department facilitates a family-led process to achieve restoration. The department:

- visits a child, their parents, siblings and family/kin
- conducts ongoing conversations and makes observations in relation to parental actions and behaviours to increase the safety of their child
- conducts safety and risk re-assessment (SARA) and supports the family to address the identified dangers resulting in the TCA

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27 In circumstances when primary case responsibility is with a service provider as part of the PSP preservation service, the Preservation service provider also takes part and collaborates.

28 Clause [37](#) and [40](#) of *Children and Young Persons (Care and Protection) Regulation 2012*.

29 *ibid*

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- liaises and collaborates with the service provider in relation to their ongoing assessment and in response to any issues arising in the TCA placement.

During the entire period of the TCA, the service provider is funded to supervise the TCA placement including:

- authorisation training, casework support of the foster carers, care allowance and child-related costs
- casework support of the child in relation to educational support, health services, mentoring, counselling, psychology and behaviour therapy
- supports the foster carers to exercise care responsibility ([section 157](#)) *on behalf of* the department, including decision making regarding medical/dental treatment, managing behaviour, permission to participate in education and other activities
- liaises with the department in relation to supervision of the TCA placement.

#### **Initial period of up to three months**

During the initial period of up to three months, the department:

- convenes a case conference to develop a case plan (within 15 days of completing the SARA assessment) and invites the service provider to attend
- undertakes case planning to identify family goals and outcomes, while implementing, supporting, monitoring and reviewing change
- makes and administers arrangements for the provision of family time.

#### **If the period exceeds three months**

If the period of the TCA exceeds three months (in a 12-month period), the service provider agrees to take on (and is funded for) additional responsibilities which it exercises on behalf of the department. These responsibilities include:

- convening a case conference and reviewing the child's case plan
- making and administering arrangements for the provision of family time
- provision of intensive family preservation and support services, including in-home support, counselling and brokerage to facilitate restoration.

Note: The equivalent additional PSP service packages are provided if the TCA exceeds three months. Also see PCMP Resources – [Funding: Temporary Care Arrangement \(TCA\) Placements](#).

### **Preservation TCAs**

A [TCA](#) is not used as respite. See [Respite for Preservation](#).

A preservation TCA may be provided for a child by the same preservation service provider or a different service provider.

When a preservation TCA is arranged with a different service provider, the preservation service provider continues to exercise case responsibility.

During the provision of a preservation TCA, the preservation service provider liaises closely with the department. See [Collaborating in arranging a TCA](#).

# Permanency case planning



Permanency case planning aims to ensure a child's care arrangements provide them with safety and a sense of stability. This helps a child grow up to be a healthy, caring adult with positive identity, social skills and support networks.

## Case planning and review

### What is permanency case planning?

Permanency case planning helps the department and service providers work collaboratively to achieve safety, permanency and wellbeing for vulnerable children – by keeping them with or returning them to family, arranging a permanent legal guardian, supporting open adoption or providing long term care as described in the permanent placement principles ([section 10A](#)).

Permanency case planning is a family-led, goal driven process. It includes ongoing conversations and observations with the child, their carers, parents, family/kin and other persons important to them. It helps parents and family/kin make a clear link between specific actions and behaviours and increasing the safety of their child.

For children already in long term care, permanency case planning starts with the child in their placement and considers stability, attachment to carers and connection to family/kin. Permanency planning considers how to maintain stability and attachment and connection to family/kin through guardianship and adoption<sup>30</sup> (and long term care). When a child's placement is no longer meeting their needs, a review of the possibility of restoration may be made as part considering a child's permanency options.

Permanency case planning does not occur at a single 'point in time'. However, it begins when the department:

- assesses a child is in need of care and protection
- sets a case plan goal (preservation, restoration, guardianship, adoption or long term care) in line with the legislative and policy framework.

Permanency case planning is facilitated by a service provider to:

- consider a child's needs, views and wishes – giving the child a voice
- consider the concerns the department, the parents, family/kin and other significant persons hold for the child
- set out actions required by the parents, family/kin and carers to bring about change (if restoration is the case plan goal)

<sup>30</sup> Adoption being the least preferred option for Aboriginal children as described in the permanent placement principles.

- 
- identify and resolve barriers to achieving a more preferable permanency option consistent with the legislated child placement principles ([section 10A](#) and [section 13](#))
  - put in place a range of supports to help everyone work together to achieve the child's case plan goal.

## Types of case planning

Depending on the case plan goal, case planning results in one or more case plans

A FAP is developed to support a child's family/kin make meaningful change:

- to keep their child at home (preservation) or
- to have the child safely return to their care (restoration).

It is developed through a family-led process that identifies family goals and outcomes and sets out what actions, support, monitoring and review will occur.

An OOHC case plan is developed to make sure every child in statutory OOHC receives the care and support they need to experience safety, stability, permanency, connection and wellbeing.

## Participation in decision making

The FAP and the OOHC case plan are living documents, developed and reviewed with the child, their parents, family/kin, and other people important to them.

- This upholds the child's rights to participate in decision making ([sections 9-10](#)). Involving children in decision making allows them to express their own views about their safety, welfare and well-being.
- It also upholds the rights of Aboriginal children, their families, kinship groups, representative organisations and communities to participate in decision making. Involving Aboriginal people in decision making promotes their self-determination and resilience ([section 11](#) and [section 12](#)).

Also see [What is permanency case planning?](#)

## Review of case plans

A case plan review occurs at regular intervals. A family's FAP and a child's OOHC *case plan* are each developed and reviewed within statutory and policy timeframes. Also see PCMP Resources - [List: case planning timeframes](#) and [OOHC Standard 14: Case Planning and Review](#).

## Aboriginal cultural considerations in permanency case planning

### Case planning for an Aboriginal child

Case planning for an Aboriginal child is the practice of meeting the child's need for safety, stability and cultural continuity with a focus on permanency. It ensures proactive efforts are being made to achieve restoration and safely return the child to their family and community. It includes:

- Aboriginal family-led decision making
- applying an Aboriginal cultural lens to practice with the child, their parents, and family/kin, supported by Aboriginal practitioners (if possible)
- engaging services designed and delivered by the local Aboriginal community
- safeguarding the child's cultural rights to grow up and remain connected to their family/kin (including siblings), culture, community and Country.

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Also see [Aboriginal family-led decision making \(glossary\)](#), [Aboriginal Case Planning – Safety, Stability and Cultural Continuity](#) and [Note on adoption](#).

## Aboriginal identification

A practitioner does not need to confirm a child's relative meets the requirements of the Care Act ([section 5](#)) or *Adoption Act 2000* ([section 4](#)), to determine that a child is an Aboriginal child. Evidence that a child has a relative who is Aboriginal is enough to establish Aboriginal descent.

However, when there is uncertainty or disagreement about a child's Aboriginality, confirmation is necessary to:

- inform casework and/or placement decisions
- enable a relevant Court to make appropriate orders.

When uncertainty or disagreement occurs, seek legal advice, liaise with the nominated unit and consult with the child's Aboriginal community. Then take steps to confirm a child's Aboriginality, using the following criteria.

An Aboriginal child is:

1. A child who is descended from an Aboriginal who:
  - is a member of the Aboriginal race of Australia and
  - identifies as an Aboriginal person and
  - is accepted by an Aboriginal community as an Aboriginal person.

This is defined in [section 4](#) of the *Aboriginal Land Rights Act 1983* (ALRA) and referenced in [section 5](#) of the Care Act 1998 and in [section 4](#) of the *Adoption Act 2000*.

OR

2. A child who is determined *by a Court* to be 'of Aboriginal descent', that is, descended from the people who lived in Australia before British colonisation.

This is in accordance with the decision in *Hackett (a pseudonym) v Secretary, Department of Communities and Justice* [2020] in the NSW Court of Appeal.

## Helping determine a child's Aboriginal identity

The [Aboriginal Case Management Policy](#) is applied to help determine a child or their family/kin's Aboriginal identity. Also see - [Identification and de-identification of Aboriginal children and young people](#).

Practitioners have the opportunity to help a child and their family/kin determine whether they are Aboriginal or Torres Strait Islander – by exploring each family's unique history and heritage.

- Cultural identity is explored over a period of time and through a range of conversations with the child, their parents, family/kin and community members.
- Be curious about *how* a child or their family/kin have come to identify as Aboriginal. Record *all* conversations with an Aboriginal child, their family/kin and community regarding their understanding of their identity.
- Engage with the child's mother and father to ensure both the mother's and father's cultural background is recorded. When this is not possible, engage with extended family and significant people who know the mother or father.
- Engage the family in exploring the child's Aboriginal identity using Aboriginal family-led

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decision making processes.

- Gather more information from a child's Aboriginal community. Help a child or their family/kin talk to local Aboriginal people or relevant [Aboriginal Community Controlled Organisations \(ACCO\)](#).
- Where appropriate, refer the child's family to an Aboriginal organisation that provides culturally sensitive research regarding a person's Aboriginal history and heritage.
- Use a genogram or other tools to map Aboriginal lineage. Locate and engage family and kin that can provide background about the child's Aboriginal identity.
- If you need support in helping a family explore their cultural identity, arrange an Aboriginal consultation to help the family form links within their community. This can also help when the child's cultural identity needs further exploring, or if there are complex issues to be considered.

Be aware, due to the historic forced removal of Aboriginal children (the Stolen Generations), mistrust of the child protection system and its treatment of Aboriginal peoples, some Aboriginal people:

- may be reluctant to self-identify as Aboriginal
- may not have the information or records necessary to satisfy all criteria of the three-point test.

Do not make assumptions about Aboriginal identity.

- Do not record a child's or person's Aboriginal identity as not Aboriginal, as a default position.
- Be wary of recording a child or person's Aboriginal culture or indigenous status based on the unsubstantiated opinion of another person, for example a reporter.

## Collaborating in preservation case planning

Case planning and review for a child with a case plan goal of preservation is guided by the [PSP Family Preservation Program](#) framework.

## Collaborating in case planning during court proceedings

Case planning before and during court proceedings is *different* to case planning and review after final orders have been made because during proceedings, critical decisions have not yet been made. For example:

- a care plan setting out the department's case plan goal may not yet have been accepted by the court
- even if accepted by the court, a care plan is open to further challenge arising from:
  - new evidence filed in proceedings, such as an independent assessment by the Children's Court Clinic or an external assessor
  - a dispute resolution conference in which parties negotiate and attempt to agree on the proposed care plan
- the court has not yet made a final order to put in place a set of legal care arrangements for the child.

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During [court proceedings](#), the department and service provider apply a sharp focus on collaboration in all decision making. This includes the department and provider participating together in case planning, preparing the child's care plan, attending the dispute resolution conference and information exchange.

Although a service provider exercises case responsibility, the department (in addition to the provider) maintains a more active casework relationship with the child, their carers, parents, siblings or family/kin. This enables the department to oversee, prepare for and manage court proceedings, until the making of a final order.

It is also necessary for there to be close communication in relation to ongoing assessment. For example, if the case plan goal is restoration, service providers provide information to the department regarding:

- their use of evidence-based assessment to manage risk, support decision making and monitor progress toward achieving the case plan goal and
- the outcomes of evidence-based assessment tools, such as use of the SDM<sup>®</sup> Restoration Assessment.

## Collaborating in permanency case planning

The department and the service provider have complementary roles in permanency case planning and review for children in statutory OOHC:

- In most cases, both the department and the service provider, participate in the initial development of the OOHC case plan within 30 days of a child entering OOHC.
- Each ensure attendance at the case conference by a practitioner with decision making delegation (for DCJ, this is a Manager Casework, delegation level five or above).
- The department or a service provider, whichever exercises primary case responsibility at the time, convenes a case conference to develop the OOHC case plan. This includes all administrative tasks such as:
  - preparing the agenda and hosting the conference
  - drafting the OOHC case plan
  - circulating the meeting minutes and OOHC case plan within five business days (unless a different timeframe is agreed).
- A service provider exercising primary case responsibility uploads the signed OOHC case plan to a note within the child's Case Plan in ChildStory Partner, and submits this for approval by the nominated unit.
- The department as agency exercising [parental responsibility](#) on behalf of the Minister<sup>31</sup>, is always responsible for setting the case plan goal.
- Thereafter the service provider implements and conducts regular review of the OOHC case plan and works to achieve the child's case plan goal within two years.
- Following final orders, it is not necessary for the department to participate in the service provider's regular review of the OOHC case plan (unless otherwise requested and agreed).
- The department, jointly with the service provider, conducts regular [permanency goal reviews](#) to check in on the progress of the child's case plan goal and consider whether a change to the case plan goal is required.

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<sup>31</sup> Barnardos is delegated certain powers and functions of parental responsibility under a deed entered into by the Minister for DCJ and Barnardos



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## Changing the goal from long term care to another case plan goal

This section follows these steps:

<b><i>Consider:</i></b>	The service provider practitioner considers permanency, based on everyday casework.
<b><i>Propose:</i></b>	The service provider proposes to change a case plan goal, usually through a <a href="#">Permanency consultation</a> .
<b><i>Develop:</i></b>	The service provider develops a case plan to reflect the changed case plan goal (if the change was approved).
<b><i>Assess:</i></b>	<i>The service provider</i> conducts an assessment to determine whether to proceed to court and, what actions, if any, need to occur to achieve the <i>changed</i> case plan goal.
<b><i>Achieve:</i></b>	DCJ seeks an appropriate court order to: <ul style="list-style-type: none"><li>- <i>achieve</i> the changed case plan goal (for example, a guardianship or adoption order)</li><li>- put in place care arrangements necessary to achieve the changed case plan goal in less than 2 years (for example, an STCO).</li></ul>

### Consider: everyday casework

Considering permanency occurs before the case plan goal is changed.

Considering permanency means to take into account the activities of everyday casework and weigh up whether the case plan goal other than long term care would more effectively support the child's current or emerging needs.

It starts with the child in their placement and considers stability, wellbeing, attachment to carers, and connection to family/kin. Permanency planning for children in long term care considers how to maintain stability and attachment, and connection to family/kin, through guardianship and adoption<sup>32</sup>. It does not need to first re-assess restoration.

Everyday casework includes:

- Supervision of the placement – consider observations and conversation with the child, their carers, parents or family/kin.
- Placement review – consider whether the placement is providing the child with the best opportunities for safety, stability, permanency, connection and wellbeing ([section 150](#)).
- Carer review – consider the carer's ability to care for a child including day-to-day care and control; correction and management of behaviour; instruction; giving of consent and decision making ([section 157](#)). Also consider the carer's suitability as prospective guardians or adoptive parents (if applicable).
- Case plan review – consider the child's wellbeing across all domains of their life.

Weighing up whether the case plan goal of long term care is supporting the child's current needs includes:

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<sup>32</sup> Adoption being the least preferred option for Aboriginal children as described in the permanent placement principles.

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- Exploring through [permanency consultation](#), [group supervision](#) or [permanency goal review](#), the suitability of the case plan goal (long term care) to provide the child with the best opportunities for safety, stability, permanency, connection and wellbeing.
  - Conducting cultural consultation for children from Aboriginal and Torres Strait Islander or CALD backgrounds.
  - Reviewing file records about the child's life, including the FAP and OOHC case plan reviews, home visit records, records of family and sibling time and independent reports and assessments.
  - Having face-to-face *preliminary* discussions with the child (if age appropriate to do so) and people who love and care for the child, such as their carers, parents, siblings and family/kin. Professionals and community members working with the child may be included in discussions about changing a case plan goal. Preliminary discussions may also occur as part of a case meeting.
  - Being aware that discussions about changing a case plan goal can cause anxiety for children, their carers, parents and family/kin. This is best addressed by:
    - providing factual information about the process of changing the case plan goal
    - providing mandatory information
    - explaining the discussion, although important, does not mean a change in case plan goal will be approved by the department or the Children's Court
    - referring for legal and other advice (if appropriate).
  - Avoiding making statements that could be perceived as pre-empting the decision of:
    - the department to change the case plan goal or
    - the Children's Court or Supreme Court to make the necessary order.

## Restoration

Factors prompting a service provider to consider restoration include:

- the child's needs are not being supported by the placement and
- the parents have addressed dangers identified in the safety assessment that resulted in the child entering OOHC
- the parents have demonstrated a significant change in their circumstances to suggest a reduction in the level of risk identified in the risk assessment
- the passage of time and the child's age and development have significantly reduced the child's vulnerability to risk
- the parents have consistently demonstrated:
  - actions and behaviours contributing to the child's safety, welfare and wellbeing
  - commitment to and participation in quality family time
  - a network of support people who will help build greater safety for their child.

Restoration may also be considered in circumstances when there has been disruption in placement or other instability for the child.

When considering changing the case plan goal to restoration:

- Consider what information or evidence will be required by the court to rescind or vary the existing court order ([section 90](#))

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- Talk to the CFDU and Permanency Coordinator about what evidence-based assessment tools will be used to assess the restoration and manage risk.

## **Guardianship**

Factors prompting a service provider to consider guardianship include:

- the child, their carers, parents or family/kin request that guardianship be considered
- the carers being able to meet the long-term needs of a child without supervision of the placement by the department or a service provider, including the child's:
  - ongoing cultural support needs (as detailed in the cultural support plan)
  - need for identity and connection through facilitating and supervising family time between the child, their parents and family/kin and
  - age, that if aged 12 years and over, they will consent to the order.

When considering changing the case plan goal to guardianship:

- Discuss with the carers the possibility of becoming guardians. This could be identified in the carers' annual review. Explain the process involved in changing the case plan goal and seeking a guardianship order
- Talk to the nominated unit and Permanency Coordinator about the process, mandatory tasks and information/support materials available to support practice.

## **Open adoption**

A service provider may be prompted to consider adoption if the child, their carers, parents or family/kin request adoption be considered.

When considering changing the case plan goal to adoption, complete casework tasks required in the OOHC adoption pre-enquiry stage.

### **Pre-enquiry stage**

The service provider:

- notifies the Adoption Caseworker and Permanency Coordinator when open adoption is being considered for a child
- convenes a workers' meeting with the Adoption Caseworker, Permanency Coordinator, service provider practitioners and CFDU practitioners to discuss and determine the child's suitability for open adoption; and identifies casework tasks, timeframes and responsibility for completing them
- conducts a home visit to the foster carers and child, involving the Adoption Caseworker, to discuss the process involved in changing the case plan goal and seeking an adoption order
- completes a placement review (if required) to identify issues that may have an impact on the proposed adoption.

Agreement between the Adoption Caseworker, CFDU and the service provider is necessary to change the case plan goal to adoption.

This occurs before proceeding to the [Enquiry Stage](#).

## **Propose: to change the case plan goal**

The service provider requests a [permanency consultation](#) to propose the department change the child's case plan goal. In preparing for the consultation, the service provider submits

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relevant records and reports indicating a case plan goal other than long term care would be more effective in meeting the child's needs and achieving permanency.

If the matter is complex, the Permanency Coordinator may convene group supervision with the nominated unit and the service provider, to jointly consider the proposal.

Recommendations arising from a permanency consultation or group supervision do not amount to approval of a proposed case plan goal. While a Permanency Coordinator may support a service provider's proposal, the decision to change the case plan goal is subject to approval by a Manager Casework (delegation level 5 or above)<sup>33</sup>.

Also see [Changes to a case plan goal](#) and [Aboriginal family-led decision making \(glossary\)](#).

### **Aboriginal cultural considerations in changing a case plan goal**

When a proposal is made to change the case plan goal of an Aboriginal child, the service provider submits relevant records and reports indicating the involvement of Aboriginal family/kin in family-led decision making.

#### **Guardianship**

Guardians who are not relatives/kin of an Aboriginal child should, where practicable and in the child's best interests, be Aboriginal people.

Delegation to change an Aboriginal child's case plan goal to guardianship, rests with:

- Manager Casework (or above), when the prospective guardian is Aboriginal family/kin
- Executive District Director when the prospective guardian is not Aboriginal family/kin.

#### **Open Adoption**

Open adoption for an Aboriginal child is only considered where other permanency options, including long term care, is not practicable or in the child's best interests. Follow Aboriginal child placement principles when open adoption is being considered for an Aboriginal child.

Delegation to change an Aboriginal child's case plan goal to adoption, rests with the Director Community Services.

Delegation to consent to filing an adoption application for an Aboriginal child, rests with the Secretary.

Also see [Open Adoption for Aboriginal Children in OOHC](#) and ACMP [Note on Adoption](#).

### **Develop: a new case plan**

A service provider reviews the case plan to reflect the changed case plan goal.

The commencement date of the reviewed case plan is the same as the date of approval of the changed case plan goal.

Also see [Permanency case planning](#).

### **Assess: the case plan goal**

Assessing the case plan goal means to:

- conduct formal assessment to determine suitability to proceed to court and, if relevant, what actions are needed to achieve the goal
- engage the child, their carer, parents and family/kin in the assessment

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<sup>33</sup> Subject to other approved local arrangements, pilots or trials, a position other than Manager Casework may hold this delegation (if grade 9 or above).

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- gather and prepare evidence necessary to seek a court order.

Restoration, guardianship, adoption or other assessments may be conducted by the service provider or subcontracted by the provider to an independent assessor (a Panel of [Independent Assessors](#) is available).

### Restoration

The service provider compiles evidence to file a [section 90](#) application, seeking to vary or rescind the existing court order and make an STCO.

The evidence may include an independent restoration assessment.

Note: The child may not be placed with the parents by the service provider in accordance with arrangements set out in the restoration care plan, until such time as the court makes a STCO.

Also see [Interim Court Orders and STCOs](#).

### Guardianship

A service provider may begin to work toward guardianship of a child (whose case plan goal was previously long term care), immediately after the department has changed the case plan goal. A new court order is not required.

In order to seek a guardianship order, a guardianship assessment is required. This may be conducted by the service provider or subcontracted by the provider to an independent assessor (a panel of [Independent Assessors](#) is available).

A guardianship assessment demonstrates the child's carers are suitable to become proposed guardians. Criteria include:

- demonstrated ability to independently meet the long term needs of the child without the case management and supervision of the placement
- demonstrated understanding of the child's trauma experience, and how they will manage its potential impact on the child's longer term development
- demonstrated capacity and willingness to arrange, coordinate and supervise safe contact with the child's family and negotiate difficulties that may emerge.

Also see [Guardianship](#) (for parents, family/kin and carers).

### Open adoption

A service provider may begin to work towards adoption of a child (whose case plan goal was previously long term care), immediately after the department has changed the case plan goal. A new court order is not required.

Open adoption in NSW can only occur through the department or an accredited adoption service provider<sup>34</sup>. A non-accredited service provider continues to exercise primary case responsibility, whilst working with an accredited adoption service provider.

When assessing a changed case plan goal of adoption, complete the casework required in the adoption enquiry and under assessment stages.

Also see [Adoption Factsheets](#) (for service providers).

### Enquiry stage

The service provider:

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<sup>34</sup> At time of publication, accredited adoption service providers include local districts, Barnardos, Anglicare, Family Spirit and Life Without Barriers.

- 
- formally invites the foster carers to apply for adoption
  - supports the foster carers to complete the application and conduct probity checks
  - contacts the birth parents to advise of and provide information about the process and seek their views
  - organises an assessor to complete the adoption assessment, court report and adoption plan (a [Panel of independent assessors](#) is available).

### Under assessment stage

The service provider:

- notifies the foster carers and parents of decision to proceed to adoption assessment
- updates and sends the child's file to the department's OOHC Adoption Team for review by the assessor
- supports the assessor as required and reviews the draft adoption assessment report and draft adoption plan.

The Adoption Caseworker prepares and submits a briefing note for approval to commence adoption action and approve the foster carer's suitability to adopt.

This occurs before proceeding to the [Adoption approved stage](#).

### Achieve: permanency (by seeking a court order)

A new court order is necessary to put in place care arrangements that:

- achieve the changed case plan goal

For example:

- a guardianship order for a child whose case plan goal has changed to guardianship
- to rescind a care order, if a child has self-placed with their parent (contrary to the current order), when the department assesses restoration is in the child's best interests.
- put in place care arrangements necessary to achieve the changed case plan goal in less than 2 years.

For example, seeking a STCO for:

- a child whose case plan goal has changed to restoration, to support case planning for a child's return to the care of their parent (over the period of the plan)
- a child whose case plan goal has changed to adoption, to support adoption case planning and application for an adoption order in the NSW Supreme Court.

### Restoration

Before a service provider may begin to work toward achieving restoration of a child (whose case plan goal was previously long term care), a STCO is required.

The child may not be placed with the parents by the service provider until there is a new order, and only as set out in the restoration plan approved by the court. This is because:

- the Children's Court has previously accepted there is no realistic possibility of restoration to the parents ([section 137\(1A\)](#))
- this finding, along with the long term care order needs to be rescinded and replaced with an appropriate order and
- a new restoration care plan accepted by the court and STCO is required.

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As the model litigant, the department files a [section 90](#) application in the NSW Children's Court seeking that an STCO be made. The application includes evidence of significant change in relevant circumstances such as:

- all evidence gathered and prepared by the service provider
- a restoration or parenting capacity assessment recommending restoration proceed.

During court proceedings:

- the court may order an assessment by the Children's Court Clinic (even if another assessment has already occurred)
- the department and the service provider prepare a new care plan (section 83(5)) to support restoration.

During court proceedings and after an STCO is made, service providers use evidence-based assessment to manage risk, support decision making and monitor progress towards achieving the case plan goal<sup>35</sup>. The department's preferred evidence-based assessment tool is the SDM<sup>®</sup> Restoration Assessment and may be used by providers (under licence to the department). However providers may use different evidence-based tools at their discretion.

Also see [Restoration placement](#).

## Guardianship

As the model litigant, the department files a [section 90](#) application in the NSW Children's Court which includes evidence of significant change in relevant circumstances such as:

- all evidence gathered and prepared by the service provider
- a guardianship assessment recommending a guardianship order be made.

When preparing a guardianship application, the need for a contact order is considered, noting the Children's Court may make a contact order for longer than 12 months (only when a guardianship order is made) and it is in the child's best interests ([section 86\(8\)](#)).

During court proceedings, the department prepares a new care plan ([section 83\(5\)](#)) that, if accepted by the court, will allow the court to make a guardianship order.

## Open adoption

As the model litigant, the department leads the court proceedings in the NSW Supreme Court, which includes submitting:

- all evidence gathered and prepared by the service provider
- an adoption assessment recommending an adoption order be made.

During court proceedings, complete the casework required for the adoption approved stage, pending court outcome and court decision stages.

### Adoption approved stage

The service provider convenes a case conference to discuss the decision to commence legal court work, provisions in the draft adoption plan, consents, outstanding casework tasks, and the assessor's next steps.

As the model litigant, Adoption and Permanency Services completes and files the court application, including all affidavits. Liaison continues between the service provider, the Adoption Caseworker, the assessor, the CFDU and all parties.

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<sup>35</sup> PLA, Schedule 1, 3.3.1(a)(iii)

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The Adoption Caseworker continues to provide advice (legislation and practice) and support throughout the process, including consultation in complex decision making.

### Pending court outcome stage

Adoption and Permanency Services coordinates the filing of further evidence in proceedings. Liaison continues between the service provider, the Adoption Caseworker, the assessor, the CFDU and all parties.

The Adoption Caseworker continues to provide advice (legislation and practice) and support throughout the process including consultation in complex decision making.

### Court decision stage

Adoption and Permanency Services notifies all parties of the court's decision to make (or decline to make) an adoption order. The department returns the service provider's files. Liaison continues between the service provider, the Adoption Caseworker, the CFDU and all parties.

## Case transfer

### Transfer of primary case responsibility

Transfer of [primary case responsibility](#) involves transfer of responsibility for children:

- *from* the 'transferring provider' (usually the department, or sometimes an existing service provider)
- *to* the 'receiving provider' (a new service provider).

The transferring provider and receiving provider have a shared responsibility to ensure transfer of case responsibility is:

- child focused, that is, the child's best interests, safety, welfare and wellbeing are the primary focus of practice
- orderly and guided by principles of good administration.

Also see - Fact sheet: [Ten principles for good administration](#).

### Transfer date

Transfer of primary case responsibility always occurs on a specific transfer date:

Preservation transfer date:	The transfer date for children with a goal of preservation, is the date of commencement of preservation casework. That is, the date the receiving provider first makes contact with the child or their parents.
OOHC transfer date:	The transfer date for children in statutory OOHC is commencement of the placement with a receiving provider. This excludes ITTC.

The transfer does not occur across a range of dates or over a period of time:

- Transfer may only occur on a single date, as defined above.
- The transfer date may not be changed by the department or a service provider to any other artificial date.



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The transfer date is not delayed for any artificial reason to be addressed in the ordinary course of collaborative casework.

The transfer date isn't affected by, and still occurs, even when:

- a party is not available for a transfer meeting
- the transfer meeting has not occurred within the required timeframe or
- documents listed on the transfer checklist are not immediately available or
- there is disagreement over incurring an item of expenditure.

The transfer date is not delayed for any reason concerning the legal status of a child:

- subject to a care application in the Children's Court (and in care of the Secretary)
- subject to an interim court order allocating parental responsibility to the Minister (the transfer is unaffected by whether there are interim or final orders in place).

### **Transfer meeting**

A transfer meeting is convened by the transferring provider prior to, or within 20 business days of the transfer date.

Convening the transfer meeting includes administrative tasks such as:

- preparing the agenda and hosting the meeting
- circulating invitations, including invitation to the relevant nominated unit that will be exercising [secondary case responsibility](#)
- preparing a case plan or updating an existing case plan
- circulating the meeting minutes within five business days (unless a different timeframe is agreed).

The transferring and receiving provider ensure attendance at the transfer meeting by a practitioner with decision making delegation.

At the transfer meeting, the transferring and receiving provider clarify and agree to roles and responsibilities in addition to those stated in this policy.

### **Transfer of documents**

At the transfer meeting and at other times, the transferring provider facilitates a comprehensive discussion about:

- all of the child's strengths, needs and vulnerabilities
- requirements to ensure the child's safety, welfare and wellbeing
- the specific requirements of care responsibility (for example special equipment required to manage a child's illness or disability).

The receiving provider participates in discussion and conducts a thorough review of the case history to ensure the best understanding possible of the child's needs.

The transferring provider makes available all documents listed on the [transfer checklist](#) to the receiving provider at the time of the transfer meeting.

When some documents (excluding [birth certificates](#) and [passports](#)) are not able to be provided at the transfer meeting, they are obtained and related expenditure incurred by:

- the transferring provider, when the child has been in primary case responsibility of the transferring provider for over 12 months

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- the receiving provider, when the child has been in primary case responsibility of the transferring provider for 12 months or less.

The transferring provider ensures all outstanding documents on the transfer checklist to be obtained by them (respectively) are provided to the receiving provider within 20 business days of the transfer meeting.

### **Incurring expenditure and service provision**

Upon the transfer date, the transferring provider stops:

- incurring expenditure<sup>36</sup> in relation to external services provided to the child, their carers, parents, siblings or family/kin
- providing any services directly to the placement.

Upon the transfer date, the receiving provider takes over responsibility for incurring all expenditure in relation to external services to the child, parents or family/kin and direct services to the carer and placement.

### **Paying for FGC**

The cost of FGC is paid for by:

- the department, in relation to children with a case plan goal of preservation
- the department, when Children's Court proceedings are underway
- the service provider, at any other time.

### **Paying for drug tests**

Drug tests (including urinalysis) are paid for by:

- the department, in relation to children with a case plan goal of preservation
- the department, when Children's Court proceedings are underway
- the service provider, at any other time.

### **Paying for DNA tests**

DNA tests are paid for by:

- the department, when Children's Court proceedings are underway
- the service provider, at any other time.

### **Paying for subpoena of records**

The cost of subpoena of records is paid for by:

- the department, when Children's Court proceedings are underway
- the service provider, at any other time.

### **Paying for birth certificates**

A child's birth certificate, filed in court proceedings is always obtained and paid for by the department (and provided to the service provider).

Re-issue of a child's birth certificate (as required) is always obtained and paid for by the service provider.

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<sup>36</sup> When the transferring provider is the department, this includes contingencies, exceptions and out of guidelines payments.

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## Paying for passports

A child's passport (provided to the service provider), and any re-issue of the passport is always obtained and payed for the department.

## Transfer of secondary case responsibility within the department

Transfer of [secondary case responsibility](#) involves internal transfer:

- from a CSC to a CFDU within the department when a final court order has been made and a CFDU will exercise secondary case responsibility thereafter
- *between* CFDUs within the department when a different local district is required to:
  - manage contractual arrangements with the service provider
  - complete SARA, risk re-assessment and closing safety assessment (in the case of preservation and restoration)
  - make any future court application in relation to the child's case plan goal
  - exercise aspects of parental responsibility on behalf of the Minister including making administrative decisions.

The department does not transfer secondary case responsibility for children in statutory OOHC to service providers<sup>37</sup>.

## Case transfer scenarios

### When transfer occurs during interim orders

When the child is subject to an interim order, the transferring and receiving provider clarify roles and responsibilities including tasks such as the receiving provider's role in:

- preparing affidavits and participating in the development of court documents
- facilitating quality family time
- organising court ordered assessments and
- participating in preparing the child's care plan.

Also see [Court proceedings](#).

### When orders are made other than orders sought

Children are placed in an OOHC placement provided by a service provider, when:

- the Secretary has care responsibility or the Minister holds all aspects of parental responsibility under an interim order and
- it is anticipated a care order or STCO will be made allocating all aspects of parental responsibility to the Minister.

Whilst the department may make an application for such an order, the decision of the Children's Court cannot be pre-empted. The court may make the order sought, or it may make a different order, such as an order allocating some or all aspects of parental responsibility, either solely or jointly, to the Minister and other parties.

If the court makes an order, other than an order allocating parental responsibility to the Minister (at minimum, the aspect of residence):

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<sup>37</sup> Even under the deed of agreement with Barnardos NSW, certain aspects of parental responsibility continue to be exercised by the department on behalf of the Minister.

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- In most circumstances, the service provider does not continue to exercise case responsibility. Rather, case responsibility transfers to the department.
  - In some circumstances, a service provider may continue to exercise case responsibility if this is assessed as in the best interests of the child.

For example:

- It is in the best interests of the child to remain in a disability residential service and for decisions to be made by both the Minister and a relative or suitable person who exercise parental responsibility jointly.
- It is the best interests of the child to remain in the primary case responsibility of the service provider which is meeting their cultural needs.

This decision is subject to departmental approval of a Director Community Services or Director Operations (delegation level four and above).

### **When transfer between service providers is necessary**

Transfer of primary case responsibility between service providers may occur if another service provider will exercise primary case responsibility for achieving a child's case plan goal. This can occur when a:

- child and their parents or family/kin move to a different city or town (in the case of preservation) or
- child's carers move to a different city or town, or a child is restored to parents in a different city or town (in the case of OOHC).

Transfer between service providers is avoided when it could weaken continuity of casework, have an adverse impact upon the wellbeing of a child, their parents, siblings or family/kin and decrease the likelihood the child's case plan goal can be achieved. In minimising the need for transfer, innovative approaches are considered to adapt service delivery to the changed circumstances.

For example:

- Can an existing caseworker travel out of area to continue working with the child?
- Can additional services be purchased in the place where the child has relocated?

Transfer between service providers requires prior approval from the [nominated unit](#).

### **When carers change service providers**

Service providers support carer mobility<sup>38</sup> across providers when required and in the best interests of the child/children in their care.

Sometimes carers seek to transfer their authorisation from an existing service provider to a proposed service provider.

For example, when carers:

- relocate to an area where their existing provider does not operate
- seek authorisation by a provider that is able to better meet the culturally and linguistically diverse (CALD) needs of the carers or children in their care
- seek authorisation by an ACCO due to the Aboriginal background of the carers or children in their care (this may also be facilitated/directed by the department)

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<sup>38</sup> PLA, Schedule 1, 5.3.1.

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- form a grievance towards their existing provider that is not able to be resolved.

In these circumstances the existing and proposed service provider, as well as the department, have complementary roles:

- The proposed service provider's assessment includes consideration of the carer's history of authorisation with the existing provider and any other previous providers.
- The existing provider exchanges information with the proposed provider to support their carer assessment, and with the department to inform decision making.
- The department considers the proposed change in service provider in the context of the child's best interests. Factors considered include:
  - the child's views and wishes and those of their parents, siblings and family/kin
  - duration of the placement (for example, whether a crisis or short term placement, or a long term placement)
  - whether the proposed transfer would result in separation of primary case responsibility for a sibling group or
  - if the transfer will cause unmanageable impact upon family or sibling time
  - any other relevant factor.
- If the department approves the proposed change in service provider, transfer of primary case responsibility is arranged [between service providers](#).

### **When a child exits statutory OOHC**

Transfer of primary case responsibility from a service provider to the department occurs in circumstances when:

- a care order is made allocating parental responsibility for the aspect of residence to the carers and the department will pay a supported care allowance
- a guardianship order is made and the department will pay a guardianship allowance
- an adoption order is made and the department will pay a post-adoption allowance.

In each of these scenarios, the child exits statutory OOHC and the Minister ceases to hold parental responsibility.

### **When a service provider ceases to provide OOHC**

Transfer of primary case responsibility from one service provider to another service provider occurs in circumstances when the transferring service provider ceases to provide OOHC.

For example:

- the provider provides other services but they no longer provide OOHC or
- the provider ceases to operate entirely.

When this occurs:

- the department approves the proposed change in service provider
- transfer of primary case responsibility is arranged between service providers, before the transferring provider ceases to deliver OOHC services.

If transfer of primary case responsibility does not occur before the transferring provider ceases to deliver OOHC, the department's role is to:

- coordinate and facilitate onward transfer to the receiving service provider

- 
- supervise the placement ([section 82 of the NSW Children's Guardian Act 2019](#)) pending transfer.

### **When a service provider's accreditation is suspended or cancelled**

Transfer of primary case responsibility from the department to another service provider occurs in circumstances when a PSP service provider:

- is no longer able to enact the functions of a designated agency because:
  - it has ceased to operate or ceased to provide OOHC services or
  - its accreditation to provide OOHC services has been suspended or cancelled.
- has not been able to transfer case responsibility to a receiving provider, before its accreditation is suspended or cancelled.

The department supervises the placement temporarily, until case responsibility can be transferred to an alternative PSP service provider.

The department will identify an alternative service provider to which case responsibility can be transferred, when the receiving provider has authorised the child's carer.

### **The transferring provider**

The transferring provider supports the department in facilitating transfer to the receiving provider.

The transferring provider is responsible for returning to the department:

- all of the child's paper and electronic records

Note: A service provider that ceases to be a designated agency is required<sup>39</sup> to deliver its paper and digital records to the department.

Refer to Statutory out-of-home care [agency recordkeeping](#).
- any equipment obtained or purchased to support the child's needs (excluding equipment already held by the child's carer)
- any funds or assets held in trust for the child.

The transferring provider attends and participates in the transfer meeting with the nominated unit and receiving provider.

### **The department**

The department does not exercise case responsibility during a period of supervision. Rather, the department's nominated unit supervises the placement<sup>40</sup>.

The nominated unit responsible for supervising the placement undertakes casework tasks including:

- exercising secondary case responsibility on behalf of the Secretary
- making decisions on matters relating to the safety, welfare and well-being of the child
- supporting the carer to exercise care responsibility<sup>41</sup>
- ensuring the safety, welfare and well-being of the child is being protected and promoted
- identification of a receiving provider to accept transfer of case responsibility

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<sup>39</sup> [Section 170\(2\)](#), the Care Act.

<sup>40</sup> [Section 141](#), the Care Act.

<sup>41</sup> [Section 157](#), the Care Act.

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- facilitating and preparing the child's case for transfer to the receiving provider, without delay
  - reporting to the Office of the Children's Guardian.

### The receiving provider

The receiving provider does not exercise case responsibility during a period of supervision. Rather the provider supports the department by:

- preparing to accept transfer of case responsibility
- conducting the required carer assessment and all probity checks necessary to authorise the child's carer as a carer for their agency.

Nominated units refer to the DCJ [Supervising a Placement](#) Policy.

### When transfer from a service provider to the department is necessary (exceptional circumstances)

Transfer of primary case responsibility from a service provider to the department occurs in exceptional circumstances when the department and the service provider agree the service provider cannot provide the child with safety or can no longer achieve the child's case plan goal. Transfer to the department may include:

- when carers relocate to a new city or town and their service provider does not operate in this area, nor do any other service providers operate in this area
- an [away from placement](#) or not in placement period has expired and is not extended
- circumstances in relation to an [interstate movement of children in OOHC](#) are so complex, they fall outside the scope of this policy or
- a [critical event](#) has occurred and the department and the service provider agree the service provider can no longer exercise primary case responsibility.

Transfer to the department is subject to approval by a Manager Client Services (delegation level five, grade 11 and above), following consultation with the allocated contract manager.

## Case planning for siblings in OOHC

The term 'sibling' describes children sharing one or both biological parents. In circumstances where children do not share either of the same biological parents, but have grown up together (including when children have spent significant periods of time in the same OOHC placement), and share a very strong bond and identify as siblings, they are considered psychological siblings.

Children in statutory OOHC need stability, continuity and security in their life. One way to meet this need is by reconnecting a child with their siblings, or maintaining and strengthening their existing relationships. This can:

- improve the child's wellbeing and the wellbeing of their siblings and
- increase the likelihood of success of permanency outcomes, for example restoration, guardianship or open adoption.

### What is sibling case planning?

Case planning for a child's sibling relationships is initially considered when a child enters OOHC. However case planning for sibling relationships occurs at all points of case planning and review following entry to OOHC.

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Sibling case planning is an immediate priority – it does not wait until a future case review. Delay to sibling case planning risks a child experiencing extended periods of isolation from their siblings. Case planning for a child’s sibling relationships:

- is informed by continuous work with a child’s genogram and life story work, to ensure all siblings are identified and are known (or known of) by the child
- considers the impact upon the child’s sibling relationship and sense of identity when:
  - the child is in OOHC but their siblings are not
  - the child is in one placement and their siblings are in other placements
  - the child and their siblings’ placements are in the primary case responsibility of different service providers
  - the child’s case plan goal is different to the case plan goals of their siblings.
- aims to bring the child and their siblings into fewer OOHC placements and under the primary case responsibility of fewer or one service provider and
- ensures [sibling time](#) enhances and strengthens the relationship between the child and their siblings.

## Co-placement and co-location

### When to assess co-placement and co-location

Ideally sibling co-placement and co-location is considered when a child and their siblings enter OOHC (which may be at different times). However co-placement and co-location may also be considered at any point during the course of day-to-day casework with a child and during review of a child’s case plan. For example when:

- a child’s siblings enter OOHC at later times and co-placement the child is not immediately practical
- a child or their siblings experience a critical event or instability in their placement.

### Who assesses co-placement and co-location?

The more complex the assessment, the more important it is it be conducted by a practitioner who knows the child, their parents, siblings and family/kin. However in some exceptional circumstances, assessments may be undertaken by an independent assessor.

When sibling co-placement and co-location involves more than one service provider, the service provider requests a [permanency consultation](#) or [group supervision](#), involving the nominated unit (or units) exercising secondary case responsibility.

### How to assess co-placement and co-location

When a child and their siblings are in different placements, service providers exercising primary case responsibility consider how the children may be co-placed when assessed to be in their best interests. Sibling co-placement aims to:

- place a child and their siblings in the care of the same carer
- reduce (overall) the number of placements across the sibling group.

When co-placing a child and their siblings is not practical or in their best interests, service providers consider how the children may be co-located. Co-location involves placement of a child and their siblings (in two or more placements) in the same geographical area. This results in substantially increased opportunities for contact with each other, for example, allowing



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them to attend the same school or child care centre, or participate in the same extracurricular activities.

When assessing sibling co-placement and co-location, a service provider considers the best interests, safety and well-being of the child and their siblings. This includes:

- avoiding disruption of an existing placement that is safe, nurturing, stable and secure with carers to whom a child has formed a secure attachment
- the elements of risk causing entry to care or issues associated with the wellbeing of a particular child.

Also see PCMP Resources – [Checklist: Sibling Contact Planning](#).

## Aligning case plan goals

When a child and their siblings have different case plan goals, service providers exercising primary case responsibility review whether it is in the child's best interests for the case plan goal to change to align with the case plan goal of their siblings. For example:

- to restore the child to their parents, if any of their siblings are in parental care or
- to transition the child from statutory OOHC to the care of their family/kin, if any of their siblings are in the care of those family/kin.

In circumstances when a child and their siblings have different case plan goals, but are otherwise in placements that are safe, nurturing, stable and secure, the service provider:

- listens to their views, wishes and suggestions about how any of the case plan goals might change in future and
- explains to the child and their parents, siblings and family/kin why it is necessary for there to be different case plan goals.

Decisions about case plan goals for siblings are made on a case-by-case basis taking into account each individual child's needs and circumstances.

Also see [Changing the case plan goal from long term care to another case plan goal](#).

## Sibling time

When a child and their siblings are placed separately, service providers exercising primary case responsibility ensure siblings:

- have regular sibling time with each other
- have 'sibling-only' time, that is time with each other, without the presence of parents or other family/kin
- are provided with information about their respective care arrangements, including information about changes in their placement
- are provided with information about their siblings' birthdays and other relevant dates, and when practical, have sibling time to celebrate these occasions
- are provided with their siblings' contact details, including their telephone number and email address, unless there is a court order prohibiting the disclosure of this information, or when a caseworker considers disclosing this information could place the child or others in the household at risk of harm
- are supported to engage with each other through social media, safely and subject to their age and development.

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The development of a plan for sibling time by a service provider always:

- includes the participation of the child, their carers and siblings in planning
- includes consultation with the sibling's carers, parents and family/kin
- is subject to quarterly reviews of the sibling contact plan – in addition to annual case review – to ensure sibling time is occurring.

For a child and their siblings with the same cultural and linguistically diverse (CALD) background, who are placed separately:

- their OOHC case plans include sibling time enabling them to participate in their family's tradition, rituals, faith and customs as a sibling group
- their carers demonstrate they have sufficient understanding and appreciation of the cultural, linguistic or religious background of the siblings
- their carers demonstrate commitment to maintaining the children's cultural identity.

For an Aboriginal child and their siblings placed separately:

- their OOHC case plans include sibling time enabling them to participate in cultural activities as a sibling group 'on Country' of their family's Aboriginal nation, lands or mob and
- their carers demonstrate they have sufficient understanding and appreciation of the child's Aboriginal nation, lands, mob, totem, spiritual and cultural practices (lore, rites and rituals), language and other cultural connections
- their carers demonstrate they are committed to maintaining their cultural identity.

Also see PCMP Resources – [Checklist: Sibling Contact Planning](#).

## Family time for children in OOHC

Family time with parents, siblings and family/kin can be reassuring for the child while they are in OOHC. It can:

- strengthen the child's relationship with their parents, siblings and family/kin
- help a child feel connected and show them they are still part of their parents' lives
- help a child and their parents with a difficult relationship, to learn new ways of behaving.

Service providers use evidence-based tools to support children, their parents and family/kin during family time<sup>42</sup>. The department's preferred tool to plan family time is the [Safe Contact Tool](#). However, providers may use different evidence-based tools at their discretion.

## Engaging carers in family time

Based on [common principles](#), the service provider and their carers have complementary roles in relation to [family time](#) between a child and their family:

- A service provider involves a child's carers in planning arrangements for family time.
- A service provider helps their carers to develop or support maintenance of connections between a child and their parents, siblings and family/kin. This includes:
  - involving, and when appropriate, facilitating family and sibling time
  - providing empathetic support to help carers 'understand the child's family and explain parent behaviour in the context of trauma and grief'

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<sup>42</sup> PLA, Schedule 1, 3.3.1(a)(iii)

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- listening to the carer's concerns and developing strategies with carers to support family time.
  - Carers encourage and support a child in their care to spend time with parents, siblings and family/kin by:
    - preparing them for family and sibling time
    - supporting the child through loss and grief they may experience with family time
    - keeping a record of, and providing information about, their experiences in care
    - taking the child to and from family and sibling time (if assessed as safe to do so) or putting in place arrangements to do so (if there are competing demands on the carer's availability)
    - supporting planned and flexible planning for family and sibling time
    - participating in family or sibling time with the child (if assessed as safe and appropriate by the service provider), except prior to final orders and
    - facilitating family or sibling time with the child (if assessed as safe and appropriate by the service provider) and
    - developing a positive relationship with the child's parents, siblings and family.

### **Considering the need for supervision of family time**

In planning family time, a service provider considers the purpose of supervision to:

- take actions to promote safety
- make observations, that can be filed as evidence in court proceedings or to inform an assessment
- to provide coaching and guidance to the parents.

The following factors are considered by the service provider to promote safety:

- the arrangements set out in the child's court-approved care plan
- the history of family time arrangements
- the child's development stage and changing needs as they grow up
- assessment of the history of the parent's and child's engagement in family time
- any evidence a person participating in family time is likely to jeopardise a child's safety
- concerns the child may be emotionally or physically harmed during family time, or abducted
- recommendations of another professional working with the child or their family that family time be supervised.

Unsupervised family time is not permitted if any court orders in place require supervision.

When family time is supervised, a practitioner:

- interacts positively with the child, their parents, siblings and family/kin
- provides parents with coaching and guidance
- reinforces positive behaviours and interactions
- enhances trust and builds engagement with the child and their family
- helps the child to relax and enjoy visits without concerns about their safety
- supports the parents to build and demonstrate their skills and capacity

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- observes and document interactions, including the parents demonstrated ability to meet the child's care and safety needs. (Demonstration of parenting capacity is a key measure of the SDM® Restoration Assessment).

If some family time is not supervised by their caseworker, the service provider ensures the child is not exposed to multiple changes in contact supervisor. The engagement of a single or small number of contact supervisors who get to know the child, their parents and family/kin and regularly supervise family time is likely to promote safety, consistency and stability of the arrangements.

When court proceedings are underway, the child's caseworker participates directly in family time visits. This is to ensure the caseworker is able to provide adequate first hand evidence during court proceedings.

Before implementing family time arrangements, the service provider requests a [permanency consultation](#) if:

- court ordered arrangements (frequency, duration or supervision) are considered to be not in the child's best interests or would place the child at risk
- the proposed arrangements significantly depart from the child's care plan
- the proposed arrangements are anticipated to support a proposal to change a child's case plan goal or contact orders.

Also see [Caring for Kids](#), PCMP Resources – [List: standards, policies & instruments](#) and [Sibling time](#) and [Respite - siblings](#).

## Aboriginal cultural considerations in family time

In maintaining an Aboriginal child's sense of identity and connection with their parents, family/kin, community and culture is key:

- Family time may include culturally and family-based experiences when they are able to participate in a safe environment chosen by the child, their parents or family/kin.
- Aboriginal practitioners supervise family visits (if possible).

Also see [Preserving an Aboriginal child's relationships and connections](#).

## Respite

### What is respite?

Respite is planned, regular or one-off time limited breaks for parents, carers and children. It provides time-out from the demands of the parenting and caring role and can enrich the range of social networks and experiences for the child.

Respite can occur in the child's home, another home or a variety of out-of-home settings. It can be for different lengths of time and frequency, depending on need of the parents or carers. Respite can be provided by adult siblings, family/kin, friends, neighbours, volunteers or professional carers.

Also see [Carer Code of Conduct](#).

### Occasional care is not respite

Irregular, occasional care arrangements with a person known to the child or child's carers of up to 21 days:

- is not considered to be a respite placement

- 
- does not require the person providing care to be authorised or subject to probity checks.

This may include a friend's sleep-over, short vacations with friends, or extended family or babysitting.

## Respite entitlement

Parents of a child with a case plan goal of preservation; or the carers of a child in OOHC are entitled to respite.

The need for respite is considered in case planning and recorded in a family's FAP (in the case of preservation), or in a child's OOHC case plan (in the case of OOHC).

The respite entitlement included in costing of PSP service packages is the equivalent of up to 24 nights respite per year. Whilst the costing for respite is based on 'nights':

- respite can take many forms and is not restricted to overnight care or care outside a carer's or parent's home
- innovative and flexible arrangements can meet the needs of the parents, help the child to feel safe and secure and allow carers to feel supported.

## Respite for preservation

An informal respite arrangement may be put in place by the parents, for a child with a case plan goal of preservation. For example, a parent needs to attend residential rehabilitation and there is no other parent who can care for their child during this time.

Under such arrangements, care may be provided by:

- a relative or family member (including those identified through family finding)
- another individual in a private capacity.

Alternatively, care may be provided by a [registered voluntary OOHC provider](#) on a fee-for-service basis.

Such arrangements may be supported by the service provider (including incurring related expenditure).

## Respite for children in OOHC

### Emergency placements

Respite is only provided to a child when the child has a permanent placement. Respite does not include:

- emergency placements
- placements resulting from a breakdown in the permanent placement
- placements arising as a result of the investigation of reportable allegations in relation to the child's carer
- placements arising from an [away from placement event](#) or [critical event](#).

Also see *NSW Child Safe Standards for Permanent Care* in PCMP Resources – [List: standards, policies & instruments](#).

### Planning a respite placement

Any person who provides regular, frequent respite to a child in OOHC is required to be assessed and authorised as a foster or relative/kin carer ([clause 33](#) of the Children and Young Persons (Care and Protection) Regulations 2012).

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When a service provider arranges a respite placement for a child, consideration is given to:

- the child's views and wishes
- the child's strengths, needs and vulnerabilities
- requirements to ensure the child's safety, welfare and wellbeing
- the impact of the placement on the child's stability and sense of belonging
- significant relationships with their family/kin and the carer's family/kin and friends.

The first preference is to assess and authorise a member of the child's family/kin, identified through family finding. Decisions about which member to assess are made with the family, through FGC or Aboriginal family-led decision making.

If it is not practicable or in the child's best interests to be placed with a relative/kin respite carer:

- the second preference is to assess and authorise another person known to the child, such as a member of the foster carer's family/kin or a friend
- the next preference is to provide a respite placement using the service provider's existing pool of foster carers.

Also see PCMP Resources – [Checklist: Assessment of Respite Carers](#).

### **Respite – Aboriginal children**

Respite for an Aboriginal child and their parents or family/kin is approached in a manner respectful of culture and in accordance with relevant legislation and principles, including:

- Aboriginal people are to be given the opportunity to participate in the care and protection of their children with as much self-determination as possible ([section 11](#)).
- Aboriginal families, kinship groups, organisations and communities are to be given the opportunity, to participate in decisions made concerning the placement of Aboriginal children and other significant decisions ([section 12](#)).
- Respite placement of Aboriginal children is to be with a member of the child's extended family/kin within the Aboriginal community to which the child belongs ([section 13](#)).

Respite is provided by an Aboriginal family/kin or an Aboriginal person or ACCO. When respite is not available from these sources, non-Aboriginal respite carers receive cultural awareness training and support, before the respite placement occurs.

### **Respite – children from CALD backgrounds**

Respite for a child and their family/kin from a CALD background is approached in a manner respectful of tradition, rituals, faith and customs; and in accordance with relevant legislation and principles.

A child with a CALD background is matched with respite carers of the same cultural background. When this is not possible, respite carers receive cultural awareness training and support, and demonstrate culturally responsive competencies, *before* the respite placement occurs.

### **Respite – children with disability**

For children with a disability, services are provided under the National Disability Insurance Scheme (NDIS) to support the parents of a child (in the case of preservation) or carers of a child (in the case of OOHC), to help sustain their caring role. This includes additional respite services. For further information, visit the [NDIS website](#).

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## Respite – siblings

Respite could provide an opportunity for sibling time (if siblings live in separate placements). In some circumstances it may be appropriate to arrange respite for sibling groups to maintain family connections and develop or strengthen sibling relationships. Also see [Sibling time](#).

## Engaging casework support services

Relevant information about a child is always provided to other organisations engaged or subcontracted on a fee-for-service basis ([Chapter 16A](#)).

This includes information supporting the organisation to:

- manage any risk to the child
- promote the child's safety, welfare or wellbeing
- conduct assessment, make decisions or provide services.

For children with complex needs and behaviours, relevant information about a child may include a behaviour support plan – written from a child-focused perspective and setting out:

- the child's strengths, needs and vulnerabilities
- requirements to ensure the child's safety, welfare and wellbeing
- the specific requirements of care responsibility (for example special equipment required to manage a child's illness or disability).

## OOHC Health Pathway

### What is the OOHC Health Pathway?

The [OOHC Health Pathway](#) involves the department and NSW Health working together in responding to the health needs of children entering statutory OOHC.

Under the pathway, all children undergo a primary health assessment conducted by a health practitioner to ensure the child will receive:

- health assessment provided by an appropriate health practitioner
- a health management plan, recording the child's health needs and the services recommended to address them.

Implementation of the pathway is supported by [OOHC Health Coordinators](#) employed by each local health district.

### Collaborating in OOHC Health Pathway

The department refers children to the OOHC Health Pathway within 14 days of entry.

Service providers contact their local CFDU to request referral to the OOHC Health Pathway if a child has not been referred to the pathway at the time of transfer to their primary case responsibility.

Service providers:

- attend and support attendance of the carers and child at the primary health assessment (within 30 days of entry to statutory OOHC), subsequent health appointments and development of the Health Management Plan
- consider the role to be played by the child's parents and family/kin in providing their child's health history and having input into the development of the child's Health Management Plan

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- incorporate the screening and health assessment reports and Health Management Plan into the child's case plan
  - implement and regularly review the Health Management Plan.

If a child is not eligible for the OOHC Health Pathway (entry to OOHC before 2010), a service provider ensures a similar health assessment occurs and the recommendations become part of the child's case planning and review.

Note: All young people are referred to the OOHC Pathway when they turn 15 years of age.

Also see [OOHC Health Resources and Tools](#).

## OOHC Education Pathway

### What is the OOHC Education Pathway?

The OOHC Education Pathway is in place to provide collaborative and consistent educational support to each child to be engaged in suitable quality education and help them to reach their full learning potential.

### Collaborating in OOHC Education Pathway

The Notice to a school form is lodged within 14 days of entry, if a child:

- attending school or preschool enters statutory OOHC or
- already in OOHC begins school.

This informs the school the child is under the parental responsibility of the Minister and enables collaborative education support for the child.

Caseworkers organise a meeting with the school within 30 days of notifying a child is in OOHC, to undertake Personalised Learning and Support Planning.

All Aboriginal children attending a Department of Education school have a Personalised Learning Pathway (PLP) plan as part of the Personalised Learning and Support Planning (PLaSP). For a change of circumstance, use a [Change of detail advice](#) form.

The child's educational needs are reviewed:

- at least once per semester with the school
- after any significant change in the child's life, for example when a case plan goal is changed from OOHC to restoration, guardianship, adoption or leaving care.

Also see [OOHC education pathway resources and tools](#)

## Interstate movement of children in OOHC

Interstate movement of a child is not the same as interstate transfer of an order.

- Interstate movement of a child concerns a physical movement of the child to an address in another jurisdiction that becomes their usual place of residence (for example, for the purpose of enrolling in school).
- Interstate transfer of an order concerns transfer, or registration, of a NSW care order in another jurisdiction, effectively transferring the order to the other State and altering the child's legal status.

### The department's role in giving or declining permission

All proposed interstate movements of children in primary case responsibility of a service



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provider require permission of a departmental Principal Officer, being Director Operations or Director Community Services, 42 days prior to the child moving interstate.

However the requirement for permission by a Principal Officer does not include interstate travel for shorter periods of up to three months, when it is not intended the child will continue to reside interstate.

Shorter periods of interstate travel, for example regular attendance at school or sport or overnight sleepovers, is subject to approval by a Manager Casework (delegation level five and above).

The decision to give or decline permission for a proposed interstate movement is made by the departmental Principal Officer. The Principal Officer:

- ensures compliance with obligations and responsibilities articulated in the Interstate Child Protection Protocol
- ensures compliance with the department's Casework Practice Mandates and the PSP PCMP, Rules and Practice Guidance
- requests or gathers further information as required
- always liaises with Interstate Liaison
- obtains legal advice from the Child Law Legal Officer (if required)
- gives or declines permission for interstate movements using templates and guidance provided by Interstate Liaison
- ensures the rationale for permission; conditional permission or declining permission is documented in ChildStory.

### **The service providers role in requesting permission**

When interstate movement of a child in primary case responsibility of a service provider is proposed, the provider:

- makes a request for permission from the department's Principal Officer for the proposed interstate movement, using templates and guidance provided by the department's Interstate Liaison to plan for an interstate movement
- provides written information about how they propose to:
  - support family/kin contact, relationships and identity
  - maintain support of the child and carers in the placement and
  - support achievement of the child's permanency goal
- provides information about a new placement (if a change to the placement is proposed) including evidence of the proposed carer's authorisation by a designated agency in NSW.

Also see [Changing the Placement](#).

- notifies of any proposed change in service provider (if a change in service provider is required).

Also see [Transfer of primary case responsibility](#).

- initiates a proposal to change the case plan goal (if a change to the goal is proposed)

Also see [Changing the goal from long term care to another case plan goal](#).

- documents the outcome of the request for permission.

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## Requirement for a nominated unit to hold secondary case responsibility

Service providers exercising primary case responsibility are not delegated any powers and functions of parental responsibility<sup>43</sup> in relation to interstate movements of children in statutory OOHC and cannot make these decisions.

It is a requirement that a [nominated unit](#) hold secondary case responsibility, and exercise decision making responsibility, for a child that has or will move interstate. The nominated unit makes all decisions in relation to:

- movement of the child interstate
- interstate requests of the other jurisdiction
- all parental responsibility decisions while the child resides interstate (until/unless transfer of orders)
- reviewing the transferability of the child protection order, consulting with Interstate Liaison and Child Law to discuss and seek confirmation if required and
- arranging the transfer of orders.

The nominated unit also:

- liaises with the Principal Officer
- ensures the Interstate Child Protection Protocol, the department's Casework Practice Mandates and this policy have been followed and
- documents all decisions on ChildStory.

## Collaborating in interstate movement of children

### Principal Officer gives permission

- The department and the service provider exercising primary case responsibility have complementary roles when a Principal Officer gives permission for interstate movement of a child:
  - the Principal Officer provides the service provider with written advice of:
  - the decision to give permission and any reasons for it and
  - any additional conditions to be met subject to permission taking effect.
- The provider submits an updated OOHC case plan to the [nominated unit](#), at least 21 days prior to the proposed interstate movement.
- Interstate Liaison provides advice and support to the Principal Officer and nominated unit (as required).
- The provider convenes an interstate movement meeting with the nominated unit and any other relevant stakeholders. This includes administrative tasks such as updating the case plan or preparing a new case plan and circulating the meeting minutes and case plan within five business days (unless a different timeframe is agreed).

The updated case plan states all financial arrangements, contact agreements and case management decisions made with the provider and the department are only valid up until the point of transfer. Once the order is transferred, it will be up to the receiving state to make decisions about these matters having regard to their legislation and policies.

- An officer of the nominated unit with decision making delegation (Manager Casework,

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<sup>43</sup> Barnardos is delegated certain powers and functions of parental responsibility under a deed entered into by the Minister for DCJ and Barnardos. However this delegation to Barnardos does not include power to give permission for interstate movements .

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delegation level five or above) attends the meeting.

- The purpose of the meeting is to identify roles and responsibilities of each stakeholder, considering:
  - actions prescribed by legislation and regulations in the receiving jurisdiction
  - what requests are to be made of the interstate child protection department under the Interstate Child Protection Protocol
  - how the provider will respond to any placement breakdowns, allegations against the proposed carers, reportable conduct, and quality of care concerns
  - how the departments will assess possible child protection reports and what support will be required of the service provider
  - how interstate transfer of the child's care order will be facilitated.

### **Principal Officer declines to give permission**

The department and the service provider have complementary roles when a Principal Officer declines to give permission for interstate movement of a child:

- the Principal Officer provides the service provider with written advice of the decision to decline to give permission and the reasons for this decision
- Interstate Liaison provides advice and support to the Principal Officer and [nominated unit](#) (as required)
- the service provider convenes a **case meeting** with the nominated unit, the child's current carers, proposed carers (if applicable), the child, their parents, family and any other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within five business days (unless a different timeframe is agreed).

An officer of the nominated unit with decision making delegation attends the meeting.

- The purpose of the meeting is to:
  - provide the carers with information and the rationale for the decision
  - listen to the carer's views and wishes
  - explore alternatives to meet the child's needs and how these are to be funded.
- The provider prepares and submits to the department an updated OOHC case plan to address the child's needs in the context of the child remaining in NSW. For example, it may include regular visits to interstate siblings or family/kin under an interstate travel authority.

### **Interstate movement of a child occurs without permission**

The department and the service provider have complementary roles when it is learnt there has been an interstate movement of a child without permission.

- The department's Principal Officer writes to the service provider and requests they provide, within seven days, written information about:
  - the circumstances leading to the interstate movement, including key dates, residential address, school in which the child is enrolled, persons involved and
  - the reasons why permission for the interstate movement wasn't obtained.
- The provider submits information requested by the Principal Officer. Additionally the provider submits information about how they are currently:
  - supporting family contact, relationships and identity

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- maintaining support of the child and carers in the placement and
  - supporting achievement of the child's permanency goal.
  - Interstate Liaison provides advice and support to the Principal Officer and [nominated unit](#) as required.
  - Commissioning and Planning provide advice to the nominated unit as required.

The service provider convenes an urgent interstate movement meeting, within 14 days, with the nominated unit and any other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within five business days (unless a different timeframe is agreed).

An nominated unit practitioner with decision making delegation (Manager Casework, delegation level five or above) attends the meeting.

The purpose of the interstate movement meeting is to:

- explore what case-specific, systemic or other issues brought about the interstate movement without permission
- consider any contractual issues arising from the movement
- inform the service provider the Foster Care baseline package (only) will temporarily cease because it has become an unauthorised placement
- consider whether any party has acted in breach of the Care Act, *NSW Child Protection (Working with Children) Act 2012*, or other statute, and
- discuss and record minimum requirements, including timeframes, for resolution.

Sometimes the nominated unit convenes a legal consultation with the Child Law Legal Officer to obtain additional legal advice. For example, advice in relation to:

- issuing a direction under [section 154\(2\)\(b\)](#) or [section 232](#)
- seeking a warrant under [section 233](#) (contact Interstate Liaison for advice when issuing a warrant interstate) or
- seeking recovery orders under the *Family Law Act 1975*.

The Principal Officer, having considered all of the information and advice, makes a decision to give, or decline, permission for the interstate movement of the child.

- If permission is given, see [Principal Officer gives permission](#).
- If permission is not given, see [Principal Officer declines to give permission](#).

In addition when permission is not given, the nominated unit convenes a follow-up interstate movement meeting with the provider and other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within five business days (unless a different timeframe is agreed).

The purpose of this meeting is to identify roles and responsibilities of each stakeholder, considering:

- how the service provider will address the minimum requirements for resolution
- what actions are prescribed by relevant legislation and regulations in the receiving jurisdiction
- what actions are to be taken by the department, arising from legal advice
- what requests are to be made of the interstate child protection department under the

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Interstate Child Protection Protocol.

Also see PCMP Resources – [List: legislation informing practice](#).

### **Service provider has child protection concerns**

When a service provider holds child protection concerns for a child that has moved interstate, the service provider makes a report to:

- the statutory child protection authority in the interstate jurisdiction and
- the NSW Child Protection Helpline.

If a service provider receives information to indicate a child has moved interstate as a result of being forcibly abducted, the service provider immediately makes a report to:

- NSW Police and police in the interstate jurisdiction
- the statutory child protection authority in the interstate jurisdiction and
- the NSW Child Protection Helpline.

### **Reviewable decisions**

The decision by the department to give or decline permission for a proposed interstate movement of a child is not a reviewable decision ([section 245](#)).

### **Critical events**

The PSP [Critical Events policy](#) forms part of the PCMP. It supports service providers to exercise case responsibility for children who have experienced a critical event. The policy describes separate rules and practice guidance for responding to critical events experienced by children in statutory OOHC, including:

- serious injury or death of a child or a carer
- a child is missing (excluding a child who is [Away from Placement](#))
- a female child becomes pregnant or requests a termination of pregnancy
- a child intends or is planning to get married
- exposure of a child to a registrable person or a person listed on the Child Protection Register in NSW
- a child is alleged to have committed a serious assault or criminal offence
- a planned end of life event regarding a child
- a reportable allegation or conviction or notifiable finding
- cancellation or suspension of a designated agency's accreditation.

The policy supports collaborative case management by service providers and the department in:

- identifying critical events and complying with reporting obligations
- ensuring a child's safety, welfare and wellbeing is central to planning and implementing the provider's the response to critical events
- identifying practice and systematic improvements to prevent future events.

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## Exiting PSP family preservation

### Achievement of case plan goal

When a service provider assesses they will soon achieve a child's preservation case plan goal, the provider:

- notifies the nominated unit and arranges to present evidence the child will continue to be safe with their parents following withdrawal of the preservation service
- provides a family preservation exit report.

### Disengagement

When a family does not engage (for example does not complete tasks in a FAP) or makes an unplanned exit (from the program), the preservation service provider notifies the nominated unit.

When there are concerns about physical, sexual or emotional abuse or neglect of a child who has disengaged from a PSP family preservation program, the service provider:

- completes a Mandatory Reporter Guide (MRG) to determine whether a report to the Child Protection Helpline is required
- identifies alternative ways to support the child and their parents, when a mandatory reporter's response is better served outside the statutory child protection system.

## Exiting OOHC

### Restoration support

When a child is placed with their parents, they exit OOHC (but remain in the parental responsibility of the Minister). Also see [Restoration placement](#).

During the period of restoration support (when a child is placed with their parents), the department and the service provider have complementary roles in achieving restoration:

### Collaborating in safety and risk re-assessment

The department conducts SARA to ensure:

- all household dangers, identified in the initial SARA safety assessment leading to their child's entry to OOHC, have been resolved
- the risk of future ill-treatment, abuse and neglect to their child has dropped to a *moderate* or *low* level.

The department exchanges SARA information with the service provider to support restoration.

The service provider:

- continues to exercise case responsibility
- visits and spends more time with the child, their parents, siblings and family/kin
- listens to the child to find out what changes they would like to see and how this would make things better for them
- helps the child adjust to living with their parents again, understand and regulate their emotions and behaviour
- supports the parents to maintain the progress they have made in establishing appropriate values, attitudes, and behaviours, to increase the safety and wellbeing of their child

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- supports the child's previous carers and the parents to work together
  - arranges for the child to spend time with their previous carers (if they wish to)
  - coordinates (and incurs expenditure in relation to) the provision of external services as required, for example counselling
  - exchanges information with the department to support their assessment.

## **Post-permanency casework support**

### **Restoration**

The date at which restoration is *legally* achieved is the date at which parental responsibility returns to the parents. This occurs when an STCO expires. It may also occur when the court rescinds a long term care order that (previously) allocated parental responsibility to the Minister.

When restoration has been achieved, post permanency casework support may be provided to a child, their parents, siblings and family/kin to:

- keep the child safe and meet their child's needs at home
- continue building the parents' strengths, confidence and ability to sustain the changes necessary to prevent their child from returning to OOHC
- support continuing connections between the child and family/kin or people who are important to them (including their previous carer)
- work with relapse occurring in the process of sustaining change, as a normal part of behaviour change
- work with the department to address any identified or ongoing risks early, before they become so serious they result in further protective action
- support the stepping down of services provided prior to achieving restoration.

Also see [Restoration placement](#).

### **Guardianship**

It is unlikely post permanency casework support will be needed for a child after a guardianship order is made. This is because the making of the order will have required the guardian to demonstrate an ability to meet the long term needs of the child without the need for case management or supervision.

However, guardianship post permanency casework support may be provided in rare, unforeseen circumstances when the department and the service provider agree this support is required.

### **Open Adoption**

It is unlikely post permanency casework support will be needed for a child after an adoption order is made. This is because the making of the order will have required the proposed adoptive parents to demonstrate an ability to meet the long term needs of the child without the need for case management or supervision.

However adoption post permanency casework support may be provided when:

- additional short-term casework is required to further develop connections between the child and their birth family or people who are important to them, or
- the child is the subject of an adoption plan and the adoptive parents require additional short-term casework to carry out the provisions of the plan.

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## Collaborating in post permanency casework support

The department and a service provider have complementary roles in planning and providing post permanency casework support.

- In planning post permanency casework support, the service provider:
  - discusses the need for support with the Permanency Coordinator, as part of regular [Permanency goal reviews](#)
  - develops a plan spanning the proposed period of post permanency casework support period, to commence upon exit from OOHC (for example to align with the period of a [Supervision Order](#)).
- During the period of post permanency casework support, the service provider continues to hold primary case responsibility and deliver casework services for the period approved.

## Post permanency supervision

### What is a supervision order

A supervision order may be made for a child with a case plan goal of restoration, to commence after their STCO expires ([section 76](#)). It enables the department to monitor and supervise the child's care and protection.

A supervision order specifies the reason and purpose of the order – which will be different for different children. It also states the period of the order, of up to 12 months. This may be extended for a further period of up to 12 months (a total 24 months).

During a supervision order, the department:

- visits the child and observes the home where they are living with their parents
- provides parents with information concerning the purpose of the supervision order and any issues identified during supervision
- meets and talks with the child (if of appropriate age) and their parents to discuss the parents' capacity in providing daily care to their child
- gives support and advice to the parents in relation to meeting the child's needs
- conduct assessments or evaluates the need for supports for the child or parents
- provides one or more [section 76](#) reports to the court about the outcomes of supervision and whether there is a need for a further period of supervision.

### Collaborating in supervision orders

The department and a service provider for [post-permanency casework support](#), have complementary roles during a supervision order.

The department:

- consults with the service provider, or any other service provider involved with the child and their family
- provides a copy of the supervision order to the provider
- liaises with the provider, when seeking direct contact with a child or their parents
- carries out the supervision to:
  - monitor the child's safety, welfare and wellbeing in the care of their parents
  - support the parents to meet the child's needs at home and



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- review the parents' progress with the care plan goals and supervision order
  - informs the provider when contact is planned, or if not possible, immediately after it has occurred
  - shares all information relevant to supervision of the child
  - considers reports provided by the provider; settles and files these as [section 76](#) reports in the Children's Court.

The service provider continues to exercise primary case responsibility for [post-permanency casework support](#) while the supervision order is ongoing, unless the department and the provider agree otherwise. The provider:

- continues to deliver the post-permanency casework support plan
- assists the department to carry out its supervisory responsibilities, for example by visiting the child and their parents
- provides reports to the department in relation to their provision of post-permanency casework support, including information about the safety of the child under supervision and the progress of their parents
- shares all information relevant to supervision of the child under supervision and responds to the department's requests for [information exchange](#).

The provider does not participate in the exercise of statutory powers by the department ([section 76](#) or [section 77](#)).

## Leaving care planning

While many children or young people who come into care transition to a safe and permanent home through restoration, guardianship or open adoption, there are some young people who remain in care until they reach 18 years of age.

Service providers develop a leaving care plan for all young people who are in statutory OOHC for over 12 months; are over 15 years of age; and are not anticipated to leave care as a result of restoration, or the making of an adoption or guardianship order.

Whether or not a young person stays living with their carers, leaving care planning prepares them for life as an adult and provides support until they reach 25 years of age. A leaving care plan includes support for developing independent living skills, building a personal support network and covers health and wellbeing, training and employment.

The leaving care plan is tailored to the young person's needs and goals and includes accountability for how steps will be achieved and outlines support available.

## Young people with disability

At a minimum, leaving care planning for a young person with disability, by a service provider, includes:

- identifying and documenting the disability needs of the young person, including any unmet or future needs to support them in preparation for independence
- working with their disability support coordinator or National Disability Insurance Scheme (NDIS) planner, to develop the young person's NDIS plan and identify future options for independent living, and vocational care or shared accommodation options as part of the leaving care planning
- liaising with the nominated unit if the child needs the Public Guardian to be appointed for them or advocacy to assist in their preparation for leaving care

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- ensuring the young person’s NDIS plan and leaving care plan work together to provide them with tailored support as they transition to adulthood.

## Housing

At a minimum, leaving care planning for a young person, by a service provider, includes:

- facilitating options for a young person to remain with their carers or live with siblings or family/kin when this is a positive option for them
- providing assistance to find and secure safe, stable, affordable and appropriate accommodation before their care order ends
- ensuring their plan includes provision for establishment costs to set up a new home.

## Driver’s license

Leaving care planning for a young person, by a service provider, includes:

- supporting the young person to obtain their provisional driver licence
- providing professional driving lessons of sufficient quantity to enable the young person to obtain their provisional driver licence
- providing opportunities for the young person to access a car (and a person to accompany them) to practice driving and completing the logbook hours required to obtain their licence
- informing the young person that help to obtain a driver licence is available when they are ready to learn (up to 25 years).

## Victims of crime

Leaving care planning for a young person, by a service provider, includes:

- identifying whether the young person may be a victim of crime through conversations with them and their carers and review of their file history
- acknowledging the harm caused to the young person by the crime against them
- making an [application](#) to Victims Services, through the NSW Department of Justice on behalf of the young person (if applicable) or otherwise facilitating their access to Victims Services
- [referring](#) the young person to the department’s Legal Services unit for legal audit, including forwarding their files and relevant information upon receiving confirmation of the audit.

Also see [Charter of Victim’s Rights](#) and [Charter of Victim’s Rights for young people](#).

## Aftercare support

When a young person leaves care at age 18 years, and until they turn 25 years of age, their service provider continues to play an important role in their life. The service provider discusses their role with the young person before they leave care and this is set out in the young person’s aftercare plan. The provider:

- offers an opportunity for the young person to keep in contact with their caseworker (if available), who provides a sense of connection, support and encouragement
- provides information to the young person about how to access government and other financial assistance and services, including Centrelink, scholarships, rental assistance, fee free TAFE courses and employment
- informs the young person of their entitlement to Transition to Independent Living Allowance (TILA) and [apply](#) on their behalf when they wish to access the payment

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- invites the young person to return and ask for help if there is a crisis
  - updates the young person's aftercare case plan as things change, for example to make available future funding to pay for a course they may want to commence
  - provides the young person's original identity documents and life story material (for example photos, life story and family items held in trust)
  - provides the young person supported access to their OOHC files (if they wish to or when they feel ready to):
    - until they turn 25 years of age, from the service provider and
    - after 25 years of age, from the department
  - ensures any young person with a history of sexual abuse is connected with targeted therapeutic supports.

### **Access to OOHC files**

The service provider does more than merely provide access to files. Young people are provided support to access their files. This may include:

- simply adopting a welcoming stance towards a young person requesting access
- in preparation for them to read their files:
  - informing them they are welcome to have a support person present or
  - offering to arrange a support person for the young person
- explaining parts of the young person's files, such as the meaning of acronyms, the context of particular decisions, how particular forms have been used
- offering counselling (if necessary), noting some aspects of the young person's story might trigger memories of traumatic events resulting in distress.

### **Access to financial support**

After a young person exits care, they may be able to access financial assistance from the department to address health, housing, education or other needs. This might be an item of expenditure listed on their approved aftercare plan (and financial plan)<sup>44</sup>, or it might be an unanticipated item of new expenditure.

The service provider:

- advises the young person about the assistance to be available
- requests financial assistance on their behalf via a submission to the department, explaining why the assistance is needed.

The department, within 28 days of receiving a submission:

- approves or declines the submission; or requests the service provider to submit more information and a revised submission
- if declined, provides the service provider with clear written reasons explaining why a submission is declined.

### **Referral**

The service provider makes sure the young person knows they can come to them at any

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<sup>44</sup> The service provider seek departmental approval of the financial aspects of a young person's aftercare plan before they attain the age of 18 years.

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time until they attain the age of 25 years to ask for help and assistance – including referral to counselling, housing support, early parenting programs, living skills courses, family planning and sexual health services, support to attend university or TAFE and specific aftercare and other services.

The young person can also ask for assistance from the department, or when their needs are complex, the service provider may refer to, or work with, a specialist aftercare service.

## Ceasing primary case responsibility

### Preservation

A service provider ceases to have primary case responsibility:

- when the department and the provider agree the preservation case plan goal has been achieved and
- when assessed risk of abuse or neglect falls to and remains at *low* or *moderate* and
- after the expiry of any orders to support achievement of the case plan goal, for example a parent capacity order.

### Restoration

A service provider ceases primary case responsibility (restoration):

- after the child exits OOHC, that is, after the care order allocating parental responsibility to the Minister expires or is rescinded and
- upon expiry of a supervision order (if applicable) and
- upon expiry of an approved period of post permanency casework support.

Also see [limitations to primary case responsibility](#).

### Guardianship and adoption

A service provider ceases primary case responsibility (guardianship or adoption):

- after the child exits OOHC, that is, after a new order is made:
  - placing the child in the guardianship of their carers or
  - resulting in adoption of the child to their long term carers / proposed adoptive parents, who becomes the child's legal parents and
- upon expiry of a period of post permanency casework support approved by the department.

Also see [limitations to primary case responsibility](#).

### Long term care

A service provider ceases primary case responsibility (long term care) when the young person turns 25 years of age. Also see [limitations to primary case responsibility](#).

### OOHC records

Service providers retain a child's OOHC records, including digital records and paper files, for a period of seven years from the date the provider ceases primary responsibility for the child's placement ([section 170](#)). Thereafter the OOHC records are delivered to the department.

Records may be delivered early to the department, when a service provider ceases to operate as an OOHC provider.

# Partnership



## Commissioning approach

The services required to achieve a child's case plan goal within two years may be *provided* by a departmental unit (internal) or commissioned from a service provider (under a contractual arrangement).

Even though the department commissions a service provider to provide these services, it continues to exercise responsibility for making a range of important decisions (for example setting a child's case plan goal) as the agency:

- with statutory responsibility for assessing reports of child abuse and neglect
- providing for the care and protection of children at risk of significant harm and
- exercising the [functions of parental responsibility](#) for children in OOHC.

## Internal Services

The department provides preservation, restoration, guardianship, adoption and long term care casework services through CSCs and specialist teams including Child Protection Adolescent Teams (CPAT) and Intensive Support Services (ISS) teams. These services are provided internally and are not (currently) commissioned. That is, children receiving these services are not able to access the PSP service packages.

Also see PCMP Resources – [Overview: PSP Case Plan Goal to Permanency Outcome](#).

## Commissioning delivery of PSP

The department *commissions* delivery of PSP by service providers using PSP service packages.

Under PSP, service providers exercise [primary case responsibility](#) for:

- providing residential care and control of a child in OOHC and supervision of the child's placement
- supporting carers to care for the child
- making decisions about the child, including decisions about managing behaviour
- achieving the child's case plan goal of restoration, guardianship or adoption within two years; or providing long-term care.

Similarly, preservation service providers exercise case responsibility for achieving a child's case plan goal of preservation within two years (not in OOHC).

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## Commissioning delivery of other services

The department also commissions delivery of other programs in many local districts by other services. These services typically use evidence-informed or evidence-based programs and models including:

- [Intensive Family Preservation](#) (IFP) and Intensive Family Based Service (IFBS) program
- [Brighter Futures](#) and Youth Hope programs
- [Multi-systemic Therapy for Child Abuse and Neglect](#) (MST-CAN) and [Functional Family Therapy through Child Welfare](#) (FFT-CW) models
- [Treatment Foster Care Oregon](#) (TFCO) model
- [OurSpace](#) program
- [LINKS](#) trauma healing program.

## Permanency goal reviews

### What is a permanency goal review?

One of the fundamental objectives of the PSP is to provide service packages to support service providers undertaking the casework required to achieve permanency outcomes for children, within a two-year time frame.

Permanency goal reviews support this objective by:

- reviewing progress made towards achieving a child's case plan goal
- ensuring permanency goal reviews occur at minimum review periods.

Case plan goal	Minimum progress review period
Preservation	3 monthly
Restoration, Guardianship or Adoption	6 monthly
Long term care	Annually

Permanency goal reviews involve the department and service providers working collaboratively to assess the child's changing needs and case plan goals. The reviews provide a valuable opportunity to jointly:

- check in on the progress of the child's case plan goal
- consider whether a change to the case plan goal is required
- identify any areas in which additional support is required
- ensure permanency goal reviews support culturally appropriate practice.

### Collaborating in permanency goal reviews

The department and service provider have complementary roles in permanency goal reviews:

- The Permanency Coordinator convenes a meeting with a service provider to conduct one or more permanency goal reviews.
- The Permanency Coordinator is responsible for:
  - documenting the progress review for each child

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- providing service providers with a copy of each review.
  - The service provider is responsible for participating in and providing evidence to inform the review.
  - If an outcome to the permanency goal review is a recommendation the case plan goal be changed, see [Changing the goal from long term care to another case plan goal](#).

For more information see [Permanency Goal Review and Case Plan Goal Extension Policy](#).

## Permanency consultation

Permanency consultation is a process of consultation convened and facilitated (and recorded) by a Permanency Coordinator and involving the participation of departmental and service provider practitioners.

During a permanency consultation, facts and evidence brought to the consultation by practitioners, are considered. Specialist advice is provided and recommendations are made (and recorded) in relation to permanency decision making.

Permanency consultation aims to:

- explore a child or young person's physical, relational, cultural and legal permanency and identity ways to improve wellbeing outcomes
- assist practitioners to navigate the service system and access services, to prevent unnecessary entries to OOHC or facilitate exit from OOHC
- facilitate the achievement of better outcomes for children, their parents and family/kin through collaboration between the department and service providers.

Permanency consultation is widely used in PSP for a range of purposes including:

- considering a proposal the department change a child's case plan goal
- providing advice about appropriate PSP service packages, to help achieve a child's case plan goal.

## Group supervision

Group supervision is a shared process of consultation and decision making used by the department. Group supervision involves practitioners, specialists and support staff meeting to discuss a case (or cases) and reflect on practice. The supervision group talks through, scrutinises, and challenges, thinking and decisions.

Group supervision also helps staff manage any emotional response to their challenging work by creating the space to share their worries and hopes about their work with families. Caseworkers can draw on multiple viewpoints, research and practice expertise to support their practice.

The department regularly invites partner agencies to group supervision. Genuine partnership and collaboration creates faster and more effective information sharing, case planning and review, transparency around decisions, and ultimately better outcomes for children and families.

Also see [Practice First](#).

## Handling disputes

The department and service providers exercising primary case responsibility may experience occasional disputes as a normal part of working together collaboratively and playing different

but complementary roles. Disputes may occur in part due to access to resources, different expectations in relation to service delivery or role clarity.

How disputes are handled, not the fact they happen, determines whether they are constructive or unhelpful. Being able to express disagreement in a professional relationship and between agencies is a sign of a mature and resilient service system.

- However disputes are handled, the needs of the child remain a primary focus for the department and the service provider.
- Children, their carers, parents, siblings and family/kin are not exposed to disputes between the department and a service provider.
- Disputes between the department and a service provider is addressed, as much as possible, in a way that does not interfere with or disrupt court proceedings.
- In principle, parties to a dispute are more likely to resolve the matter through face-to-face respectful and collegial discussion.

*'Using email to resolve conflicts is a reliable way of making everything worse.'*<sup>45</sup>

Local districts are free to use local procedures that aim to:

- resolve dispute at a district level in the first instance
- strengthen the capacity of the service system to achieve better outcomes for children, their parents, siblings and family/kin.

## Collaborating in dispute resolution

The recommended process for handling disputes is:

**Step 1.** Disputes are resolved, where possible, at the local level by the department and service provider practitioners (for resolution within two weeks).

The department	Service provider
Caseworker – CSC, CFDU, ISS Permanency Coordinator Contract Manager	Subject to operational structure: <ul style="list-style-type: none"> <li>• caseworker</li> <li>• team leader</li> </ul>

**Step 2.** When practitioners are unable to resolve the dispute in part or in whole, the department and service provider managers intervene to mediate a solution focussed on immediate practice change.

Managers facilitate the development of an action plan to address the issues and identifies practice strategies, timeframes and review dates (for resolution within two weeks).

The department	Service provider
Manager Casework Manager Client Services Manager Commissioning and Planning Manager Permanency Permanency Coordinator	Subject to operational structure: <ul style="list-style-type: none"> <li>• team leader</li> <li>• operations manager</li> </ul>

<sup>45</sup> Entrepreneur Asia Pacific, last viewed 29 August 2021, <https://www.entrepreneur.com/article/296886>



**Step 3.** When managers are unable to resolve the dispute at a local level, the dispute is referred to senior leadership (for resolution within two weeks).

Senior leaders examine the nature of the dispute from a systems perspective. When gaps or inconsistencies are identified in the service system or policy framework, they are escalated (for resolution within two weeks) to:

- Child and Family (CF) OOHC Programs
- Statewide Contracts.

Local districts maintain a register of PSP disputes, whether they are found to be practice-based or systemic and how they were resolved. Access to the register by CF OOHC Programs and Statewide Contracts ensures the information in district registers is considered in:

- update of the PSP policy framework
- re-issue of PLAs and Special Conditions.

The department	Service provider
Director Community Services Director Commissioning And Planning Director Operations Manager Permanency	Subject to operational structure: <ul style="list-style-type: none"> <li>• equivalent director or senior manager</li> </ul>

**Step 4.** When senior leaders are unable to resolve the dispute at a local level, it is referred to executive leadership (for resolution within two weeks).

Executive leaders consider practice and systemic issues as well as organisational risk.

The department	Service provider
Executive District Director	Subject to operational structure: <ul style="list-style-type: none"> <li>• deputy chief executive officer</li> </ul>

# Legal Practice



## Information exchange

Information about a child, their parents, siblings or family/kin relevant to assessment and case planning and review is exchanged between the department and service providers within the provisions of relevant legislation. However, some types of information cannot be exchanged, for example the identity of, or information that could lead to the identification of, a person who has made a report to the department is protected ([section 29](#)).

The department and service providers provide relevant information requested ([Chapter 16A](#) and [section 248](#)) within 10 business days (unless another timeframe is agreed) or within other timeframes for [providing evidence](#).

## Alternative dispute resolution (ADR)

### What is ADR?

ADR ([section 37](#)) is a term used to describe a variety of different voluntary processes where an impartial facilitator helps people resolve disputes.

ADR provides a confidential space for family/kin and practitioners to discuss what needs to change, to keep children safe and develop a plan to achieve this. It also allows the child, parents and family/kin to be involved in major decisions affecting them.

ADR may be offered in the following stages of assessment and case planning:

- after a safety assessment has been completed and a child has been found to be *safe* or *safe with plan*
- after a risk assessment has been completed and a child is at *high* or *very high risk*
- after a risk re-assessment has been completed and a child is assessed as continuing to be at *high* or *very high risk*
- before a FAP is developed or as a process to develop a FAP
- when a FAP is due for review and child protection concerns are still present
- when completing an Alternate Assessment and it is identified there are ongoing risk issues for a child.

### ADR: family group conferencing (FGC)

The department's preferred model of ADR is FGC.

FGC is a family-focused, strengths based form of ADR which aims to strengthen partnerships

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between family members and encourage parental decision making and responsibility. FGC helps inform case planning and provides an opportunity for family/kin to develop their own plan to keep their children safe. It aims to:

- place children and family/kin at the centre of planning and decision making
- empower parents and family/kin in decision making about the safety and wellbeing of their children
- improve outcomes for children by providing them with a stronger voice
- build respectful relationships through open communication.

When the form of ADR used is FGC, the department or the service provider – whichever exercises primary case responsibility:

- takes an active role in arranging the FGC
- requests participation of practitioners from the other agency (the department or the service provider not arranging FGC)
- incurs expenditure in relation to FGC (except in cases when a child has a case plan goal of preservation).

### **ADR: other models and approaches**

Other approaches may be more appropriate depending on the circumstances of the case. These approaches include:

- Perinatal or [Pregnancy Family Conferencing](#) (PFC) for unborn children
- Family Dispute Resolution (FDR), facilitated by NSW Legal Aid or a funded family dispute resolution service
- Care and Protection Mediation, facilitated by NSW Legal Aid
- mediation, facilitated by a Community Justice Centre mediator
- private mediation, facilitated by an accredited mediator - this could be a mediator chosen or agreed to by the family
- culturally appropriate forms of ADR, for example, Aboriginal Care Circles.

Also see [Use of ADR when responding to a child protection report](#).

### **Collaborating in ADR**

If consent is obtained from the child, their parents and family/kin, a representative of the service provider (the ‘representative’) exercising (or soon to exercise) primary case responsibility may participate in ADR. This may include the child’s carers or practitioner, noting:

- they have (or will have) a casework relationship with the child, their carers, parents, siblings and family/kin
- they may possess first-hand knowledge about the child, the placement and carers
- they may have a role in supporting implementation of the plan developed through ADR.

The following factors are considered by the department’s practitioner arranging ADR, in relation to participation by the representative:

- relevance of the likely input of the representative, to the issues in dispute
- whether the representative’s input will help all parties reach an agreement

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- the nature and extent of the representative's relationship with the child, their parents, siblings and family/kin
  - whether the representative attends all or part of the ADR
  - any other relevant factors.

Subject to consent, the department's practitioner arranging ADR requests that the representative participate. The representative may also request to be involved in ADR, upon becoming aware of a planned future ADR.

## Court proceedings

### Collaborating in court proceedings

The department and a service provider have complementary roles before or during court proceedings.

- The department is a model litigant in the proceedings, whether or not initiated by itself. The department's role includes:
  - obtaining, collating and filing evidence required by the court
  - developing the child's care plan
  - responding to administrative directions by the court
  - responding to interim orders that effect care arrangements
  - making decisions about arrangements for the child to have family time with their parents, siblings and family/kin.
- The department liaises with a provider and seeks direct contact with a child, their carers, parents and family/kin, to:
  - continually assess risk
  - coordinate and file evidence in proceedings based on first hand involvement with the child, their carers, parents and family/kin
  - provide the provider with notice when it can be reasonably anticipated their affidavit/report authors will be required to give evidence in court, for example notifying the provider and authors when hearing dates are set.
- The department informs the provider when making contact with a child, their carers, parents or family/kin is planned, or if that is not possible, immediately after it occurs.
- The department provides service providers with clear advance timeframes of what evidence will be required and by when.
- Providers support the department in Children's Court proceedings by:
  - facilitating direct contact by departmental practitioners with a child, their carers, parents and family/kin
  - sharing all relevant information including in response to the department requests for information to enable timely assessment, filing of all relevant evidence in proceedings, and progress of the court proceedings.
- Providers support the department in Children's Court proceedings by:
  - [providing evidence](#), including affidavits or reports, and other information on the child, their family and kin, and their placement

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- arranging for affidavit/report authors to be available to give evidence in the Children's Court if required
  - arranging access to the child by their separate legal representative
  - carefully managing communication between the child, their carers, parents and family/kin and referring parties to their legal representatives as appropriate
  - implementing decisions regarding drug and alcohol or DNA testing of parents
  - contributing to [developing a care plan](#) with the department
  - complying with court orders, including preparation of draft [section 76](#) or [section 82](#) reports by the due dates
  - organising contact, [respite](#) or other action in accordance with court orders.

Also see [Collaborating in case planning during court proceedings](#).

## Providing evidence

The department may request a service provider to provide relevant information about a child, their parents, siblings or family/kin, to be filed as evidence in court proceedings. Information may include FAPs, OOHC case plans, records of family time, records of home visits, school reports, health reports or other assessments.

The service provider makes reasonable efforts to provide the information to the department within five business days of a request or contacts the department and negotiates a different time frame.

An employee of a service provider may be required to give evidence in the proceedings by way of affidavit or written report. If so, the employee is likely to be required to attend court as a departmental witness to be cross examined (asked questions) about their evidence at the final hearing. The departmental legal representative will help prepare the employee to give evidence at court and will support the employee when giving evidence as a departmental witness.

## Drug tests

To support a case plan goal of restoration, a service provider may initiate parental drug and alcohol testing with voluntary participation of the parents concerned. If the proposal is subsequently accepted by the department, the results of these tests are used in evidence in court proceedings, including to support a ([section 90](#)) care application for variation or rescission of the order.

Also see [Changing the goal from long term care to another case plan goal](#).

To support the preparation for, or conduct of, court proceedings, a service provider delivers casework to support participation of parents in drug and alcohol testing:

- as requested by the department, to provide evidence in court proceedings
- in response to the administrative directions of a court (during proceedings).<sup>46</sup>

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<sup>46</sup> Note: the cost of drug testing requested by the department or directed by the Children's Court is the responsibility of the department.

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## Court outcomes

### Collaborating in court outcomes

The department provides a service provider with information about the court outcomes. Reasonable efforts are made to provide the information about court outcomes within two business days of the department receiving a report of the outcome from the legal officer, external legal practitioner or court liaison officer.

The information provided by the department may include:

- the date of the court appearance and any future relevant court dates
- interim or final orders made and any notations to those orders
- the timetable (due dates) for filing evidence or reports
- any relevant undertakings given by any party
- any agreements between parties in relation to family and sibling time or other arrangements impacting upon the placement
- any other matters relevant to a child's placement.

Information about a court outcome helps make sure the service provider is aware of, and acts in accordance with, interim or final orders made by the court, and to:

- put in place appropriate family time and sibling time and provide information to carers relevant to the child's placement
- put in place appropriate arrangements to support compliance with other orders, for example a Parent Capacity Order, undertakings or a supervision order.

It is not the role of a service provider to provide information about court proceedings to:

- a child - this is the role of the child's independent or direct legal representative or
- the child's parents, siblings or family/kin - this is the role of their respective legal representatives.

However a service provider may:

- give information to the child of a general nature in relation to court proceedings
- facilitate the child making contact with their legal representative
- facilitate the child making contact with a departmental practitioner involved in giving instructions in court proceedings.

Information not to be provided by the department to a service provider includes:

- information protected by legal professional privilege, for example legal advice
- Children's Court Clinic assessment reports and documents filed in the proceedings by other parties, unless the court has granted leave.

A departmental legal officer is able to provide advice to departmental practitioners about whether information may be subject to a claim of privilege and, if the information is privileged, whether the department should agree to waive privilege.

### Children's Court Clinic assessment

Access to a Children's Court Clinic Assessment report by a service provider can generally only be provided with leave of the Children's Court. Exceptions include where the assessment report

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is an annexure or attachment to the child's care plan.

The department seeks leave to provide the report to the service provider. The departmental legal officer or external legal practitioner makes the application during proceedings and before final orders are made. Service providers may also apply directly to the registrar of the Children's Court for leave to obtain a copy of the Children's Court Clinic Assessment report, in particular in cases where final orders are in place and the proceedings have concluded.

## Dispute resolution conferences (DRCs)

### Collaborating in DRCs

If the Children's Registrar agrees, a representative of the service provider (the 'representative') exercising primary case responsibility may participate in a DRC ([section 65](#)), noting:

- they have (or will have) a casework relationship with the child, their carers, parents and family/kin
- they may possess first-hand knowledge about the child and their placement
- they are likely to be given responsibility for implementing the care plan.

The following factors are considered by the department in relation to participation by the representative:

- relevance of the likely input of the representative, to the issues in dispute
- whether the representative's input will help all parties reach an agreement
- the nature and extent of the representative's relationship with the child, their parents, siblings and family/kin
- whether the representative attends all or part of the DRC
- any other relevant factors.

Subject to the department's instructions, the department's legal officer seeks the Registrar's agreement for the representative to participate. However, the representative may approach the Registrar directly to seek agreement.

In deciding whether the representative will be able to participate in a DRC, the Children's Registrar will seek the consent of all parties to the court proceedings.

If the Registrar agrees that the representative can participate:

- the representative's role is in support of the department (during the DRC) and the representative follows the advice of department's legal officer
- the representative is bound by the confidentiality of the DRC and follows the guidance of the Children's Registrar.

## Developing a care plan

### Collaborating in developing a care plan

When developing a care plan for a child, the department works collaboratively with a service provider. This includes:

- ensuring the service provider participates in development of a care plan, for example by being invited to participate in relevant meetings
- providing at least two business days for a service provider to provide input in relation to draft plans (unless a different timeframe is agreed)

- 
- providing the service provider with a copy of the sealed care plan as soon as it is approved by the court.

Service providers:

- assist the department in convening a care plan meeting
- provide written comments in relation to draft care plans, within two business days (unless a different time frame is agreed)
- destroy draft copies of a care plan and only place sealed care plan on the child's file.

The development of care plans includes cultural plans for Aboriginal and CALD background children, their parents and family/kin. This is mandatory.

Following making of final orders by the Children's Court, the service provider is responsible for implementing those parts of the care plan within its care responsibility.

### Aboriginal cultural considerations in care planning

Cultural care and support planning ensures Aboriginal children's cultural rights, identity, language and cultural ties are preserved, safeguarded and promoted. Planning, endorsement and implementation of these plans is supported by an ACCO or other locally governed Aboriginal community group<sup>47</sup>, as the cultural expert in their community.

Cultural care planning for an Aboriginal child is consistent with the Aboriginal and Torres Strait Islander Principles, including that:

- Aboriginal people participate in the care and protection of their children with as much self-determination as is possible ([section 11](#))
- Aboriginal people participate in decision making concerning placement of their children and in other significant decisions ([section 12](#)).

A child's cultural care and support plans:

- include specific age appropriate strategies for developing and maintaining a positive sense of identity, belonging and connection to family/kin, community and culture
- include arrangements, led and driven by family/kin, for cultural connections and experiences through participation in cultural activities, events and programs
- acknowledge those aspects of a child's cultural needs family/kin may have already been meeting prior to the department taking protective action.

Also see [Cultural planning](#).

### Interim court orders and STCOs

If the department removes a child from their home ([section 43](#) or [section 233](#)), or assumes a child from another place ([section 44](#)), an [Application Initiating Care Proceedings](#) is required.

#### STCOs

If the department proposes a permanency goal of restoration, guardianship or adoption, the application seeks an STCO ([section 45\(1\)\(c\)](#)) for a maximum of up to 24 months<sup>48</sup>.

The court may allocate aspects of parental responsibility to either the Minister and/or another suitable person (for example, a relative) for a period specified in the STCO ([section 79\(9\)](#)).

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<sup>47</sup> Some local districts refer to local Aboriginal Consultation Advisory Panels (ACAP) – see [DCJ Aboriginal Consultation Guide](#).

<sup>48</sup> Important: Except in special circumstances, an STCO allocating parental responsibility to the Minister is for a maximum period of no more than 24 months.



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It may not be necessary for the Minister to hold parental responsibility when the department and the court determine it can be held by another suitable person.

The department seeks an STCO when the permanency plan is:

- Restoration – an STCO is sought to provide sufficient time to gradually restore a child to the care of their parents.
- Guardianship – an STCO is sought to provide sufficient time to:
  - demonstrate a stable relationship between the child and proposed guardians
  - support and consult the child and family about guardianship options
  - support the proposed guardians to satisfy eligibility criteria
  - conduct suitability and probity checks and a guardianship assessment
  - prepare an application for a Guardianship Order to be filed in the Children’s Court.
- Adoption – an STCO is sought to provide sufficient time to:
  - conduct an adoption assessment, including whether or not adoption is in the child’s best interests
  - identify a suitable placement option<sup>49</sup> for the child (when adoption is a preferred permanency outcome)
  - prepare an application for an Adoption Order to file in the Supreme Court.

The period for which an STCO may be made by the Children’s Court is up to 24 months unless there are special circumstances warranting making a longer order ([section 79](#)).

The period of the STCO is the period necessary to achieve the permanency goal, after considering the care plan, evidence and submissions of all parties. An STCO may be a period of:

- say, six to 12 months, if the permanency plan is restoration or guardianship
- say, two years, if the permanency plan is adoption.

The 24 month period for an STCO is measured from the time of making the final order. In some cases the child may be under the parental responsibility of the Minister for longer than 24 months because interim orders were in place pending the final determination of the application.

An STCO provides greater accountability. When a court has made an STCO, but the approved permanency goal has not been achieved within the timeframe, the department will need to bring the matter back to court. The department provides evidence of reasons why the permanency goal has not been achieved in the period of the STCO and seeks other appropriate orders.

## Interim orders

If the department is assessing the permanency goal, an interim order allocating interim parental responsibility is sought. A service provider with primary case responsibility supports the department in assessing the permanency goal. For example, by:

- participating in ADR (if requested by the department and with consent of the child’s parents)
- through [information exchange](#).

By seeking only an interim order, the department is able to later propose a permanency plan to best meets the child’s needs:

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<sup>49</sup> [Adoption and Permanency Services](#) maintain a pool of families dually authorised as proposed adoptive parents and carers and can therefore assist with seeking a suitable placement option. These carers have already been assessed by the department as suitable to adopt.

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- based on assessment occurring during the interim order period
  - subject to approval of the department's permanency plan by the Children's Court.

The court may allocate aspects of parental responsibility to either the Minister and/or another suitable person (for example, a relative) for the period specified in the order.

The period specified in an interim order is any period determined by the court as necessary for further assessment to occur, having considered submissions by all parties and evidence filed in the proceedings.

If a Children's Court registry declines to file (stamp and seal) the application for an interim order only, the department seeks an STCO as well as an interim order. If this occurs, the department notifies Legal Services by emailing the department's Legal Inbox ([AllocationsDCJLegal@facsnsw.gov.au](mailto:AllocationsDCJLegal@facsnsw.gov.au)):

- a record of the interaction between departmental and registry staff members
- a copy of the application.

## Section 76 or 82 reports

### Collaborating in preparing section 76 or 82 reports

The service provider is responsible for:

- preparing a draft [section 76](#) report regarding the progress and outcomes of a supervision order, or draft [section 82](#) report regarding the suitability of a child's OOHC arrangements, following making of final orders by the Children's Court and
- providing the department with a draft of either of these reports, five business days prior to the date on which it is due to be filed.

The department is responsible for approving and filing these reports (even when prepared by a service provider). Also see [Functions of parental responsibility exercised by DCJ](#).

## New court proceedings

Any decision to initiate new care proceedings ([section 61](#)) or re-open ([section 90](#)) proceedings in the Children's Court is made by the department in consultation with a service provider.

However, a child, their parents, family/kin or person with an interest in the welfare of the child can apply to re-open proceedings. Parties to proceedings have a right to appeal a final order ([section 91](#)). Parties have 28 days from the date of the final order to lodge an appeal.

The department is always a party to court proceedings and appeals of final orders.

The department provides a service provider with information about new or re-opened court proceedings or appeals. The department provides the information to the provider as soon as it is available, when possible, prior to the matter being listed in court.

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## Joint allocation of parental responsibility for children in OOHC

When a final care order is made, allocating various aspects of parental responsibility to a suitable person and the Minister jointly:

- the child is considered to be in *statutory* OOHC when:
  - the Minister is allocated the aspect of residence solely OR
  - a suitable person who is not a relative/kin of the child, is allocated the aspect of residence solely (not the Minister) OR
  - the Minister and any suitable person exercise the aspect of residence jointly
- The child is considered to be in *supported* OOHC when a suitable person who is a relative/kin of the child, is allocated the aspect of residence solely (not the Minister).

