

Information for permanent guardians

Permanent Care Order

What is a permanent care order?

To grow up happy and healthy, children need permanency in their lives. For children to feel a sense of permanency, they need to know where they will be living from one day to the next, and from one year to the next. They need to know that the important people in their lives will remain in their lives. And they need to know who will be caring for them, both now and into the future.

When working with children and families, the Department of Children, Youth Justice and Multicultural Affairs (Child Safety) aims to make sure children have three kinds of permanency in their lives:

- **relational permanency:** ongoing positive, trusting and nurturing relationships with people who are important to them, like parents, siblings, extended family members and carers
- **physical permanency:** stable living arrangements, with connections to the child's community, that meet the child's developmental, educational, emotional, health, intellectual and physical needs
- **legal permanency:** legal arrangements for the child's care that provide the child with a sense of permanence and long-term stability, including, for example, an order granting long-term guardianship, a permanent care order or an adoption order for the child.

When Child Safety works with a child and family, the first option for giving a child permanency is for the child to stay at home, or return home after a short time in another care arrangement.

However, if it is not possible for a child to remain at home or to return home within a reasonable period of time, then Child Safety will look for other options for securing permanency for the child.

A permanent care order is one way that a child's needs for permanency can be met.

A permanent care order is an order made by the Childrens Court that gives responsibility for parenting a child to a person other than the child's parents. This person becomes the child's 'permanent guardian' until the child reaches 18 years of age, and they will be responsible for providing for the child's care and upbringing.

This will make sure that the child has a secure and permanent home to live in, now and into the future, with someone who knows and cares about them.

A permanent care order does not sever the child's legal relationship with their parents or change the child's legal identity. However, the guardian does take on most aspects of parenting, including providing care and making decisions.



How is the decision made?

If it is not possible for a child to be cared for at home, then Child Safety will make a decision about the best alternative living arrangements for the child. In making this decision, Child Safety will work with the child, the child's family, the child's carer and other people who are important to the child. The goal of this decision making is to make sure that the child has a safe and stable home with someone suitable. One option for providing for a stable living arrangement is a permanent care order.

To be proposed as a permanent guardian for a child, you must have already been caring for the child for at least 12 months. This will help Child Safety to know that the child's living arrangements are suitable. Child Safety will also do a comprehensive assessment of your ability and willingness to meet all of the child's needs, both now and in the future and to meet your obligations as a permanent guardian.

The Director of Child Protection Litigation (DCPL) is an agency that is independent of Child Safety and is responsible for deciding whether to apply for child protection orders. When Child Safety decides that a permanent care order is the best way to meet the child's needs, a referral will be made to the DCPL recommending this type of order. The DCPL will then make a decision about whether to apply for this type of order or whether another type of order would be better for the child. The DCPL will then make an application for a child protection order to the Childrens Court.

The Childrens Court may only make a permanent care order if:

- the proposed guardian is suitable for caring for the child on a permanent basis and is able and willing to meet the child's ongoing protection and care needs
- the proposed guardian committed to preserving the child's identity, connection to the child's culture, and the child's relationships with members of the child's family in accordance with the case plan

- the child has been in the care of the proposed guardian for 12 months or longer, unless there are exceptional circumstances (for example, if the proposed guardian is already the permanent guardian of one or more of the child's siblings).

In addition, for Aboriginal and Torres Strait Islander children, the court must have regard to Aboriginal tradition or Island custom in relation to the child and must have regard to the Child Placement Principle, which includes:

- **the prevention principle** — that a child has the right to be brought up within the child's own family and community;
- **the partnership principle** — that Aboriginal or Torres Strait Islander persons have the right to participate in significant decisions under this Act about Aboriginal or Torres Strait Islander children;
- **the placement principle** — that, if a child is to be placed in care, the child has a right to be placed with a member of the child's family group;
- **the participation principle** — that a child and the child's parents and family members have a right to participate, and be enabled to participate, in an administrative or judicial process for making a significant decision about the child; and
- **the connection principle** — that a child has a right to be supported to develop and maintain a connection with the child's family, community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person.

The Court must also be satisfied that the child's case plan provides details on how the child's connection with culture, and community or language group, will be maintained.

For information about the court processes, you can speak with the Child Safety Officer or seek independent legal advice. You can find further information about child protection court processes at <http://childprotection.org.au/>

How will I be assessed?

When a permanent care order is made, the child's permanent guardian becomes responsible for the child's daily care, as well as the child's long-term care, wellbeing and upbringing. Child Safety will no longer provide ongoing case management.

In considering a permanent care order, Child Safety will conduct a comprehensive assessment of the proposed guardian's ability and willingness to fulfil these responsibilities. The assessment will also be used to inform the Childrens Court about the proposed guardian's suitability to be a permanent guardian for the child.

The assessment will consider your ability and willingness to perform the full range of responsibilities and obligations that you would take on as the child's permanent guardian, outlined below. Speak with your Child Safety Officer for more information about the assessment process.

The assessment will be informed by the views of the child, the child's parents and family members, and other relevant stakeholders.

What will change if a permanent care order is made?

Once a permanent care order is made, the guardian is responsible for daily care of the child, as well as for making decisions about the child's long-term care, wellbeing and upbringing. The order remains in place until the child reaches 18 years of age.

As the guardian takes on parental responsibility for the child, Child Safety's ongoing role becomes very limited. Child Safety will no longer make decisions about the child's care and upbringing and will only have contact with the child and guardian if:

- the child or guardian requests a review of the case plan; or
- the child or a member of child's family makes a complaint about the level of care the child is receiving and Child Safety needs to follow up on the complaint.



This means that many of the things that Child Safety may currently be responsible for will become the responsibility of the permanent guardian, including:

- supporting contact with family and other people who are important to the child
- providing for the child's health needs
- making decisions about the child's schooling and educational needs
- meeting the child's needs for disability support, where relevant, including working with the National Disability Insurance Agency
- helping the child to prepare for adulthood

The table below provides further information about the differences between a permanent care order and other types of orders.

	Chief executive has custody or guardianship	Order granting long-term guardianship — other than the chief executive	Permanent care order
Child's contact with their Child Safety Officer	Monthly	Yearly	None
Child's contact with a Community Visitor	Yes	No	No
Case plan review	Six-monthly	Only if requested by you or the child. A parent can request a review if there hasn't been a case plan review in the previous 12 months	Only if requested by you or the child
Transition to Adulthood case planning and support by Child Safety	Yes	No. The guardian will help the child or young person plan and prepare for their future and access the services or supports they may need.	No. The guardian will help the child or young person plan and prepare for their future and access the services or supports they may need.
Transition to Independent Living Allowance	Yes, pending Commonwealth Government approval.	Yes, pending Commonwealth Government approval.	Yes, pending Commonwealth Government approval.
Education Support Plan	Yes	No. The guardian is responsible for helping the child or young person to identify their education needs, and access the services or supports they may need.	No. The guardian is responsible for helping the child or young person to identify their education needs, and access the services or supports they may need.
Cultural Support Plan	Yes	No. The guardian is responsible for supporting and promoting the child's connection to your culture and a cultural support plan will be agreed to when the order is made.	No. The guardian is responsible for supporting and promoting the child's connection to your culture and a cultural support plan will be agreed to when the order is made.
Child Health Passport	Yes	No. The guardian is responsible for helping the child or young person to identify their health needs, and access the services or supports they may need.	No. The guardian is responsible for helping the child or young person to identify their health needs, and access the services or supports they may need.
NDIS plan	Child Safety will support the child and the carer to access the disability supports needed from the National Disability Insurance Scheme.	It is the guardian's responsibility to support and represent the child or young person to access the disability supports needed from the National Disability Insurance Scheme.	It is the guardian's responsibility to support and represent the child or young person to access the disability supports needed from the National Disability Insurance Scheme.
Placement	Change is possible in some circumstances.	The child or young person will remain in the care of their guardian. The guardian must immediately tell Child Safety if the child is no longer in their care.	The child or young person will remain in the care of their guardian. The guardian must immediately tell Child Safety if the child is no longer in their care.

What are the responsibilities of a permanent guardian?

A permanent guardian is responsible for the daily care of the child, as well as for the child's long-term care, wellbeing and upbringing.

In addition, a permanent guardian has the following responsibilities by law for as long as the order remains in place:

- tell the child's parents where the child is living and give the parents information about the child's care
- provide opportunities for the child to have contact with parents, other members of the family and persons who are significant to them
- preserve the child's identity and connection to their culture of origin
- tell the child about the Charter of Rights for a Child in Care and make sure the rights are complied with
- help the child transition to adulthood
- immediately inform Child Safety, in writing or via email, if the child leaves their care or intends to leave their care

In making the order, the Childrens Court may decide that the guardian does not have to do some of the things listed above. For example, if giving parents information about where the child is living would be a safety risk, then the Court may order that the guardian is not required to do this.

What are some of the decisions the guardian can make?

A child's permanent guardian is able to make most of the decisions that a child's parent would usually make. Some of the key decisions the guardian may make include:

- giving permission for them to have surgery and receive a general anaesthetic
- deciding about the child or young person seeing allied health professionals (such as a counsellor or psychologist)
- providing consent for the child to access to the National Disability Insurance Scheme (NDIS) if required, and engaging disability support providers for the child
- enrolling the child in a school
- allowing the child to participate in high or very high-risk sporting activities, for example, trail bike riding, rock climbing or abseiling
- making decisions about the child's participation in cultural and religious events and activities
- making decisions about the child's contact with parents, family members and other people of importance to the child
- arranging interstate or overseas travel for the child or young person.



What support is available to permanent guardians?

Ongoing support from Child Safety for children subject to permanent carer orders is limited, as it is generally the responsibility of the child's guardian to provide for their care needs. However, some support is available to ensure that children's needs can be met, including when there are emerging needs.

Permanent guardians will be paid the fortnightly care allowance to assist them to meet the ongoing care needs of the child or young person, until they are 18 years of age.

In exceptional circumstances, Child Safety may also provide additional financial assistance for a time limited period to support a specific need.

This may be provided either at the time the order is made, to help the guardian to establish the care arrangement, or at a point in time after the order has been made and significant issues arise. Speak to your Child Safety Officer for more information.

If, after the making of a permanent care order, you require assistance or support with caring for the child, you can contact Child Safety and request a review of the child's case plan. Child Safety will consider the reasons why you are seeking a review of the case plan and will speak with you about the possible outcomes.

Child Safety may also be able to assist with connection or referral to other support services, including, for example, Family and Child Connect or Family Wellbeing Services, where appropriate.

Where can I get more information?

You can find out more information about a PCO from the child's Child Safety Officer — to find the telephone number of your Child Safety Service Centre and your Child Safety Officer you can:

- go to the Department of Children, Youth Justice and Multicultural Affairs website **www.cyjma.qld.gov.au**
- call Child Safety's enquiries unit on **1800 811 810** (freecall)