

PRACTICE GUIDE

Participation of children and young people in decision making

Promoting participation

Engaging children and young people to promote their active and genuine participation in decision making is a core component of child protection work. Participation is an ongoing process through which children and young people:

- are actively listened to
- are supported to express their views
- have their views taken into account and recorded
- are involved in decision-making processes.

The underpinning principles of the *Child Protection Act 1999*, section 5, clearly emphasise participation by children and young people, respect for their rights, consideration of their views and, where possible, involvement in decision-making processes affecting their lives. In addition, section 6 outlines principles that must be applied when making significant decisions for Aboriginal and Torres Strait Islander children including having regard for the five elements of the child placement principle and arranging, with the child's consent, for an independent person to facilitate the child's participation in significant decisions.

The Strengthening Families Protecting Children Framework for Practice includes the value of 'participation' and the principle: "We listen to children's, families' and communities' views and involve them in decision-making". There are a range of practice tools such as Circles of Safety and Support, Three Houses and the Safety House which assist staff to engage with children and young people.

To support children and young people to take part in decision-making processes, practitioners must:

- provide children and young people with all relevant information which relates to the decision under consideration
- engaged with the child and young person in a manner which takes into account their developmental stage, including their ability to comprehend and understand decision making processes and information provided,
- inform children and young people of the types of decisions that need to be made, and the reasons for these decisions, and how to participate in any decisions made that affect them
- consider and implement supports to overcome potential barriers in relation to any disabilities the child or young person may have.

In some circumstances, the capacity for children and young people to actively participate in decision-making may be diminished or not be appropriate. Such circumstances may include:

- when the risk of significant harm indicates the need for statutory intervention, irrespective of the child's, young person's or parent's wishes
- when the child or young person is unable to participate fully in decision-making (eg. due to factors such as drug or alcohol abuse, or severe disability)

- when the child's or young person's age or ability prevents them from understanding and actively contributing to the decision-making process.

In these situations, children and young people are entitled to information and involvement as is appropriate for their age, ability to understand, and psychological state, including information about the decision and rationale for the decision.

Aboriginal and Torres Strait Islander children and young people

Participation is a core element of the Aboriginal and Torres Strait Islander Child Placement Principle. When working with Aboriginal and Torres Strait Islander children and young people, Child Safety, in consultation with the child and their family, must arrange for an independent entity (an independent person) to facilitate the child's participation in decision making for all 'significant decisions'.

The independent person identified by a child or young person is usually someone who they are comfortable with, is significant to them, and knows their community or language group. If the child does not have someone they know an independent person may be sought from an agency such as the Family Participation Service.

The independent person can assist the child to participate in significant decisions by:

- supporting the child to participate in Family Led Decision Making (FLDM) processes including Family Group Meetings (FGM)
- helping the child or young person to ask questions and understand information
- helping the child articulate their views and wishes regarding decisions
- providing contextual cultural information to support the child's participation in decision making.

Child Safety staff will arrange for an independent person to assist the child's participation in any other decisions, where requested and practicable. The independent person a child chooses may differ from the independent person chosen by their parents, and a child may choose not to have an independent person to support their participation in some or all decisions.

For Aboriginal and Torres Strait Islander children and young people, Child Safety staff must promote the child's right to self-determination, and work in genuine partnership with the child, their family and their community to ensure the child and family's culture has been central in the decision-making process.

Child Safety staff must be aware of, and sensitive to, the cultural factors which can influence communication processes with Aboriginal and Torres Strait Islander people, for example, the use of silence, eye contact and body language. When Aboriginal and Torres Strait Islander children and young people are participating in decision-making, consider culturally appropriate support for gender specific issues. For example, it may be culturally important in both urban, rural and remote areas to facilitate a same gender elder, family member or agency worker to support the child or young person during the decision-making process.

For some Aboriginal and Torres Strait Islander young people, English may not be their first language, therefore access to an interpreter is to be arranged when required to ensure their full participation.

Children and young people from culturally and linguistically diverse (CALD) backgrounds

For children and young people from CALD backgrounds, Child Safety officers must consider the cultural perspectives and beliefs of the child and their family when involving them in decision-making processes.

Issues of linguistic diversity, language variations and their past experiences must be considered when communicating and engaging with children and young people from CALD backgrounds and they must have access to an interpreter where required, for example children and young people whose first language is not English.

Engaging children and young people

In order to promote participation by children and young people in decision-making processes, Child Safety staff must:

- be as accessible as possible to the child or young person
- engage with children and young people across a variety of contexts for example connecting with the child or young person via the kicbox app, talking in the car whilst driving, or catching up with the child or young person at a food outlet of their choice
- explain the nature of the relationship between the child or young person and the Child Safety Officer, and the expectations about contact in the relationship
- provide children and young people with timely and accurate information regarding Child Safety processes, procedures and actions, particularly in relation to why they are in care, what decisions are coming up and when consideration is being given to making or changing a decision
- adopt a child-focused approach which values and respects children and young people, and which maintains a primary focus on their safety, belonging and wellbeing needs
- communicate and engage with children and young people in a manner which responds to their age, understanding and developmental level
- engage with children and young people in an environment which is familiar and child-friendly as far as possible.
- engage with children and young people at various stages drawing on a variety of practice tools (for example, the three houses, the safety house, the immediate story, circles of safety and support) and a variety of skills (for example, using appreciate inquiry, active listening, boundary setting).

Children and young people will be provided with relevant Child Safety resources and information to promote their participation in decision-making, including:

- the Statement of Standards for a Child in Care
- the Charter of Rights of a Child in Care
- 'Kids rights - Charter of rights for children in care'
- 'My journey in care'
- Go Your Own Way – transition to adulthood planning resource, where applicable
- Child-friendly case plans
- Child-friendly reviewable decision letters

When to involve children and young people in decision-making processes

Children and young people will be engaged in case work processes throughout all stages of their involvement with Child Safety, where decisions are to be made that impact on the child or young person. The views of children and young people must be taken into account, particularly when:

- deciding on the commencement and conclusion of a placement
- arranging family contact with the child or young person's parents and extended family
- deciding on the level and nature of information provided to carers of children and young people in out-of-home care

- undertaking family-led decision-making processes, family group meetings and other case planning and review meetings and discussions
- undertaking placement meetings
- developing safety and support networks
- making decisions regarding the child or young person's health and well-being (including child health passport meetings and behavior support planning)
- making decisions regarding the child or young person's education (including education support plan meetings)
- deciding on arrangements for ongoing contact between a child or young person and previous carers
- reunification planning
- transition to adulthood planning
- support planning.

A child's or young person's participation rights also apply to daily care decisions. Matters where their views must be considered include, but are not limited to:

- where the child or young person goes to school
- contact with friends, including sleepovers
- haircuts, clothing, jewellery and piercing
- decisions about where and how they receive therapeutic or other supports
- sporting, recreation and curriculum related activities
- cultural and religious events and activities.

Preparing and supporting children and young people to participate

Prior to a decision-making process or meeting occurring, Child Safety staff will prepare the child or young person by providing information on the following:

- the decision being made, and the purpose of why the decision needs to be made
- the child or young person's rights to participate and the different ways in which they can participate or share their views
- if a meeting is occurring, the purpose of the meeting, the roles of the participants, the issues which may be discussed, the decisions that may be made and the significance of those decisions
- the internal and external complaints mechanisms available to the child or young person should they have a complaint regarding the outcome of the decision or their level of participation in a decision-making process
- for an Aboriginal or Torres Strait Islander child or young person - the right to have an independent person facilitate their participation in the significant decision being made.

If an Aboriginal or Torres Strait Islander child wishes to have an independent person but cannot identify someone from their network, Child Safety staff will meet with the child to explore who might be able to be an independent person, including the possibility of the family participation program undertaking the role

Prior to a meeting occurring, Child Safety staff will talk with the child or young person about their needs, goals and issues they would like to discuss during the meeting.

A child or young person may choose not to directly participate in a decision-making process or meeting that affects them. If this occurs, the child or young person's views should still be obtained on some or all of the decisions and matters to be considered.

If a meeting is due to occur and a child or young person chooses not to directly participate, Child Safety staff will explore alternative ways for the child's views to be expressed.

These may include:

- obtaining their views prior to the meeting,
- involving them for part of the meeting only
- organising teleconference facilities so that the child or young person can listen to the meeting from and provide input if they wish
- holding a separate, formal or informal meeting with the child or young person
- making a recording of the child or young person to be played during the meeting
- presenting drawings or other art work the child has created which express their views regarding decision-making
- reading out during the meeting information the child or young person has written to inform the meeting process. This may include a piece of creative writing or a statement of their wishes.

Support Person

Children and young people have a right to nominate and be represented by a support person in order to gain greater access to participation in decision-making. A support person can be present to support the child or young person before, during and after formal meetings, but can also support the child or young person through decision-making processes where no formal meeting has occurred. The role of a support person is to:

- ensure that information is understood by the child or young person and to assist the child or young person to express their point of view and share information
- attend to the personal support needs of the child or young person
- help ensure that children and young people are provided with opportunities to participate in decision-making processes in matters affecting their lives
- help the child or young person to understand the case planning process and, in particular, the contents of their case plan
- provide children and young people with access to review and appeal mechanisms should they feel that their participation was not promoted.

A support person:

- may be from the child's safety and support network, the Office of the Public Guardian, or CREATE
- is not a legal advocate or representative and should not intervene in, or influence, case planning processes or outcomes
- should remain focused on the participation rights of a child or young person, the processes and procedures which contribute to these rights, and the safety and care needs of a child or young person.
- Is different to an Independent Person for and Aboriginal or Torres Strait Islander child, who has a legislated role.

Review and feedback with the child or young person

After each meeting, Child Safety staff will provide the child or young person with opportunities to review the outcomes of the meeting. This may involve:

- providing the child or young person with information about the outcomes of the meeting and the opportunity to debrief
- discussing their satisfaction with their level of participation during the meeting and how their participation could have been improved.
- making the child aware of review mechanisms and their right to make a complaint, where applicable.

Complaints

Should a child or young person have a complaint regarding their level of participation in a decision-making process or the decision, the Child Safety officer must inform the child or young person of the internal and external complaints mechanisms available to them in accordance with Child Safety's policy and procedures (refer to Policy Complaints Management). For a child or young person who may prefer to write or draw their complaint, they should be provided with a copy of the 'Got a problem?' form, a complaints resource for children to have their voices heard, available on the Child Safety intranet.

If resolution cannot be achieved through existing line management processes and/or other internal mechanisms, the child or young person must be informed of the external processes available to them.

The Office of the Public Guardian (OPG)

The function of the Public Guardian is to provide oversight functions and powers for children and young people in foster care, kinship care or residential care. Every child or young person in the child protection system is entitled to a Community Visitor or a Child Advocate - Legal Officer. All children on child protection orders (whether in the care of their parents or not), are entitled to advocacy services from the OPG. The child advocacy function provides children and young people within the child protection system an independent voice, ensuring their views and wishes are taken into consideration when decisions are made that affect them. The OPG functions include:

- helping a child or young person resolve disputes and make complaints if they have been treated unfairly or are unhappy with a decision made about their time in the child protection system
- supporting children and young people in legal meetings with Child Safety to make sure their need are being met and their views and wishes are being heard
- supporting children and young people to attend and speak for themselves in a court or tribunal.

Queensland Civil and Administrative Tribunal (QCAT)

Under the *Queensland Civil and Administrative Tribunal Act 2009*, any child or young person under 18 years of age can file a review application to Queensland Civil and Administrative Tribunal (QCAT). QCAT provides merit reviews of reviewable decisions about services for children. Child Safety staff will provide children with information about the reviewable decisions that affect them, and the child's right to have such decisions reviewed through QCAT.

Under the *Child Protection Act 1999*, a child can apply for a review of decisions that:

- decide in whose care to place a child under a child protection order granting the chief executive custody or guardianship
- not informing a child's parents of person in whose care the child is and where the child is living
- refusing to allow, restricting or imposing conditions on contact between a child and the child's parents or a member of the child's family
- removing a child or young person from the care of a carer
- arranging for an interstate welfare authority to assume custody or guardianship of a child.

Version history

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