

The review of placements for children and young people in out-of-home care

Statutory guidelines for designated agencies

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Purpose of these guidelines

These guidelines have been designed to assist designated agencies develop procedures in line with requirements of the *Children and Young Persons (Care and Protection) Act 1998* ('the Act').

Legislation

Children and Young Persons (Care and Protection) Act 1998

Section 150

- 1) For the purpose of determining whether the safety, welfare and well-being of a child or young persons who has been placed in out-of-home care by an order of the Children's Court is being promoted by the placement, the designated agency having responsibility for the placement of the child or young person is to conduct a review of the placement in accordance with this section.

Section 150

- 2) A review is to be conducted:
 - a) in the case of a child or young person who is in out-of-home care pursuant to an interim order of the Children's Court- within 4 months after the interim order is made, and
 - b) in the case of a child or young person who is in out-of-home care pursuant to a final order of the Children's Court:
 - i) in the case of a child less than 2 years of age- within 2 months after the final order is made and thereafter within every period of 12 month after the final orders is made, or
 - ii) in the case of a child not less than 2 years of age- within 4 months after the final order is made and thereafter within every period of 12 month after the final orders is made, and
 - c) after the death of a parent of the authorised carer, and
 - d) after an unplanned change of placement.

Section 150

- 3) Subsection (2) does not prevent the conduct of more frequent reviews.

Section 150

- 4) A review is to be conducted in accordance with guidelines prepared by the Children's Guardian.

Section 150

- 6) Despite subsection (1), a review may be conducted at any time by the Children's Guardian.

(Note: this provision has not commenced and is not in force).

Definitions

Care plan

The Act defines a "care plan" as a plan to meet the needs of the child or young person that must be presented to the Children's Court when an application is made to remove the child or young person from the care of his or her parents before final orders are made.

Care plans are tools which formalise agreements between parties that aim to address issues of concern affecting the child or young person. The Care Plan is developed by the NSW Department of Communities and Justice.

The Act specifies specific requirements including that plans must outline¹:

- a. the allocation of parental responsibility between the Minister and the parents of the child or young person for the duration of any period for which the child or young person is removed from the care of his or her parents,
- b. the kind of placement proposed to be sought for the child or young person, including:
 - (i) how it relates in general terms to permanency planning for the child or young person, and
 - (ii) any interim arrangements that are proposed for the child or young person pending permanent placement and the timetable proposed for achieving a permanent placement,
- c. the arrangements for contact between the child or young person and his or her parents, relatives, friends and other persons connected with the child or young person,
- d. the agency designated to supervise the placement in out-of-home care,
- e. the services that need to be provided to the child or young person.

Case plan

A case plan is an accurate and up to date record of decisions, services and actions that will be taken to support the needs of the child or young person. They provide the structure for ongoing work with children and young people and guide what needs to occur to address the child's protection and care needs.

Case plans should be developed from the beginning of an agency's involvement with a child or young person and set out the goals, objectives and tasks with clearly identified responsibilities and timeframes for completing casework tasks. Case plans should be sufficiently detailed that a new worker who is not familiar with the child or young person's circumstances, understands casework activities that need to occur and who is responsible for completing these actions.

Case planning process

The case planning process is an ongoing process that involves a cycle of assessment, planning, implementation, and review.

¹ Section 78 of the Children and Young Persons (Care and Protection) Act 1998

Permanency planning

Section 78A of the Act defines “permanency planning” as:

- 1) making of a plan that aims to provide a child or young person with a stable placement that offers long-term security and that:
 - a. has regard, in particular, to the principles set out in section 9 (2) (e) and (g), and
 - b. meets the needs of the child or young person, and
 - c. avoids the instability and uncertainty arising through a succession of different placements or temporary care arrangements.

Permanency planning recognises that long-term security will be assisted by a permanent placement.

Permanency planning principles

The permanent placement principles as outlined in Section 10A(3) are as follows:

1. if it is practicable and in the best interests of a child or young person, the first preference for permanent placement of the child or young person is for the child or young person to be restored to the care of his or her parent (within the meaning of section 83) or parents so as to preserve the family relationship,
2. if it is not practicable or in the best interests of the child or young person to be placed in accordance with paragraph (a), the second preference for permanent placement of the child or young person is guardianship of a relative, kin or other suitable person,
3. if it is not practicable or in the best interests of the child or young person to be placed in accordance with paragraph (a) or (b), the next preference is (except in the case of an Aboriginal or Torres Strait Islander child or young person) for the child or young person to be adopted,
4. if it is not practicable or in the best interests of the child or young person to be placed in accordance with paragraph (a), (b) or (c), the last preference is for the child or young person to be placed under the parental responsibility of the Minister under this Act or any other law,
5. if it is not practicable or in the best interests of an Aboriginal or Torres Strait Islander child or young person to be placed in accordance with paragraph (a), (b) or (d), the last preference is for the child or young person to be adopted.

Significant person

A significant person is someone that the child or young person describes as being important to them. A significant people can provide support to the child or young person, or may advocate for them on their behalf. Section 9(f) of the Act lists significant people as including birth or adoptive parents, siblings, extended family, peers, family friends and community.

Principles that underpin these guidelines

These guidelines have been developed having regard to the following principles of the Act²:

- The safety, welfare and well-being of the child or young person is paramount.
- Where children and young persons are able to form views about their safety, welfare and well-being they must be given an opportunity to freely express those views.

² Section 9 of the Children and Young Persons (Care and Protection) Act 1998

- The child or young person's culture, disability, language, religion and sexuality must be taken into account.
- A child or young person placed in out-of-home care is entitled to a long term placement that is a safe, nurturing, stable and secure environment.
- Children and young persons in out-of-home care are entitled to retain relationships with people significant to them.

Designated agencies must apply these principles when reviewing the placement of a child of young person in out-of-home care in accordance with the Act and these Guidelines.

When should a placement review be conducted?

Minimum requirements under the legislation³

Age	Type of Children's Court order	When/ frequency
Less than 2 years of age	Interim order	Within 4 months of the date of the interim order
Less than 2 years of age	Final order	Within 2 months of final order and thereafter within every 12 month period
Aged 2 years of age or older	Interim order	Within 4 months of the date of the interim order
Aged 2 years of age or older	Final order	Within 4 months of the final order and thereafter within every 12 month period

Other circumstances when a review must take place

- After the death of a parent or authorised carer, and
- After an unplanned change of placement
- At any other time as required by the child or young person's circumstances.

Additional placement reviews

Section 150(3) of the Act allows for additional placement reviews to take place. It may be appropriate to conduct more frequently reviews. Some examples may include:

- during the early stages of a placement to determine assessments and interventions required.
- for younger children as these needs may change more frequently as they move through developmental stages.
- during a time of placement instability to assess what additional supports may be required.
- prior to a planned placement change to plan for this process.
- when a young person is preparing to leave care to provide more frequent reviews for changes to circumstances that frequently occur.

It is important that this process is guided by what is in the child or young person's best interests.

Purpose of placement reviews

A placement review provides a further opportunity to assess whether:

- the child or young person continues to be safe in their placement.

³ Section 150 of the Children and Young Persons (Care and Protection) Act 1998

- the child or young person's needs can be met in their placement and it continues to be suitable.
- the goals and objectives outlined in the child or young person's case plan have been met
- the goals and objectives are still relevant and appropriate.
- the supports and services currently provided to the child or young person are still relevant and appropriate.
- there is a need for additional supports or services.

Regular placement reviews help to:

- remove uncertainty for the child or young person by inviting their involvement in the process and communicating to them decisions that are made.
- promote stability of the placement by identifying and addressing any needs to reduce possible problems.
- provide guidance to the child or young person, carer, family and other significant others the plan for near future.

Who should participate in the placement review?

Individuals who should be invited to participate are those who will:

- be affected by the outcomes of the placement review, and therefore have the right to be a part of the decision-making process, or
- provide necessary information for reviewing and assessing the placement

Maintaining confidentiality is also important. The child or young person may not want to disclose certain information to particular people. It is important that this is taken into account when planning the review.

The child or young person

The designated agency should offer the child or young person a choice on how they participate in the placement review; it may not necessarily mean attendance at the case conference if this is not in the child or young person's best interests or is against their wishes. The child or young person should still be afforded the opportunity to participate in other ways, for example only attending for part of the case conference, submitting their views in another way such as providing a written statement, or telling a trusted adult what they want to say. Consideration on how the child or young person participates must take into account their right to give their opinion whilst balancing this with their age and maturity. This must be assessed on an individual basis.

Carers

People who are responsible for the day-to-day care of the child or young person should be invited to participate in the placement review. Their involvement is important because they are able to provide information about the child or young person and how the placement is progressing. It is important that placement reviews consider the needs of children and young people's caregivers, and any supports they may require. This includes respite carers and residential care workers, where applicable.

Dependent on the circumstances, it may also be relevant to invite previous carers especially if there has been a placement change since the last review or these people remain involved in the child or young person's life.

If consideration is to be given or there is a plan to change the placement for the child or young person, the prospective carer/s should be invited.

Parents

Wherever possible, parents should be supported to remain involved in the child or young person's life. They have the right to be provided information relating to the child or young person's

placement⁴, and information about their progress and development.⁵

Dependent on the individual circumstances of the child or young person, the definition of “parents” may include birth parents, stepparents, adoptive parents or the person/people who previously had parental responsibility of the child or young person.

Other significant others

The child or young person should identify people who are significant to them and who the child or young person want to remain involved in their lives. This can include other family members such as siblings, grandparents, aunts and uncles, peers or mentors, family friends or other community members (including cultural representatives) who have played an important role in their life.

Designated Agency representatives

It is important that representatives from the designated agency attend the review. These representatives should include people who supervise the placement such as the case worker or carer support worker and someone with the delegation to approve decisions that will be made during the review such as a manager.

Other professionals

Other professionals that are involved with the child or young person who should be invited to participate can include:

- educational representatives. This may be their teacher, support teacher, OOHC teacher, year adviser or someone the child or young person has a connection to.
- health practitioners/providers
- other support services representatives such as counsellors, disability support workers or mentors

Support person

The child or young person may request a support person to help them through the placement review process. This may be someone already listed above.

Placement reviews at a case conference

Ideally, a placement review should be a formally constituted case conference hosted by the designated agency and chaired by the person who has decision-making authority.

When there is no case conference

There may be circumstances where it is not feasible or appropriate to hold a case conference. In these circumstances alternative methods to conduct the review should be considered and the reasons must be documented.

The designated agency must still seek, record and take into account the view of all relevant people during the assessment process and a case plan should be developed and distributed to each participant. In this circumstance the reasons for why decisions were made should be clear.

⁴ Section 149B-K of the Children and Young Persons (Care and Protection) Act 1998

⁵ Section 163 of the Children and Young Persons (Care and Protection) Act 1998

Placement review process

Planning

The planning process should consider:

- Level of Participation by invitees. Along with the child or young person's wishes, the agency should consider what information is needed to complete the placement review and how best to obtain this information.
- When and where to hold the case conference. Consideration should be given as to the best location to host the case conference at a time that is most suitable. Consideration will need to be given to who will be attending when making these decisions.
 - For example, holding it at an office where the child or young person may have bad memories may not be sensitively addressing the child or young person's needs.
 - Hosting case conferences during school hours may mean a child or young person cannot attend, or if they do, they miss out on school, or may feel the need to explain to peers the reason for their absence.
- Support offered prior to or at the case conference: The designated agency may need to assist with the participation of some people. This might include providing transportation, interpreters, support people or alternative ways to participate such as via teleconference.
- Collating all supporting information that will be needed for the case conference. This could include getting a good understanding of the child or young person's background and current circumstance, obtaining updates from those not attending, obtaining information about options available to address particular issues or needs that have already been raised for discussion at the case conference and preparing documents such as invitations, agenda and attendance sheets.

Assessment

It may be useful to ensure that any health, educational or developmental assessments or check-ups are conducted prior to the placement review so they can inform the child or young person's case plan. Ideally, carer reviews should be undertaken alongside the placement review in order to consider any additional supports the caregiver may need.

Further assessment will take place at the case conference where participants will be able to share information and reach decisions relating to future goals and ways to achieve these goals.

What the placement review should cover

Agencies will have their own case plan format and tools, but case plans should address all aspects of a child's care:

- health and education,
- social and emotional development,
- identity and connections to culture,
- relationships and contact with family and people who are important to the child or young person,
- behaviour support, and
- planning for leaving care and transitioning to independence.

Once the case conference has occurred and all relevant parties have been able to contribute to the

decisions, it is important to record the decisions that have been made. The plan should be provided to relevant parties including the child or young person and other participants. The format of the case plan can be tailored to meet the needs of the designated agency or for individual circumstances.

To ensure the effective implementation of the plan, it is important that the details in the plan include:

- Goals for different areas of the child or young person's life that address their needs,
- A breakdown of tasks that need to occur to assist in achieving each of the goals,
- Identify the timeframe for each of the tasks to be completed, and
- Identify who is responsible for completing each of the tasks.

Review

The case plan should guide practice and therefore progress against the plan needs to be reviewed regularly. The review serves a number of purposes including:

- Ensuring the identified tasks are completed within the agreed timeframes,
- Considering whether case plan goals are being reached, and
- Considering whether the case plan goals continue to be relevant and appropriate in meeting the child or young person's needs.

The structure of the review can occur in a variety of ways but needs to be guided by a key person such as the case worker from the designated agency. The frequency of case plan reviews will depend on the circumstances of the child, but reviews should occur at least annually.

Office of the Children's Guardian

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