

Child Safety POLICY

Title: Interstate transfers of child protection orders and proceedings

Policy No: 401-5

Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety) is committed to maintaining the safety and support needs of children as they move between Queensland and other states, territories and New Zealand.

The *Child Protection Act 1999* (the Act) provides for the transfer of orders and proceedings between Queensland and other states and territories and between Queensland and New Zealand.

The Interstate Child Protection Protocol October 2021 (the Protocol), agreed to by all states, territories and New Zealand, provides guidelines for requesting assistance with case work and the transfer of orders and proceedings.

For child protection authorities from other states, territories and New Zealand transferring orders or proceedings into Queensland or requesting case work assistance by Queensland, the following applies:

- when a child subject to an interstate child protection order, or subject to an interstate application or proceedings for a child protection order, is placed in Queensland, case management responsibility remains with the sending state until such time as the order or proceeding is formally transferred to Queensland in accordance with the relevant sections of the Act and the Protocol
- until an order or proceeding is transferred, or if the order or proceeding is unable to be transferred, the sending state can formally request that Queensland provide case work assistance. Case management and financial responsibility along with the administration and enforcement of the order or proceedings remain with the sending state, and
- when a child subject to an interstate child protection order, or subject to an interstate application for a child protection order or proceeding, moves to Queensland with registered carers from interstate, and the sending State is seeking to transfer the child's order, the carers must apply to become approved carers (foster or kinship) within the Queensland system.

For Child Safety to transfer orders or proceedings out of Queensland, the following applies:

- when a child subject to a Queensland child protection order, or application for a child protection order, is placed in another state, territory or New Zealand, case management responsibility remains with Queensland until such time as the order or proceedings are

formally transferred to the other state, territory or New Zealand in accordance with the relevant sections of the Act and the Protocol, and

- until an order or proceedings are transferred, or if the order or proceedings are unable to be transferred, Queensland can formally request that the other State, Territory or New Zealand provides case work assistance. Case management and financial responsibility along with the administration and enforcement of the order or proceedings remain with Queensland.

In all matters concerning interstate transfers, Child Safety staff are to contact the Interstate liaison team, Court Services.

Child Safety is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Child Safety has an obligation to take action to ensure the interstate transfer of child protection orders and proceedings occurs in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country will be a key consideration when managing interstate transfers of child protection orders and proceedings.

Principles:

- The safety, wellbeing and best interests of a child, both throughout childhood and the rest of the child's life, are paramount.
- Child Safety staff will act and make decisions in a way that is compatible with human rights and obligations under the *Human Rights Act 2019*.
- Every child has a right to protection from harm.
- Decisions about case management and case work responsibility should be made in a timely manner, having regard to the best interests of the child and to ensure coordinated decision-making and service delivery.
- The child has a right to be placed in a care environment that best meets their needs, is most culturally appropriate and maintains relationships with their family and community.
- The child has a right to be consulted about, and to take part in making decisions affecting their life (having regard to the child's age or ability to understand), particularly decisions about where the child is living and contact with the child's family.
- The five elements of the Aboriginal and Torres Strait Islander child placement principle (prevention, partnership, placement, participation and connection) under section 5C of the Act, apply to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child.
- It is desirable that an order relating to the protection of a child is to have effect and to be enforced in the State in which the child resides.

Objectives:

This policy aims to ensure the appropriate safety and support is provided to children and young people as they move between Queensland and other States, Territories, and New Zealand.

Scope:

This policy relates to a child subject to either a Queensland child protection order or an interstate child protection order and/or related child protection proceedings.

Roles and Responsibilities:

Refer to the Protocol and the Child Safety Practice Manual, Engage with Other Jurisdictions for responsibilities relevant to the interstate transfers of child protection orders.

Authority:

Child Protection Act 1999, sections 206-210, 216, 221-222, 224, 227, 231, 234, 235, 238.

Delegations:

Refer to instruments of delegation for delegations relevant to case planning decisions.

Refer to the financial delegations schedule for relevant financial delegations.

Records File No.: CHS/03378
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Office: Office of the Chief Practitioner
Help Contact: Child Protection Practice

Links:

Related Legislation

Human Rights Act 2019

Related Government Guidelines

Interstate Child Protection Protocol October 2021

Related policy

Case planning (263)

Rescinded Policy

Interstate transfers of child protection orders and proceedings (401-4)

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