

Child Safety POLICY

Title: Obligations, actions and responsibilities upon the death of a child in care

Policy No: 421-4

Policy Statement:

The Department of Child Safety, Seniors and Disability Services (Child Safety) is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, Child Safety has an obligation to act and make decisions 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 in actions taken by Child Safety staff. Child Safety recognises and respects Aboriginal and Torres Strait Islander peoples' right to practise cultural customs following the death of an Aboriginal or Torres Strait Islander child.

The powers, duties and responsibilities of the chief executive, Child Safety, or other suitable person for a child, authorised by the *Child Protection Act 1999* (the Act), cease to operate upon the death of:

- a child in care, or
- a child subject to a child protection order granting guardianship to a suitable person or permanent guardian.

In all circumstances, the child's parents are responsible for matters regarding the post-death care of the child's body and belongings. Child Safety will immediately inform the child's parents of the child's death. This will allow the parents to assume responsibility for practicalities relevant to the handling of the child's body, and subsequent funeral arrangements, should they wish to do so.

Whilst every effort will be made to locate and advise both parents immediately, if this is not possible, one parent is able to assume responsibility for matters following the child's death.

If no parent can be located, or both parents are unable or unwilling to make decisions after the child's death, the CSSC manager will consult the OCFO lawyer to discuss the requirements for an application to the Supreme Court of Queensland for an order to attend to matters relevant to the child's circumstances.

Support and assistance will be offered to parents, siblings, long-term guardians and permanent guardians, carers and their family members, and staff affected by the death of a child in care.





The death of a child in care, regardless of the cause, or where the death occurred, is a reportable death under the *Coroner's Act 2003*. Child Safety is required to undertake a Systems and Practice Review of service delivery if, at the time of child's death, the child was in the custody or guardianship of the chief executive (Chapter 7A of the Act).

Principles:

- The views of the child expressed before death, having regard to the child's age and ability to understand, and those of the child's family are considered and communicated.
- Action taken by Child Safety staff will aim to maintain family relationships, and be sensitive to individual rights, and ethnic, religious and cultural values, where appropriate.
- Child Safety staff will seek cultural advice to ensure that consideration and sensitivity is given to cultural protocols and practices.
- With the family's agreement, Child Safety will help the family receive support from an appropriate Aboriginal or Torres Strait Islander community agency and enable them to make decisions relevant to the death of an Aboriginal or Torres Strait Islander child.
- Child Safety's actions on behalf of, and communication with, parties affected by the death of a child in care, including the child's parents, siblings, long-term guardians, permanent guardians and carers and their family members, will be supportive and carried out with sensitivity.
- 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*.
- 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 the standard of active efforts to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child.


Objectives:

This policy aims to clarify the obligations, actions and responsibilities of Child Safety staff upon the death of a child in care.

Scope:

This policy refers to the death of a child who at the time of their death was in care and/or was subject to:

- an assessment or child protection care agreement
- an assessment order
- a temporary custody order
- an adoption care agreement or adoption consent or dispensation of consent
- a child protection order granting custody or guardianship to the chief executive, or other suitable person.



The term 'carer' within this document refers to foster carers, kinship carers, provisionally approved carers and residential care staff.

Roles and Responsibilities:

The roles and responsibilities of Child Safety staff upon the death of a child in care are outlined in the Child Safety Practice Manual, Support a child in care, and associated resources.

Authority:

Child Protection Act 1999, sections 5A, 5B, 5C, 5E, 5F, 7, 11, 12, 13, 74, 82(1), 83A, 122, 159P and Chapter 7A.

Delegations:

Refer to instruments of delegation for delegations relevant to end-of-life decision-making and systems and practice review following the death of a child in care.

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Office:	Office of the Chief Practitioner
Help Contact:	Child Protection Practice

Links:

Procedures

Child Safety Practice Manual

Related Legislation

Child Protection Act 1999

Coroner's Act 2003

Human Rights Act 2019

Related policies

Child Related Costs (645)



Critical Incident Reporting

Decision making about end-of-life medical treatment for a child in care (420)

Systems and Practice Reviews

Memorandum

Memorandum of Understanding concerning Management of Complaints Between the Department of Child Safety, Youth and Women (the department) and the Office of the Public Guardian (OPG) August 2020

Rescinded Policy

421-2 Obligations, actions and responsibilities upon the death of a child in care

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