

Child Safety POLICY

Title: Supporting children with disability

Policy No: 644-2

Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (Child Safety) is committed to working with the National Disability Insurance Agency (NDIA) and its partners, mainstream government agencies, and service providers in the child protection, family support and disability sectors to ensure children with disability across all child protection phases have access to the reasonable adjustments and disability supports to which they are entitled.

Child Safety is committed to ensuring an appropriate service response to children and parents with disability across all child protection phases. This may include, but is not limited to:

- proactive use of translating and interpreting services, communication aids and equipment
- additional time and support allocated to Child Safety processes to enable adequate engagement with children and parents with disability
- appropriate placement matching resulting in care arrangements best suited to meet the child's disability needs
- additional measures to protect children with disability vulnerable to abuse and neglect
- pro-active support and coordination to access and make best use of National Disability Insurance Scheme (NDIS) plans and supports
- specialist clinical advice and coordination for children with high and complex disability support needs within the child protection system or at risk of entering the child protection system
- transition and post care support to young people with disability who are subject to a child protection order granting custody or guardianship to the chief executive and who are at high risk of homelessness
- support to access culturally appropriate disability service providers.

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 respond to children with disability 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 responding to Aboriginal and Torres Strait Islander children with disability.

Principles:

- The safety, wellbeing and best interests of the 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*.
- A child has a right to be protected from harm.
- A child's family has the primary responsibility for the child's upbringing, protection and development.
- The preferred way of ensuring a child's safety and wellbeing is through supporting the child's family.
- If a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the child.
- In protecting a child, the State should only take action that is warranted in the circumstances.
- All children will have access to the supports and services they require to reach their full potential.
- Children with disability should not be subject to child protection intervention due solely to their own or their parent's unmet disability support needs.
- Disability supports and services will complement, strengthen and sustain informal support networks within a person's home, family and community.
- Disability supports and services will be culturally appropriate and consistent with the child placement principle so that a child is able to know, explore and maintain their identity and values, including their cultural, ethnic and religious identity and values.
- The five elements of the Child Placement Principle (prevention, partnership, placement, participation and connection) under the *Child Protection Act 1999*, section 5C, apply to all decisions and actions for an Aboriginal or Torres Strait Islander child.

Objectives:

This policy aims to respond to the disability needs of children and ensure that:

- children with disability, their families and carers access the Child Safety services to which they are entitled
- children with disability who are subject to an order granting custody or guardianship to the chief executive are supported to access high quality, culturally sensitive, contemporary and evidence-based disability supports through the National Disability Insurance Scheme (NDIS)
- children with disability, their families and carers will experience an effective interface between Child Safety and the NDIS.

Scope:

This policy refers to children, their parents and carers across all child protection phases, including:

- intake - where a child with a disability is the subject of an intake enquiry or child concern report
- investigation and assessment - where a child with disability is the subject of a notification and an investigation and assessment is undertaken to assess the child's need for protection, including use of an assessment order and/or an assessment care agreement.
- ongoing intervention - through a support service case, intervention with parental agreement (including child protection care agreements) or a child protection order.

NDIS Early Childhood Early Intervention

When a child aged 0-6 in the custody or guardianship of the chief executive has a known or suspected disability or developmental delay, Child Safety will support the child to access ECEI services through the NDIS, including through an NDIS ECEI partner-in-community where one is available.

If, following engagement with an ECEI partner, full participation in the NDIS is recommended, Child Safety will support the child, their family and carers to access and participate in the NDIS.

Family support services funded by Child Safety that are working with families who have a child aged 0-6 with a known or suspected developmental delay may also support families to access Early Childhood Early Intervention (ECEI) services through the NDIS, including through an NDIS ECEI partner-in-community where one is available.

National Disability Insurance Scheme participation

The NDIS is responsible for funding reasonable and necessary supports that a person requires as a result of their disability.

Family support services funded by Child Safety that are working with families who have a child with a known or suspected disability or developmental delay are encouraged to support families to explore potential eligibility for, and seek access to, the NDIS.

Child Safety will support children who are subject to a child protection order granting custody or guardianship to the chief executive and who have a disability or developmental delay to access the NDIS. After access is confirmed, Child Safety will support the child, the child's family and carers through all stages of the NDIS process, including:

- access
- preparation for planning
- plan development
- plan implementation
- monitoring
- review.

For children subject to a support service case, intervention with parental agreement, a supervision or directive order or a child protection order granting long-term guardianship to a suitable person, Child Safety will assist and provide support to the child, their family and guardian, through all stages of the NDIS process, if requested.

NDIS Quality and Safeguards

Plan management and provider registration

When a child becomes a participant in the NDIS and is subject to a child protection order granting custody to the chief executive, Child Safety will recommend to the child's guardian and the NDIA that their plan be managed by the NDIA and that the service providers supporting them be NDIS-registered providers.

When a child becomes a participant in the NDIS and is subject to a child protection order granting guardianship to the chief executive, their plan will be managed by the NDIA and the service providers supporting them will be NDIS-registered providers*.

** In certain circumstances, Child Safety may choose an NDIS-registered plan manager (rather than the NDIA) to manage part of a child's NDIS plan. This may occur only when no suitable NDIS registered provider is available to provide a reasonable and necessary service to a child, or where a child has an existing relationship with a non-NDIS registered provider and transferring to an NDIS-registered provider to deliver the service would be detrimental to the child.*

NDIS (Restrictive Practices and Positive Behaviour Support) Rules 2018

Child Safety will support children who use challenging behaviours or behaviours of concern, who are participants of the NDIS and subject to a child protection order granting custody or guardianship to the chief executive, to access funding through the NDIS for the development and implementation of positive behaviour support plans by NDIS-registered specialist behaviour support providers.

Disability supports not funded by the NDIS

When a child is subject to a child protection order granting custody or guardianship to the chief executive and they are an NDIS participant, Child Safety will investigate and exhaust all NDIS support options before committing Child Safety funds for any disability-related services.

When a child who is subject to a child protection order granting custody or guardianship to the chief executive has a disability but is not eligible to access the NDIS, Child Safety will continue to meet their disability support needs as part of their case plan.

Roles and Responsibilities:

The roles and responsibilities of Child Safety staff in relation to the operation of this policy and supporting children with disability are outlined in the Child Safety Practice Manual and associated practice resources.

Guardianship and decision-making

The NDIS is a voluntary scheme. The *National Disability Insurance Scheme Act 2013* requires the parent or guardian of a child to consent to their involvement with the NDIS and to act as decision-maker in relation to the child's NDIS plan, as follows:

- when the child is subject to a child protection order granting short or long-term guardianship to the chief executive, the child will be supported to access the NDIS and the senior team leader will act as the decision-maker in relation to the child's NDIS plan
- when the child is subject to a child protection care agreement or an order granting custody to the chief executive, the parent or guardian of the child will act as the decision-maker in relation to the child's NDIS plan. Child Safety will work with the parent or guardian and support them through all stages of the process*
- when a child protection order grants long-term guardianship to a person other than the chief executive (long-term guardianship to a suitable person or a permanent care order), the long-term guardian will act as decision-maker in relation to the child's NDIS plan.

** In certain circumstances, Child Safety may make a request to the NDIA to become the NDIS decision-maker for a child in the custody of the chief executive for whom we do not hold guardianship. For example:*

- *if requested by the child's guardian*
- *if requested by the child*
- *if the child's guardian cannot be located*
- *where the chief executive has made an application for either short or long-term guardianship of the child and has interim custody of the child.*

Alternative care arrangements for children with complex disability support needs

Child Safety will take the following approach to supporting children who are unable, or who are at risk of being unable, to live in the family home due to their complex disability support needs:

- utilise escalation processes and specialist clinical advice and coordination to support the child and family to access all possible mainstream and NDIS support options to enable the child to remain at home
- provide referral and warm handover to relevant NDIS, Local Area Coordination and Early Childhood Intervention providers, and disability advocacy services.

Child Safety is party to the current State, Territory and Commonwealth government agreement about funding arrangements to support children who are unable to live in the family home due to their complex disability support needs. Children and families receive supports under the agreement based on their individual circumstances.

Aboriginal and Torres Strait Islander children

For an Aboriginal or Torres Strait Islander child, Child Safety (including when the chief executive is the Child's Representative) will make arrangements, with the child and family's agreement, for an independent person to facilitate their involvement in making significant decisions. The independent person may also be involved in the process of NDIS access, NDIS planning and sourcing of providers if requested by the child and family.

Authority:

Child Protection Act 1999

Delegations:

Refer to instruments of delegation for details of delegations under the *Child Protection Act 1999*.

Records File No.: Not applicable

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Office: Office of the Chief Practitioner

Help Contact: Child Protection Practice

Links:

Procedures

Child Safety Practice Manual

Principles to Determine the Responsibilities of the NDIS and Other Service Systems (“Applied Principles”)

NDIS transition and implementation (<https://www.csyw.qld.gov.au/NDIS>)

Related Legislation or Standard

Child Protection Regulation 2011

Human Rights Act 2019

National Disability Insurance Scheme Act 2013

National Disability Insurance Scheme (Children) Rules 2013

Related Policies

Case planning (263)

Decisions about Aboriginal and Torres Strait Islander children (641)

Delegating authority for Aboriginal and Torres Strait Islander children (647)

Investigation and assessment (386)

Intake (528)

Intervention with parental agreement (343)

Managing high risk behaviour (646)

Participation of children and young people in decision-making (369)

Positive behaviour support (604)

Support service case (406)

Support for children in the care of long-term guardians and permanent guardians (607)

Rescinded Policies

644-1 Supporting children and young person with disability

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