

# Child Safety POLICY

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

**Policy No:** 421-3

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## Policy Statement:

The Department of Children, Youth Justice and Multicultural Affairs (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.

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 OCFOS 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, 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 (section 246A 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 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, with the family's agreement.
- 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, 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 child placement principle (prevention, partnership, placement, participation and connection) under section 5C of the Act, apply to 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 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, 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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**Records File No.:** CHS/05233  
**Date of approval:** 06 July 2020  
**Date of operation:** 06 July 2020  
**Date to be reviewed:** 06 July 2023

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

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**Links:**

**Procedures**

Child Safety Practice Manual

**Related Legislation**

*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

**Rescinded Policy**

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

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Deidre Mulkerin

Director-General