



**the Children's
Guardian.**

Guidelines for Designated Agencies on the Review of Placements of Children and Young Persons in Out-of- Home Care

CONTENTS

1. The Legislation.....	3
2. Principles that underpin these guidelines.....	3
3. When must you do a placement review?.....	4
3.1 Minimum requirements under the legislation.....	4
3.2 Additional placement reviews.....	4
4. Why placement reviews are important.....	5
5. Who should participate in the placement review?.....	5
5.1 Placement reviews at a case conference.....	7
5.2 Where there is no case conference.....	7
6. What the placement review should cover.....	8
6.1 Permanency planning.....	8
6.2 Contact with family and other significant persons.....	8
6.3 Behaviour support/management.....	9
6.4 Issues of social, cultural or economic significance.....	9
6.5 Health.....	9
6.6 Immunisation.....	10
6.7 Education.....	10
6.8 Preparation for leaving care.....	10
6.9 Disclosure of placement information.....	11
7. Outcomes of the placement review.....	11
8. Keeping records.....	11
9. Definitions.....	11
9.1 Care Plan.....	11
9.2 Case Plan.....	12
9.3 Case planning.....	12
9.4 Permanency Planning.....	13
9.5 Significant Person.....	13
10. Appendix A: Table to record due dates for placement review.....	14

1. THE LEGISLATION

Section 150 of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) imposes a responsibility on designated agencies to regularly review the placement of children and young persons in out-of-home care.

The Act recognises the importance of placement reviews for promoting the child or young person's safety, welfare and well-being. Section 150(1) of the *Children and Young Persons (Care and Protection) Act 1998* states:

“For the purpose of determining whether the safety, welfare and well-being of a child or young person 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”.

Under Section 150(4) of the Act, designated agencies responsible for the placement must carry out placement reviews in accordance with these guidelines.

2. PRINCIPLES THAT UNDERPIN THESE GUIDELINES

These Guidelines have been developed having regard to the following principles of the Act¹:

- 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.
- The child or young person's culture, disability, language, religion and sexuality must be taken into account.
- Intervention into a child or young person's life must be the least intrusive option.
- The name, identity, language, cultural and religious ties of the child or young person should be preserved as far as possible.
- A child or young person placed in out-of-home care is entitled to a safe, nurturing, stable and secure environment. Arrangements should be made as early as possible.
- 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 or young person in out-of-home care in accordance with the Act and these Guidelines.

¹ Sections 9(1) to 9(2)(a)-(f) of the Act

3. WHEN MUST YOU DO A PLACEMENT REVIEW?

3.1 Minimum requirements under the legislation

Section 150(2) of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) sets out the following minimum requirements for reviewing a child or young person's placement.

If the child or young person is under an *interim order* of the Children's Court, the designated agency must review the placement ***within four months of the date of the interim order.***

If the child is ***less than two years old*** and is under a *final order* of the Children's Court, the designated agency must review the placement:

- within two months of the date of the final order, and
- within every 12 month period after the final order is made.

If the child or young person is ***aged two years or older*** and is under a *final order* of the Children's Court, the designated agency must review the placement:

- within four months of the date of the final order, and
- within every 12 month period after the final order is made.

In addition to the requirements above, the designated agency must review the placement following:

- the death of a parent or authorised carer, and
- an unplanned change of placement.

The minimum requirements are presented in the table at Appendix A of these guidelines.

3.2 Additional placement reviews

Section 150(3) of the Act permits additional placement reviews. It may be appropriate to conduct reviews more frequently in the early stages of a placement to assess interventions and adjust if necessary. For younger children it may be appropriate to continue to hold frequent reviews. It is important to be guided by what is in the child or young person's best interests.

It may also be appropriate to hold placement reviews at key times, such as prior to a planned placement change or if a placement is at serious risk of breakdown. At these times, the designated agency should review the support in place for the child or young person and assess whether additional support is required to meet the child or young person's needs.

4. WHY PLACEMENT REVIEWS ARE IMPORTANT

A placement review is an opportunity to assess whether:

- 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
- there is an ongoing need for the child or young person to receive wraparound² services
- additional wraparound services are required.

Instability and uncertainty are a common reality for children and young people in out-of-home care³. Regular placement reviews will:

- promote stability of the placement by identifying and addressing possible problems, and
- remove uncertainty for the child or young person by inviting their involvement in the review process and communicating decisions.

5. 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 part of the decision making process, or
- provide information necessary for reviewing and assessing the placement.

Participation is a requirement under the NSW Out-of-Home Care Standards. Participation of children and young persons is a requirement under sections 9(2)(a) and 10 of the Act.

The designated agency should offer the child or young person a choice in 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 against their wishes.

The United Nation provides the following guidelines when consulting the child or young person⁴:

- Young people aged 16 years and older are normally assumed to be sufficiently mature to make decisions, such as decisions relating to their caregivers.
- Children and young people aged between 14 and 16 are presumed to be mature enough to make a major contribution.

² Wraparound support services are the subject of a paper developed by the Department of Community Services. See *Out-of-Home Care Wraparound Support Services for Children and young persons*, DoCS Paper, April 2007, available online from www.community.nsw.gov.au.

³ 2007 Bessell, S and Gal, T, *Forming Partnerships: The Human Rights of Children in Need of Care and Protection*, Crawford School of Economics and Government, Australian National University

⁴ 2006 Provisional release, *UNHCR Guidelines on Formal Determination of the Best Interests of the Child*, United Nations High Commissioner for Refugees

- Children between 9 and 14 can meaningfully participate in the decision-making process, but their maturity must be carefully assessed on an individual basis. However, care must be taken with younger children and they may require specific assistance to ensure that they can express themselves clearly and freely.
- Children younger than 9 have the right to give their opinion and be heard. They may be able to participate in the decision-making procedure to a certain degree, but caution should be exercised to avoid burdening them by giving them a feeling of becoming decision makers.

The following people should participate in the placement review, as appropriate:

- the child or young person
- the child or young person's carer, including the immediate former carer if there has been a placement change since the last review
- the direct care worker, if the child or young person is in residential care
- the child or young person's parents and/or step-parents
- the child or young person's respite carer
- representatives from organisations providing wraparound services
- people significant to the child or young person, including birth or adoptive parents, siblings, extended family, peers, family friends and community⁵
- the caseworker that supports and supervises the placement
- the casework manager
- a school representative
- a support person for the child or young person, if requested by the child or young person. This may be someone already listed above.

If the child or young person is Aboriginal or a Torres Strait Islander, or comes from a culturally or linguistically diverse background, the designated agency should also invite a representative from the child or young person's community if this is appropriate.

Under section 12 of the Act, families, kinship groups, representative communities and organisations are to be given the opportunity to participate in significant decisions, where the child or young person is Indigenous.

The designated agency must make a reasonable effort to invite the participation of all relevant people. These efforts should be documented.

The designated agency may need to assist the participation of some people. This may include providing transportation, interpreters, support people or teleconferences.

⁵ Section 9(f) of the Act. The designated agency should ask the child or young person who in their life is a significant person ie who is important to the child or young person and who they want to be part of the placement review. **This need not be an adult.** A significant person may provide support to the child or young person, or advocate on their behalf.

5.1 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 a person who has decision-making authority.

The designated agency should send invitations to all participants before the scheduled meeting date, giving sufficient notice.

The designated agency should record:

- who was invited to the case conference
- who was not invited to the case conference, and why
- who attended the case conference
- who did not attend the case conference, and why
- the views of invited persons who did not attend the case conference.

There may be reasons not to invite certain people to a case conference, however, it may still be appropriate for the designated agency to seek and document those persons' views.

Where appropriate, the designated agency should allow the child or young person to decide whether or not they wish to attend the case conference. If the child or young person does not wish to attend, the designated agency should ask them to submit their views in a way that is comfortable for them, for example by a written statement or pictures or by telling a trusted adult what they want to say. These views should be documented and held with review records.

The meeting minutes should:

- record each person's views, including dissenting views
- note the date, time and location of the placement review
- record what aspects came under review, and
- the decisions that were made, who is responsible for action and time frames.

Each person involved in the review should be given the opportunity to sign the review report and each person who took part in formulating the report or who is identified in the review is to be given a copy of the review report. Such records will enable everybody involved in the child or young person's life to know what the plan is for that child or young person's care in the coming year.

5.2 Where there is no case conference

If a case conference is not appropriate or feasible, the designated agency may conduct a placement review using alternative methods.

The designated agency must document its reasons for not having a case conference to carry out the placement review.

The designated agency must still seek, record and take into account the view of all relevant people. The designated agency should also record what aspects came under review, the decisions that were made and responsibilities and time frames for action.

6. WHAT THE PLACEMENT REVIEW SHOULD COVER

Case file audits conducted by staff at the NSW Office for Children – the Children's Guardian are based on requirements under the legislation and as outlined in this section.

The placement review of a child or young person on an interim or final court order, should include the following:

6.1 Permanency planning

Permanency planning recognises that children and young people have a right to a permanent and stable home⁶.

Permanency for the child or young person is a goal of every care plan⁷, which is the document developed by the Department of Community Services for the courts to formalise the out-of-home care arrangements for the child or young person.

The designated agency supervising the placement should receive a copy of the care plan as this will form the basis of case planning⁸ and placement reviews.

Every placement review should include an assessment of whether the goals to achieve permanency are still being met.

If the child or young person has experienced a placement breakdown, the designated agency should review the reasons for the placement breakdown and develop strategies to prevent further unplanned placement changes. This is an important part of planning for permanency and stability.

6.2 Contact with family and other significant persons

- Whether current contact arrangements are satisfactory to the child or young person, the parents and other significant people and the authorised carer.
- Whether additional support is required to facilitate contact.

⁶ See section 9.4 of the Guidelines (page 13)

⁷ See section 9.1 of the Guidelines (page 11-12)

⁸ See section 9.3 of the Guidelines (page 12)

The designated agency must comply with any contact order made by the Children's Court under section 86 of the *Children and Young Persons (Care and Protection) Act 1998*.

6.3 Behaviour support/management⁹

- Details of any behaviour support or management issues/plans.
- Whether proper consent has been obtained for the use of restricted practices or psychotropic medication.¹⁰
- How the behaviour support/management plan, which may include use of restricted practices, is being monitored and reviewed.
- A review of the currently relevant psychological or psychiatric report on the child or young person, where required.

A doctor's prescription for psychotropic medication *is not an authority for the designated agency to administer psychotropic medication to the child or young person.*

6.4 Issues of social, cultural or economic significance

- Changes to social, cultural or economic circumstances of the child or young person or their family or foster carers.
- Details of any issues relating to the child or young person's culture and/or religion and how their cultural and religious identity is being supported in the placement.

6.5 Health

The designated agency must make sure that the physical, mental and emotional health needs of all children and young people in their care are assessed.

The placement review should include:

- details of the child or young person's most recent general health check
- dental health and any dental needs
- specialist assessments, including assessments of the child or young person's wellbeing, and
- details of how identified needs are being addressed.

⁹ See *Guidelines for designated agencies for developing a behaviour management policy*, CG paper, available online from www.kidsguardian.nsw.gov.au

¹⁰ See *Procedures for the Use of Psychotropic Medication for a child or young person in out-of-home care*, DoCS Paper, September 2006, available online from www.community.nsw.gov.au

6.6 Immunisation

- Details of the child or young person's immunisation history¹¹.
- Is there an immunisation record on the child or young person's file? If not, what efforts are being made to obtain one?
- If vaccination is incomplete or records are not available, will the agency arrange for the child or young person to undergo an age-appropriate catch up course of vaccination?

For more information, refer to the *Australian Immunisation Handbook*, available online from www9.health.gov.au/immhandbook/.

The designated agency must ensure the child or young person's immunisations are up-to-date.

6.7 Education

A review of the child or young person's education should include:

- educational progress
- support requirements for school attendance and homework
- assistance if the child or young person is experiencing any difficulties eg bullying
- issues raised by the school representative
- issues highlighted in recent school reports
- funding requirements related to the child or young person's education.

6.8 Preparation for leaving care

Planning for leaving care to live independently should be a part of every placement review from when the child or young person is aged 15 years and over.

Planning for leaving care should include:

- education
- vocational training
- income
- financial management
- nutrition
- accommodation
- health
- legal rights and responsibilities
- the risks of alcohol and drugs, and
- safe sex practices.

¹¹ For information on the National Immunisation Program Schedule see www.immunise.health.gov.au.

Young people also need to know how to access and use services within their community.

6.9 Disclosure of placement information

The designated agency must consider the decision to provide placement information at each placement review, in accordance with legislation¹² and CG Guidelines¹³.

The designated agency must make it clear at the placement review that the decision to disclose or not disclose placement information is the responsibility of the designated agency.

7. OUTCOMES OF THE PLACEMENT REVIEW

The outcomes of a placement review form the child or young person's new case plan. Each invited participant should receive a copy of the case plan.

The designated agency must file a copy of the case conference minutes or placement review report and the new case plan on the child or young person's file.

The new case plan will be the subject of the child or young person's next placement review.

8. KEEPING RECORDS

Placement reviews are a significant part of a child or young person's time in care and contribute to their life story.

Placement review records will allow the child or young person to know how their safety, welfare and well-being was being advanced, who in their life was part of their time in care and their level of involvement.

For these reasons, it is important for the designated agency to keep accurate and comprehensive records of the placement review process.

9. DEFINITIONS

9.1 Care Plan

The Act defines a "care plan" as a plan to meet the needs of a child or young person:

(a) that is developed through agreement with the parents of the child or young person, or

¹² Section 149B-K of the Act

¹³ *Statutory Guidelines for Designated Agencies on Disclosing Out-of-Home Care Placement Information to Parents and Other Significant People*, CG Paper, available online from www.kidsguardian.nsw.gov.au

(b) that represents a set of proposals for consideration by the Children's Court.

The care plan is developed by the Department of Community Services.

Under section 78(2) of the Act, the care plan must state:

- who has parental responsibility for the child or young person
- what kind of placement is proposed for the child or young person
- contact arrangements between the child or young person and their family
- the designated agency that will supervise the placement, and
- what services will be provided to the child or young person.

Care plans are the tools which formalise agreements between parties that aim to address issues of concern affecting a child or young person. There are two types of care plans: registered and unregistered and the type of care plans used will depend on the risks that exist for the child or young person and the level of agreement between the relevant parties. The care plan used should be commensurate with the level of intervention required and appropriate to any court order being sought.

9.2 Case Plan

A case plan is an accurate and up to date record of the decisions, services and actions that will be taken to address the needs of a child or young person.

The case plan is developed from the start of involvement and is reviewed at regular intervals. The case plan needs to consider what is to be achieved through intervention and the intended outcome for the child or young person.

The case plan must be documented and identify the goal, objectives and tasks with clearly identified responsibilities and time frames. Goals must be realistic and achievable within the available resources and should be communicated to the child or young person as well as other key stakeholders.

9.3 Case planning

Case planning identifies strategies that will address the physical, emotional, educational, social, religious and cultural needs of a child or young person.

Case planning ensures that all parties are clear about the goal and objectives of intervention, the issues to be addressed and responsibilities of all parties for the tasks involved.

Case planning is an interactive process involving participation of all parties.

9.4 Permanency Planning

Section 78A(1) of the Act defines “permanency planning” as:

the 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 principle set out in section 9(2)(e), 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 involves giving early consideration to the long-term needs of a child in care based on a thorough assessment of family strengths, to determine whether or not there is a realistic possibility of restoration.

Apart from restoration to the birth family, permanency planning can also include:

- long-term care (including sole parental responsibility orders)
- relative/kinship care
- adoption.

9.5 Significant Person

A person 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.

10. APPENDIX A: TABLE TO RECORD DUE DATES FOR PLACEMENT REVIEW

INTERIM CHILDREN'S COURT ORDER

If a child or young person is in OOHC under an interim order of the Children's Court, the agency with case management responsibility must review the placement within 4 months of the order being made.

Date of interim order:

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Within 4 months

Date due for review:

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FINAL CHILDREN'S COURT ORDER

If a child or young person is in OOHC under a final order of the Children's Court, a review must be conducted within **4 months** of the final order being made (or **2 months** if a child is **under 2 years old**).

Date of final order:

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Within 4
months
(or, for under 2
year olds,
within 2
months)

Date due for review:

--	--	--

AND

A review conducted **after the death of a parent or authorised carer***

A review conducted **after an unplanned placement change***

Date of review:

--	--	--

AND

A review **every 12 months** from when the final order* was made:

Date due for annual review:

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*This includes final orders made under the *Children (Care and Protection) Act 1987*.