

Child Safety POLICY

Title: Decision making about end-of-life medical treatment for a child in care

Policy No: 420-6

Policy Statement:

The Department of Child Safety, Seniors and Disability Services (Child Safety) is committed to properly considering human rights relevant to obligations and responsibilities regarding end-of-life medical treatment for a child in care and to acting compatibly with human rights.

Decisions about end-of-life medical treatment may be required when a child has a life-threatening or life-limiting condition as a result of trauma, disability or an acute or long-term illness. While some decisions may be planned (as in the case of a child with a terminal illness), other decisions may be required in an emergency.

The safe care and connection of Aboriginal and Torres Strait Islander children with family, community, culture and country will be a key consideration when making decisions about end-of-life medical treatment for Aboriginal and Torres Strait Islander children. Child Safety will follow community protocols and practices to ensure that key family and community members are consulted, and meaningful consideration is given to their right to self-determination.

Actions and decisions by Child Safety about end-of-life medical treatment for a child in care will be informed by expert medical advice, will be timely and aimed at alleviating the child's pain and effective symptom management to support the child's comfort.


Child Safety will ensure the child receives appropriate support when diagnosed with a life-threatening illness. In making decisions about end-of-life medical treatment, Child Safety will provide the child with meaningful and ongoing opportunities to participate in decision-making and will take into account the child's age, culture, ability to understand and medical condition.

Child Safety will ensure that appropriate therapeutic supports are offered to the child and relevant stakeholders to support their emotional wellbeing.

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 that end-of-life decisions are made in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

Principles:



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- The safety, wellbeing and best interests of the child, both throughout childhood and the rest of the child's life, are paramount.
 - The child will be given ongoing and meaningful opportunities to participate in decision-making for end-of-life planning, and be allowed to decide whether to participate in decision-making, particularly if they have been assessed as 'Gillick competent' by a health practitioner.
 - Child Safety will uphold Aboriginal and Torres Strait Islander people's right to self-determination.
 - Child Safety will aim to maintain family relationships, and be sensitive to individual rights, and ethnic, religious and cultural values, where appropriate.
 - The five elements of the Aboriginal and Torres Strait Islander child placement principle (prevention, partnership, placement, participation and connection) of the Act, section 5C, apply to the standard of active efforts to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child.
 - When making significant decisions about an Aboriginal or Torres Strait Islander child, Child Safety will, in consultation with the child and family, arrange for an independent person to facilitate the child's and family's participation in decision making.
 - Child Safety will communicate in a supportive and sensitive manner with parties involved in end-of-life medical treatment and decision making for a child who has a life-threatening condition, including the child, parents, siblings, long-term guardians, permanent guardians, carers and their family members.
 - When making end of life decisions, Child Safety will also consider bereavement support for families, siblings, long-term guardians, permanent guardians, carers and their family members.
 - 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*.
 - Decision making by Child Safety will be informed by written medical advice, and if required, legal advice. Every effort will be made to reach consensus among all parties. Child Safety will record all decisions and actions on Child Safety files.

Objectives:

This policy aims to ensure that end-of-life decisions are made in accordance with legislative requirements under the Act and by an appropriately delegated officer.

Scope:

This policy refers to children in care for whom decisions are required for end-of-life medical treatment.

Roles and Responsibilities:

- For a child subject to an assessment or child protection care agreement, temporary custody order, assessment order or child protection order granting custody to the chief executive, Child Safety will immediately inform the parents, as the child's guardians, of the child's circumstances and the need for end-of-life decisions so that the parents may exercise their responsibility for end-of-life medical treatment decisions.
- While every effort should be made to locate both parents, it is sufficient to locate and inform either of the child's parents, as either parent can assume responsibility for such decision making.
- For a child subject to a child protection order granting guardianship to the chief executive, Child Safety is responsible for decision making about end-of-life medical treatment, but will be informed by the views of the child, the parents, their carer, and medical practitioners.

- For a child subject to a child protection order granting long-term guardianship to a suitable person, that person must assume responsibility for decision making about end-of-life medical treatment. Child Safety staff are responsible for seeking the views of the parents, the child, and medical practitioners.
- For a child subject to a permanent care order, the permanent guardian must assume responsibility for decision making about end-of-life medical treatment.
- For an Aboriginal or Torres Strait Islander child, Child Safety will apply the five elements of the Aboriginal and Torres Strait Islander child placement principle (prevention, partnership, placement, participation and connection).
- Child Safety staff will seek cultural advice from the family, community Elders, Independent Person and an Aboriginal and Torres Strait Islander person who holds cultural knowledge to ensure that consideration and sensitivity is given to cultural protocols and practices.
- Child Safety staff must provide the child with ongoing opportunities to participate and provide their views for their end-of-life treatment.
- Support and assistance will be offered to parents, siblings, long-term guardians, carers and their family members, and staff affected by a child with a life-threatening medical condition.
- Child Safety is responsible for ensuring that planning and consent for end-of-life decision making is undertaken in accordance with the procedures outlined in the Child Safety Practice Manual, Support a child in care, and related resources.

Authority:

Child Protection Act 1999, 5A, 5B, 5C, 5D, 5E, 5F, 5H, 7, 11, 12, 13, 73, 74, 75, 82(1), 83A, 97, 122, 159A-159H, 159M

Delegations:

Director-General

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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 Regulations 2011

Human Rights Act 2019

Related policies

Child Related Costs (645)

Critical Incident Reporting

Decisions about Aboriginal and Torres Strait Islander children (641)

Obligations, actions and responsibilities upon the death of a child in care (421)

Systems and Practice Reviews

Strategic

Strategic Plan 2023-2027

Rescinded Policy

420-5 Decision making about end-of-life medical treatment of a child in care.

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Director-General