Frequently Asked Questions

for carers and care services

Changes to Queensland's child protection legislation

supporting families changing futures

Queensland Government

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PART 1: Changes which commenced on 23 July 2018

Vaccinations

1. What are the changes in relation to vaccinations?

The legislative changes add vaccinations under the definition of "medical treatment" in s97 of the *Child Protection Act 1999* (the Act). This means children and young people in the chief executive's custody can be vaccinated at the request of Child Safety.

2. How is this different from the changes announced last year?

The 2017 changes related to children and young people under the guardianship of the chief executive. These changes remain in effect and enable carers and care services to make arrangements for vaccinations to occur. Where the vaccination provider requires a signed consent form, the carer or care service staff will attach the Authority to Care – Guardianship to the Chief Executive form as this provides evidence of their authority to arrange for the child's vaccination.

3. Can carers arrange vaccinations for children subject to a custody order using just an Authority to Care (ATC) form?

For children and young people who are subject to a custody order, either the parent or the delegated officer will need to complete a consent form for the carer to present to the health practitioner.

4. What is the carer's role in vaccinations?

Regardless of the type of child protection order the child is subject to, there will be times when a carer facilitates a child or young person's vaccination for example by making an appointment, taking the child or young person to the appointment, or discussing their vaccination history with the health practitioner etc. As the carer is not delegated to provide consent to the vaccination, prior authorisation must be obtained by the parent or delegated departmental officer, either through the Authority to Care form or through the consent form as mentioned above. Where possible and appropriate, parents should be invited to attend the appointment.

5. If Child Safety can request the vaccination, is parental consent still required?

Child Safety will always make active attempts to obtain a parent's consent, particularly when the parents retain guardianship. If the parent objects to their child being vaccinated, the grounds for their objection need to be discussed with the child's doctor. If the doctor advises that it is in the child or young person's interests to be vaccinated, Child Safety will provide consent.

Active attempts would include taking actions such as discussing the importance and schedule of vaccination with the parents; engaging the parents to gather information about the child or young person's vaccination history, including any previous adverse reactions; encouraging parents to attend the vaccination appointment and providing consent directly; or obtaining written consent from the parents (using the departmental immunisation consent form) for the child or young person to be vaccinated in accordance with the Queensland Immunisation Schedule.

6. Can children be vaccinated if they are under a temporary assessment order or a court assessment order?

Yes. The legislative changes include

vaccinations in the medical treatment a health practitioner may provide to a child or young person who is in the chief executive's custody. This means Child Safety can arrange for children or young people subject to a temporary assessment order, a court assessment order, a temporary custody order, or an interim and procedural order as well as children subject to a child protection order granting custody or guardianship to the chief executive to be vaccinated.

Given the short-term nature of temporary assessment orders and temporary custody orders, it is unlikely vaccinations will be sought during this time. In the rare event that a vaccination is required, active attempts to gain the parent's consent should be made. In the event consent cannot be obtained from a parent, Child Safety can consent to the vaccination.

7. What about children who are in Child Safety's custody under a child protection care agreement?

Child protection care agreements, technically give Child Safety the ability to seek medical treatment including vaccination. It is Child Safety's current policy position that when subject to a child protection care agreement a child can receive a scheduled vaccination only if the child's parent consents. This is because a child protection care agreement is not a child protection order.

If an emergent vaccination like tetanus is required, active attempts to obtain parent's consent should be made. In the event the parent is not contactable, or otherwise unable to provide consent, Child Safety can request the emergent vaccination which the medical practitioner will determine.

8. What about an assessment care agreement?

Under an assessment care Agreement the child or young person is not in the chief executive's custody under the Act and therefore medical treatment, including vaccination, cannot occur without the consent of the parent or guardian.

9. What departmental officers are delegated to sign a consent for vaccination?

A Senior Team Leader or Manager is delegated to consent to vaccinations.

10. What do I do if a child has had an adverse reaction previously?

Child Safety will seek the parents' advice about the child or young person's vaccination history or request a search of the Australian Immunisation Register. If the child or young person has had an adverse reaction to previous vaccinations, Child Safety or the carer (depending on who is taking the child to the appointment) should ensure the health practitioner is aware of this information to enable them to make an appropriate decision about the child's treatment.

11. What happens if a health practitioner refuses treatment?

The decision to undertake or refuse treatment is up to the health practitioner and all medical treatment must be reasonable in the circumstances. Should a health practitioner refuse treatment, Child Safety or the carer (depending on who is taking the child to the appointment) should seek advice as to why. A second opinion may be required.

12. What if a child who is now at school has had none of their scheduled vaccinations?

Child Safety will seek the parents' advice about a child or young person's vaccination history and request the history from the National Immunisation Register. If a child or young person has not had vaccinations in line with the Queensland Immunisation Schedule, Child Safety or the carer (depending on who is taking the child to the appointment) should ensure this information is provided to the health practitioner to enable them to make decisions about the child's treatment, including development of a Catch-Up Schedule.

13. Where can I find more information about vaccinations?

For more information about vaccinations and the vaccination schedule, you can access the Queensland Government vaccinations site at https://vaccinate.initiatives.qld.gov.au/.

Intervention with Parental Agreement (IPA)

14. What are the changes in relation to IPA?

The legislative changes do not substantially change current practice. What is clarified is that:

- An IPA can only be considered if a child will not be placed at immediate risk of harm (danger) if the child's parent withdraws their agreement
- A case plan for a child must include details about what is expected of the child's parents and the chief executive in carrying out the intervention including goals, action steps, outcomes and timeframes
- The Childrens Court may have regard to a decision to end an IPA when considering making a child protection order.

Temporary Custody Orders

15. What are the changes to temporary custody orders (TCOs)?

The legislative amendments clarify that an authorised officer can apply for a TCO even when a referral has already been made to the Director of Child Protection Litigation (DCPL).

This change makes it clear the DCPL, in addition to the chief executive, is able to review and determine the next steps during a TCO after a referral has been made.

Research

16. What are the changes in relation to research?

The changes more easily enable Child Safety to participate in research projects and to share data, with safeguards in place to ensure publication of information will not lead to the identification of a person known to Child Safety.

Protections for child witnesses

17. What is changing in relation to publishing details of child witnesses?

The changes increase protections for child witnesses, regardless of whether they are known to Child Safety. Where a child is a witness in a proceeding for a sexual or violent offence, a report of the proceeding or a 'related proceeding' such as a bail hearing, must not identify the child, unless the court has authorised the identifying information to be included in the report.

18. Why has the restriction on reporting been broadened to include violent offences?

Witnessing violence can be traumatic for any person, particularly a child. Cases have occurred where children and young people have been present when violent crimes have been committed and they have been identified in the media. The amendments clearly define what constitutes an offence of a violent nature.

Child Abduction (Amber) Alerts

19. What is changing in relation to the Queensland Police Service and the ability to issue Child Abduction (Amber) Alerts?

The changes will not affect current practices by either Police, Child Safety or carers. The changes make it clear that a police officer may use confidential information acquired under the Act (such as a description, age and a photograph but NOT details identifying the child is in care) to perform his or her functions as a police officer, such as issuing a child abduction alert.

PART 2: Changes proposed to commence in October 2018

Safe Care and Connection

20. What is Safe Care and Connection?

Safe Care and Connection is about ensuring Aboriginal and Torres Strait Islander children and young people who are in care are looked after in a way that maintains their cultural, community and family connections. The changes recognise that stronger connections result in better outcomes for Aboriginal and Torres Strait Islander children and young people, and acknowledges the long-term impact of child protection decisions on a child or young person's identity and connection to culture.

21. How does the Child Protection Reform Amendment Act 2017 (the Amendment Act) support Safe Care and Connection?

The Amendment Act introduces new principles to the administration of the Child Protection Act 1999 (the Act) to recognise the right of Aboriginal and Torres Strait Islander peoples to self-determination and acknowledge the long-term effects of decisions on identity and connection with family and culture.

It also incorporates the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle — prevention, partnership, placement, participation and connection — requiring the principles to be applied when a person is undertaking a function under the Act.

Another way the Amendment Act supports Safe Care and Connection will be through the introduction of a new power for the chief executive of Child Safety to delegate some or all of their functions and powers in relation to an Aboriginal and Torres Strait Islander child or young person to an appropriate Aboriginal and Torres Strait Islander entity. Whilst this amendment will enable delegations to be made as soon as the new legislation commences, Child Safety and the non-government sector are working closely together to ensure both are ready before any delegations are made.

22. What does self-determination for Aboriginal and Torres Strait Islander peoples mean?

Self-determination is the process by which a person or community controls their own life, so it will mean something different for every individual Aboriginal and Torres Strait Islander person and community.

Aboriginal and Torres Strait Islander peoples' participation and leadership in the decisions that impact the care and protection of their children and young people will promote continuity of family and community relationships. Therefore the most appropriate approach to answering this question is to respectfully engage with Aboriginal and Torres Strait islander people to seek their views.

23. What is happening with the Recognised Entity?

The amendments remove all references to a Recognised Entity. From the date of commencement, Child Safety and other agencies will no longer be required to consult with a Recognised Entity or have them participate in decision-making.

Funding from this program is transitioning to the new Family Participation Program, which changes the focus from supporting government to supporting families.

24. What is the Family Participation Program?

The Family Participation Program is focused on supporting Aboriginal and Torres Strait Islander families to fully participate in the child protection decisions that impact on them.

A main focus of the program is the facilitation of Aboriginal and Torres Strait Islander Family Led Decision Making, a process whereby authority is given to parents, families and children to solve problems and lead decision-making in a culturally safe space. This recognises the

child, young person and their families are the primary source of cultural knowledge in relation to the child or young person.

The ultimate goal of the Family Participation Program is to ensure the safety of children within family, community and culture.

25. How will I build my cultural capability and make my home culturally safe?

Building cultural capability is important for all those involved in child protection and everyone is encouraged to foster relationships with their local communities to develop and build cultural knowledge. This could include talking to community groups, the local Family Wellbeing Services, an Indigenous Health Service, or other services and people. It may also involve reading and researching information about the local community or communities the child or young person comes from.

Children and young people in care may feel more connected to their culture if it is openly and positively embraced through discussion, symbols (such as paintings, books and artwork) and ongoing relationships with family and community (where appropriate). As families and communities are the best source of cultural information as it relates to them, to fully embrace the Aboriginal and Torres Strait Islander Child Placement Principle, the child or young person and their family should be consulted about their culture and how to best provide a culturally safe environment.

26. What is an independent person for an Aboriginal or Torres Strait Islander child (independent person)?

An independent person (known in the legislation as an independent Aboriginal and Torres Strait Islander entity) is a person chosen by a child, young person, parent or their family as someone who will support the child or young person and their family's meaningful participation in decision-making.

27. Why was the concept of the independent person introduced?

The introduction of the independent person supports the right to self-determination and choice for an Aboriginal or Torres Strait Islander child or young person and their family. The child or young person and their family choose someone who they are comfortable with, is significant to their child or young person, and knows their community or language group.

The child or young person and their family also have the right to decide not to have an independent person facilitate their participation in decision-making processes. Importantly, Child Safety cannot impose an independent person on a family. An independent person is someone the child or young person and their family chooses to support them in their communication with the department and to meaningfully participate in decisions that may have an impact on a child or young person.

28. How will the role of independent person differ from the role the Recognised Entity currently has?

The Recognised Entity provided cultural advice in relation to a family to Child Safety (and in some cases other government agencies and the court) regarding child protection matters.

An independent person will support an Aboriginal or Torres Strait Islander child, young person and their family to optimise their participation in decision making processes for significant decisions. An independent person is chosen by the child or young person and their family. This recognises the child or young person and their families as the primary source of cultural knowledge in relation to the child, young person and family.

29. What are the significant decisions an independent person would be involved in?

A 'significant decision' about an Aboriginal and/or Torres Strait Islander child or young person is defined by the Act as 'a decision likely to have a significant impact on the child's life'.

The Act gives some examples, but is not an exhaustive list, because what is significant will depend on the unique circumstances of the case. However, significant decisions would always include:

- How to keep a child or young person safe (immediate safety planning during an investigation and assessment and placing a child in care)
- Whether a child or young person is in need of protection
- Case planning decisions including the type of ongoing intervention that will be undertaken with a family and how the child's needs will be met
- To refer a matter about an application for a child protection order for the child to the Director of Child Protection Litigation (DCPL)
- About where or with whom a child or young person will live - for children subject to a child protection care agreement or child protection order granting custody or guardianship to the chief executive (*Child Protection Act 1999*, section 83(2))
- Support service planning prior to the birth of an Aboriginal or Torres Strait islander child.

30. How can an independent person help facilitate a child, young person, or their parents or family's participation in a decision?

The role of the independent person will differ depending on each family and their situation.

Some examples of what the independent person may do include:

- Being present as a trusted person during a meeting with Child Safety, to support the child or young person and their family to ensure everything they wish to say has been shared
- Providing contextual cultural information about things impacting on a parent, to ensure we are accurately understanding the parent's motivations or actions when forming an assessment
- Helping the child, young person or family explain to Child Safety the cultural factors that may be impacting on a family's capacity to fully participate in discussions and decisions.

31. Who can be an independent person for a child, young person or their family?

Generally the person chosen by the child, young person or their family will be an Aboriginal or Torres Strait Islander person who is a representative of the child's community or language group, of significance to the child or young person and/or is an authority to speak on Aboriginal or Torres Strait Islander culture in relation to the child or young person's family.

The child, young person or family may also choose an organisation that includes Aboriginal or Torres Strait Islander persons and provides services to Aboriginal or Torres Strait Islander persons (this could include a service funded by Child Safety or the Commonwealth Government).

It is important for the safety and wellbeing of the child or young person their independent person does not pose a risk to them and will not have a significant adverse effect on their safety, psychological or emotional wellbeing, or that of another person. The intent of the legislation is not to unnecessarily limit or restrict the child, young person or family's choice of an independent person.

32. Does 'independent' mean the independent person for a child or young person has to take on a neutral position and cannot support a family's view?

'Independent' means independent from Child Safety. A child, young person or their family's independent person will support the child or young person and their family to be heard, and support and encourage their meaningful participation in decision making.

33. Will the independent person for a child, young person or their family have experience and knowledge in child protection?

The independent person is not required to be an expert in child protection. Child Safety staff will explain child protection processes and the role of the independent person to the child or young person, their family and independent person.

34. Could an independent person for a child also be nominated to be a provisionally approved carer or kinship carer for the child or young person?

Possibly. It may be an independent person is also best placed to provide care for the child or young person (e.g. the child's grandmother). When this occurs, Child Safety, the child or young person, their family and the carer should discuss the implications of undertaking both roles and whether this is in the best interest of the child or young person and the preference of the child or young person and their family. The person would need to satisfy suitability requirements for being provisionally approved. If being the child's carer presents a conflict of interest, this may need to be considered by the person either not being the family's independent person or by not being the child's carer.

35. Will an independent person for a child or young person be bound by the confidentiality provisions in the Act?

Yes. The Amendment Act includes the independent Aboriginal or Torres Strait Islander entity in the definition of a 'service provider' and therefore the independent person will have to meet relevant confidentiality requirements under the Act.

36. Will an independent person have contact with carers?

The independent person is there to support the child or young person and their family in decision-making. As a person of significance to the child or young person and their family, the independent person may be a key relationship that needs to be maintained for the child or young person to be connected to family or community. If you are unsure, it is always best you talk to your Child Safety Officer.

37. What is delegated authority?

The Amendment Act introduces a new power for the chief executive of the department to delegate some or all of their functions and powers in relation to an Aboriginal or Torres Strait Islander child or young person to an appropriate Aboriginal or Torres Strait Islander entity. This is known as delegated authority.

38. If the CE can delegate authority under the Act, does this mean all case work for Aboriginal and Torres Strait Islander families will transfer to Aboriginal and Torres Strait Islander organisations?

There are a range of options under consideration. Delegation can occur for individual children or groups of children, and can occur for one or more activities/decisions, such as case work or investigation and assessment. Further planning and scoping is being undertaken around delegated authority.

Permanency

39. What does permanency mean for children and young people in care?

Permanency is the experience of a child having stable relationships, living arrangements and legal arrangements, through their childhood and for the rest of their life.

The three dimensions of permanency are:

- Relational permanency – the experience of having positive, loving, trusting and nurturing relationships with significant others, which may include the child's parents, siblings, extended family and previous carers
- Physical permanency – stable living

arrangements for the child with connections to their community (for example their school, friends, doctor and extra-curricular activities)
- Legal permanency – legal arrangements associated with permanency, such as long-term guardianship child protection orders, adoption and family court orders.

All three dimensions must be taken into account in permanency planning for a child or young person.

40. Why have permanency principles been included in the legislation?

The principles promote decision making that prioritises timely permanency outcomes for children and young people; focus on relational, physical and legal aspects of permanency; and establish a hierarchy of preferred care arrangements for best achieving permanency for a child.

Achieving early permanent, stable care and legal arrangements for children in the child protection system, whether they are returning to their home or remaining in care, leads to better life outcomes for children (Fernandez & Maplestone, 2006). As outlined in the final report of the Queensland Child Protection Commission of Inquiry, the aim of case planning for children and young people in the statutory care system is to achieve a permanent, stable home.

41. Are there additional permanency considerations for Aboriginal and Torres Strait Islander children and young people?

Yes. Child Safety must consider the long-term effects of decisions on the identity of an Aboriginal and/or Torres Strait Islander child or young person and their connection with family, community and culture, as well as the right of Aboriginal and Torres Strait Islander peoples to self-determination.

For any permanency decision made or action taken in relation to an Aboriginal and/or Torres Strait Islander child or young person, Child Safety and the courts must also consider and apply all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle.

42. How will permanency for Aboriginal and Torres Strait Islander children and young people be supported?

The changes require Child Safety to place a stronger emphasis on ensuring an Aboriginal and/or Torres Strait Islander child or young person's case plan is consistent with the connection element of the Child Placement Principle. This recognises the importance of having arrangements in place that support a child or young person to establish and maintain connections to their community and culture as a vital element of all three permanency dimensions.

Carers will play an important role in maintaining connections to community and culture through implementing appropriate actions in the case plan. Actions may include taking the child or young person to visit extended family or their community and ensuring children and young people attend community functions (where appropriate).

43. How will the changes impact placement decisions?

The legislative changes outline the preferred care arrangements for best achieving permanency for a child or young person to guide decision-making. In order of priority, the care arrangements are:
- First preference, for the child or young person to be cared for by the child or young person's family
- Second preference, for the child or young person to be cared for under the guardianship of a member of the child or young person's family or another suitable person
- Third preference, for the child or young person to be cared for under the guardianship of the chief executive.

44. If I currently have an Aboriginal and/or Torres Strait Islander child or young person in my care but I am non-Indigenous, will the child or young person be placed elsewhere?

The Act already provides an order of preference for the placement of Aboriginal and Torres Strait Islander children and young people, and where they are already placed with non-indigenous carers, the appropriateness of the placement should have already been determined.

The Amendment Act will place a greater emphasis on cultural support planning that ensures children and young people remain connected to their family, community and culture. This will be undertaken in consultation and collaboration with the child or young person's family, community, independent person and carers.

45. What are the changes to short-term orders?

The amendments limit the duration of consecutive short-term child protection orders (granting custody or guardianship to the chief executive) to a total period of two years from when the first order was made. For example, if a child has been subject to a short-term custody order for two years, no further consecutive order can be made. If a child has been subject to a short-term custody order for 12 months, then a further order can only be made for a maximum of 12 months (two years in total). The two year period does not include interim orders that were in place before the first order was finalised.

There is an exception – where the court is satisfied it is in the best interests of the child or young person and reunification with the child or young person's parents is reasonably achievable in a longer timeframe, the court may choose to extend the order.

It is important to note the change only applies to consecutive orders. If a previous child protection order was revoked or expired, and there was a period of time the child or young person was not subject to an order, the court may make further short term child protection orders, up to a total duration of two years.

46. What is concurrent case planning?

Concurrent planning requires Child Safety to work with the child, young person and their parents to develop more than one permanency goal for the child as part of case planning. This will be particularly important given the new two year limit on short-term orders.

Within the case planning process, this will mean all children and young people will require a primary permanency goal to be developed during the initial Family Group Meeting, as well as an alternative permanency goal. The primary permanency goal will be reunification in most cases. If reunification not be possible, the alternative permanency goal will be pursued. Both goals will require actions to be developed and progressed.

Carers will play an important role in both goals, working with Child Safety, the child or young person and their family towards reunification, and also providing input into the case planning process, particularly where reunification cannot be achieved and an alternative permanency goal needs to be pursued.

47. Does the two year time limit on short-term orders include temporary assessment orders (TAOs) and court assessment orders (CAOs)?

No. CAOs, TAOs and Temporary Custody Orders (TCOs) are not defined as 'child protection orders' in the Act. They will not be considered part of the two years when they were in place before the first order was made.

48. Will the duration of an interim order be included in the two year timeframe?

An interim order is normally made during the course of the proceedings before the Children's Court. It is a temporary order and

will usually only last until the matter is next heard in court or until a final child protection order is made.

The two year timeframe is calculated from the date the first short term child protection order is made under section 59 of the Act. Therefore, any interim arrangement prior to that date will not be considered. However if there are consecutive short term orders to be considered, the court time associated with the second short term order will be taken into account for the 2 year time period.

49. How is the new Permanent Care Order (PCO) different from other child protection orders?

A PCO is similar to a long-term guardianship order, in that it grants the guardianship of the child or young person to a suitable person until the child or young person is 18.

A PCO is different from other orders in that it can only be varied or revoked by the Director of Child Protection Litigation, meaning a parent cannot apply to vary or revoke the order once it is made. Another difference is once a PCO is made, Child Safety will not have ongoing involvement, noting the permanent guardian or child or young person can seek a review of the case plan at any time.

50. How will Child Safety determine whether a LTG-O or a PCO is appropriate?

An assessment of the child or young person's permanent care needs will begin early in Child Safety's involvement with a child or young person. Parents and family will be part of ongoing conversations with children, young people, parents, carers, the wider family and relevant services.

Consideration will be given to the child or young person's needs, the views and wishes of the parents and family, and the circumstances surrounding the care arrangements for the child or young person when determining what type of order is required to ensure their long-term protection needs.

The PCO will also include an assessment of the proposed guardian being able to meet the ongoing obligations under the Act without the ongoing involvement of Child Safety (e.g. guardians will need to facilitate family contact, keep parents and family informed of where the child is living and how they are doing).

51. Can I nominate to be a permanent guardian for a child or young person in my care?

If a child or young person has been in your care for more than 12 months and you are interested in becoming a permanent guardian for them, you can talk to your Child Safety Officer to let them know. A PCO may not be appropriate in all situations so the decision to recommend an application for a PCO will be made in consultation with the child or young person, their parents, family and their carers. There will also be a sensitive and thorough assessment process for permanent guardians.

52. What will the assessment process for permanent guardians look like?

If a child or young person is subject to a PCO, Child Safety will not be required to provide ongoing support or case management to the child or young person, or their guardian. Therefore, a holistic assessment of the guardian's ability and suitability to meet the child or young person's care needs without ongoing monitoring or support will be required.

The assessment will be similar to the current assessment process undertaken for proposed guardians of children under long-term guardianship orders.

For an Aboriginal or Torres Strait Islander child or young person, each element of the Aboriginal and Torres Strait Islander Child Placement Principle will need to be addressed when assessing the suitability of proposed guardians.

In addition, the child and family have the right to have an independent person to help facilitate their involvement in the decision-making process.

53. Does a permanent guardian have to have a Blue Card?

At the time of placement, the proposed guardian, as the child's approved foster or kinship carer, will require a Blue Card. After the order is made, there will be no requirement to continue to maintain a Blue Card, unless the guardian also continues to be an approved carer for other children in the household.

54. What will a permanent guardian be required to do after a PCO is made?

The permanent guardian has responsibility for meeting the child's or young person's daily care and long-term needs and have a legal obligation to:

- Comply with the charter of rights for a child in care
- Preserve the child's identity and connection to their culture of origin
- Help maintain the relationship between the child or young person's and the child's family, and persons of significance, and provide opportunities for ongoing family contact with them
- Help the child in their transition to adulthood
- Tell the parents where the child is living
- Give the parents information about the child's care
- Immediately inform Child Safety, in writing or via email, should the child leave their care prior to turning 18 years of age
- Immediately inform Child Safety, in writing or via email, should the child be leaving their care in the near future where the child is living.

The ability of a permanent guardian to meet these obligations will be assessed prior to any application for a PCO.

55. Are there other considerations when making a Permanent Care Order for an Aboriginal or Torres Strait Islander child?

Yes. Additional requirements apply in relation to an application for a PCO for an Aboriginal and/or Torres Strait Islander child or young person.

A PCO may grant guardianship of a child or young person to members of the child's family, language group or community and thereby give legal recognition to arrangements that may previously have been in place to meet the child's care and protection needs.

When deciding whether to make a PCO for an Aboriginal or Torres Strait Islander child or young person, the Childrens Court must give consideration to the five elements of the Child Placement Principle, and to Aboriginal and Torres Strait Islander traditions and custom relating to the child or young person.

The Childrens Court may only make the order if it is satisfied that a plan for the child or young person includes appropriate details about how their connection with their culture, community and language group will be developed or maintained and the decision to apply for the order has been made in consultation with the child or young person, if appropriate.

The child or young person and their family have a right to have an independent person to support their participation in the case plan decision to pursue a permanent care order for the child. Also, the principle that Aboriginal and Torres Strait Islander people have a right to self-determination and the long term effect of a decision on the child's identity, and connection with the child's family and community must be taken into account.

56. Can non-Indigenous carers be approved as permanent guardians for Aboriginal and Torres Strait Islander children?

Yes, however, the preference would generally be for the child to be placed with a guardian from their own culture and/or extended family. Any carer being considered as a permanent guardian for an Aboriginal and/or Torres Strait Islander child will require a detailed assessment of their demonstrated ability to meet the child's needs, including an ability to ensure the child's relationships with their family,

community and culture are supported, nurtured and encouraged. The child or young person's family (supported by their independent person) and community would be consulted, and their views taken into account.

57. What happens if the child or young person does not believe their permanent guardian is meeting all their requirements?

A child or young person may do the following:

- Contact Child Safety, either by making a complaint or any other mechanism
- Request someone contact Child Safety on their behalf
- Speak to the Public Guardian so they may contact Child Safety.

58. How will Child Safety assess complaints about permanent guardians performing their role?

Any complaint by a child or a member of the child's family about a guardian not meeting their obligations will be considered in line with Child Safety's complaints policy. The information will be assessed and a decision made about whether or not to deal with the complaint.

Resolving the complaint may require contact with the guardian by Child Safety. Child Safety will consider the information and advice provided by other parties, any responses from guardians to the complaint and other available information, and will resolve the complaint in accordance with the complaints guidelines.

59. Will permanent guardians be subject to Standards of Care processes?

No. Any concerns for a child or young person cared for by a permanent guardian under a PCO will be assessed the same way they are currently assessed for parents. That is, information would be assessed by the Regional Intake Service and a decision made about the level and risk of harm and the required response. Standards of Care processes for carers will not apply as the permanent guardian has assumed legal guardianship of the child or young person and is not a carer.

60. What happens if the permanent guardian can no longer care for the child or young person?

If the permanent guardian can no longer continue to provide care for a child or young person, Child Safety will review the child or young person's situation and take necessary steps to ensure their safety and wellbeing. This may include asking DCPL to vary or revoke the order, or working with the permanent guardian to determine if there are any supports available to enable them to continue to care for the child or young person.

A permanent guardian is required to notify Child Safety if the child or young person is no longer in their care or they reasonably believe their care of the child or young person is likely to end in the near future, for example, due to illness or injury or another reason.

61. What if a child or young person who is subject to a PCO dies?

Child protection orders are only current while the child or young person is alive and are not the same as adoption in that they do not legally sever the relationship with the birth family. It is recognised this situation will be painful for all and ideally guardians and biological parents would work together to make arrangements following the death of a child or young person subject to a PCO.

In addition, given the child or young person was subject to a child protection order, the death will be considered a "Reportable death" under the *Coroners Act 2003* and will require coronial oversight.

62. Will a permanent guardian receive financial support from Child Safety?

The Amendment Act enables allowances to be provided to permanent guardians and consideration is being given to determine whether this will apply in all cases or on a case-by-case basis.

63. Will a permanent guardian be able to apply for a change of legal name for a child or young person?

Yes. In Queensland, an application to change the legal name of a child or young person can be made by a child or young person's permanent guardians to the Change of Name Register.

In addition, a Magistrates Court can, on application by a parent or guardian, approve a proposed change of name for a child or young person if it is satisfied that (a) the name is not a prohibited name; and (b) the change is in the child or young person's best interests.

64. What are the changes in relation to transitioning between long-term orders, such as long-term guardianship to the chief executive (LTG-CE), long-term guardianship to other (LTG-O) or PCOs?

The changes enable these applications to be made without requiring the court to reconsider some matters already considered when making the original long-term order. This includes whether a child or young person is in need of protection and whether a long-term order is appropriate.

The reason this change was made is because these matters have already been determined when making the original long-term guardianship order, and the court can rely on the previous findings.

The exception is where the court feels it is in the best interests of the child or young person for the matters to be considered again.

65. Where does adoption sit in the permanency continuum and how does Adoption Services' My Home permanent care initiative fit into this?

Adoption is the legal process that permanently transfers parental responsibility from the child or young person's birth parents (with their consent or with a Court's dispensation of their consent) to their adoptive parents, under the *Adoption Act 2009*.

Adoption severs the legal relationship between the child and the child's birth parents (unlike child protection orders) and creates a new identity for the child, including a changed birth certificate. Adoption orders do not expire when the young person turns eighteen.

Adoption may be an appropriate options for some children in care, subject to the parents providing consent for adoption or reasonable grounds existing for a court to dispense with the need for consent (*Adoption Act 2009*, Part 2).

66. What is the My Home initiative?

The My Home initiative is a permanent placement program that aims to provide permanent homes for children or young people who are in the child protection system and where reunification with their family is no longer possible.

The aim of My Home is not to have children or young people adopted, but rather to meet their permanency needs through the provision of a forever home under the *Child Protection Act 1999*.

As part of My Home, Adoption Services has recruited a new cohort of permanent My Home foster carers who can care for a child or young person under a long-term order until they are 18 years old.

My Home is not an order type, it is a placement response for children or young people who are already subject to an order granting LTG-CE or for whom Child Safety is seeking a long-term order.

Information Sharing

67. What are the changes to information sharing?

The changes are intended to make the legislative provisions around information sharing clearer. They include a requirement for Child Safety to publish an information sharing guideline, broadens who can share information about a child or young person and their family to include the family support system (e.g. Family and Child Connect and Intensive Family Support services), and make it clear that, while it is best practice to obtain consent to share information, a child's safety, wellbeing and best interests are prioritised over an individual's privacy.

68. How will the changes to information sharing impact carers?

The changes are mainly targeted at the prevention and early intervention end of the child protection continuum and are not expected to impact carers.

69. Will Child Safety have to ask for consent to share information?

Yes, where it is safe, possible and practical to obtain consent.

However a child or young person's safety, wellbeing and best interests is prioritised over an individual's privacy. Also, when seeking consent, and before disclosing information, consideration will be given to whether this is likely to adversely affect the safety of a child, young person or another person.

70. What are the Information Sharing Guidelines and where do I find them?

Child Safety will be required to publish new guidelines on when information should be shared and the secure use, storage, retention and disposal of information for all stakeholders (including staff of Child Safety, government agencies and funded service providers).

These guidelines will be available on the department's website from proclamation. New sections, under Chapter 5A of the Act, specify when a holder of information may share information and with whom they may share information. The sections reflect different actions at each stage of the child protection continuum – reporting suspicion, assessment or investigation, assessing care needs and planning services, and decreasing likelihood of a child or young person becoming in need of protection.

Transition to Adulthood

71. Why has the language changed from Transition to Independence to Transition to Adulthood?

All young people make a transition from adolescence to adulthood and not all become 'independent' at the age of 18 years. The legislative amendments (which uses transition to independence language), recognise that most young people need access to supports well beyond their 18th birthday and it is now a community norm for young adults to receive financial, practical, health, educational, housing, emotional and access to legal support from their parents.

72. What is a carer's responsibility to help children and young people to transition to adulthood?

For children and young people who are subject to a long-term guardianship order to another suitable person or a PCO, it will be the responsibility of the long-term guardian or permanent guardian to ensure they are provided with appropriate help in their transition to adulthood.

This will include preserving the young person's identity and connection to their culture or origin, and helping them

maintain a relationship with their parents, family and other significant people in their life.

A permanent guardian can seek a review of a case plan at any time and may seek assistance from Child Safety to access supports that will assist the young person become self-sufficient.

73. What will Child Safety do to assist a young person who is, or has been, in the chief executive's guardianship to transition to adulthood?

The changes make it clear that, as far as reasonably practicable, Child Safety must ensure help is available to assist a young person in their transition to adulthood from the age of 15 up to when the young person turns 25. This may include help to access entitlements (e.g. TILA), accommodation, health services and education, and help to obtain employment and legal advice.

Where a young person between the ages of 15 and 18 is in the chief executive's guardianship, their case plan must include a plan to support the young person in their transition to adulthood.