

# Child Safety POLICY

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

**Policy No:** 420-5

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## Policy Statement:

The Department of Children, Youth and Multicultural Affairs (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.

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.

Decisions about end-of-life medical treatment may be required when a child has a life-threatening medical 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.

Actions and decisions by Child Safety about end-of-life medical treatment for a child in care will be informed by expert medical advice and will be timely and aimed at alleviating the child's pain or suffering.

Child Safety will ensure the child receives appropriate support when diagnosed with a life-threatening illness. In making decisions and taking actions in relation to any proposed end-of-life planning, Child Safety will take into account the child's age, ability to understand, and medical condition. The child's views about proposed end-of-life planning must be obtained from the child if they are assessed by a medical practitioner to be 'Gillick competent', or from the child's guardian if they are not.

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:

- The safety, wellbeing and best interests of the child, both throughout childhood and the rest of the child's life, are paramount.
- The views of the child, having regard to the child's age and ability to understand, and the child's family are considered.
- 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 child placement principle (prevention, partnership, placement, participation and connection) the *Child Protection Act 1999* (the Act), section 5C, apply to all processes, decisions and actions for an Aboriginal or Torres Strait Islander child.
- When making significant decision 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, 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 parents, the child, their carer, and medical practitioners.
- For a child subject to a child protection order granting 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.

- 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*

**Delegations:**

Director-General

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**Records File No.:** 12/270/743747

**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**

*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

**Rescinded Policy**

420-4 Decision making about end of life medical treatment for a child in care, in circumstances where their life is threatened due to illness or trauma

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Director-General