

Research tool: the approach taken to Permanency Orders in Australia

24 June 2016

Each State and Territory in Australia has a child protection order that transfers exclusive parental responsibility to a person other than the child's biological parents, until the child is 18 years old (**Permanency Orders**). The table below is a review of the legislative provisions in each State and Territory in Australia relating to Permanency Orders and issues of permanency, as at 24 June 2016. We have only reviewed the legislative provisions that relate to Permanent Orders. This table was prepared as a research tool only and should not be relied upon for advice. If you are seeking advice about Permanency Orders or any other associated issues, please contact the applicable organisation or your legal advisor set out in the "Practical Matters" section of the table below.

	VIC	ACT	NT	QLD	NSW	SA	TAS	WA
Contact details of the relevant Court and Department	<p>Department: The Department of Human Services ("DHS") child protection contact numbers for each region:</p> <p>Metropolitan:</p> <ul style="list-style-type: none"> Northern and western suburbs: 1300 664 977 Eastern suburbs: 1300 360 391 Southern suburbs: 1300 655 795 <p>Rural and regional:</p> <ul style="list-style-type: none"> South-west rural: 1800 075 599 Western rural: 1800 000 551 North-western rural: 1800 675 598 North-eastern rural: 1800 650 227 Eastern and south-eastern rural: 1800 020 202 <p>After hours: 13 12 78</p> <p>DHS is part of the Vic Department of Health & Human Services.</p> <p>Court: Children's Court of Victoria ("Court") (03) 8638 3300</p>	<p>Department: Office for Children, Youth and Family Support 13 34 27</p> <p>Court: The Magistrates Court is known as the Childrens Court when it is exercising jurisdiction under Chapter 4A of the <i>Magistrates Court Act 1930</i> (ACT). The Childrens Court has jurisdiction for care and protection orders under the <i>Children and Young People Act 2008</i> (ACT). ACT Childrens Court Registry Phone: (02) 6207 1746.</p>	<p>Department: Department of Children and Families (08) 8999 2737</p> <p>Court: The family matters jurisdiction of the Northern Territory Local Court ("Court"). Northern Territory Local Court Civil Registry: (08) 8999 6571</p>	<p>Department: Department of Communities, Child Safety and Disability Services (Qld Government): 13 74 68 (Child Safety Services)</p> <p>Court: Childrens Court Queensland (Magistrates Court) ("Court") (07) 3247 4313 Childrens Court Brisbane (Magistrates Court) (07) 3235 9841</p>	<p>Department: Department of Family & Community Services: (02) 9377 6000</p> <p>Court: Children's Court NSW ("Court"):</p> <ul style="list-style-type: none"> Bidura: (02) 8667 2100 Broadmeadow: (02) 4915 5200 Campbelltown: (02) 4629 9777 Illawarra: (02) 4274 0735 Parramatta: (02) 8688 1888 Woy Woy: (02) 4344 0111 Wyong: (02) 4350 3010 	<p>Department: Department for Education and Child Development 1800 088 158</p> <p>Court: Youth Court of South Australia ("Court") (08) 8204 2444</p>	<p>Department: Department of Health and Human Services ("DHHS"), Child Protection Services: 1300 135 513 or 1300 737 639 (for child protection notifications)</p> <p>Court: Magistrates' Court ("Court"):</p> <ul style="list-style-type: none"> Burnie: (03) 6477 7140 Devonport: (03) 6478 4353 Hobart: (03) 6165 7136 Launceston: (03) 6777 2945 <p>Note there are also regional court locations.</p>	<p>Department: Department for Child Protection and Family Support (08) 9222 2555 Country free call: 1800 622 258 TTY: (08) 9325 1232</p> <p>Court: Children's Court of Western Australia ("Court") (08) 9218 0100</p>
Contact details of an organisation able to assist those seeking guidance about Permanency Orders and associated issues	<p>Legal Aid 1300 792 387 https://www.legalaid.vic.gov.au/</p>	<p>Legal Aid ACT (02) 6243 3411 www.legalaidact.org.au</p> <p>Youth Law Centre ACT (02) 6173 5410 http://www.youthlawact.org.au</p>	<p>The Northern Territory Legal Aid Commission Free call 1800 019 343 www.ntlac.nt.gov.au</p> <p>Top End Women's Legal Service (08) 8982 3000 or free call 1800 234 441 http://www.tewls.org.au/index.php</p> <p>North Australian Aboriginal Justice Agency Darwin: 1800 898 251 Katherine: 1800 897 728 Throughcare: 1800 321 201 http://www.naaja.org.au/our-</p>	<p>Legal Aid Queensland –1300 651 188 Indigenous information line: 1300 650 143 http://www.legalaid.qld.gov.au/About-us/Contact-us</p>	<p>Aboriginal Legal Service (NSW/ACT): 1800 733 233 http://www.alsnswact.org.au/</p> <p>Legal Aid – Care and Protection Service – call any Legal Aid office, for example:</p> <ul style="list-style-type: none"> Bankstown: (02) 9707 4555 Burwood: (02) 9747 6155 Campbelltown: (02) 4628 2922 Parramatta: (02) 9891 1600 <p>http://www.legalaid.nsw.gov.au/what-we-do/family-law/care-and-protection-services</p>	<p>Legal Services Commission of SA 1300 366 424 http://www.lsc.sa.gov.au/</p>	<p>Hobart Community Legal Service Inc.:</p> <ul style="list-style-type: none"> Hobart: (03) 6223 2500 Bridgewater: (03) 6263 4755 Sorell: (03) 6265 1911 <p>http://www.hobartlegal.org.au/</p> <p>Commissioner for Children (03) 6233 4520 http://www.childcomm.tas.gov.au/</p>	<p>Aboriginal Legal Service of WA Phone: (08) 9265 6666 (08) 9218 0160 (at Perth Children's Court) Freecall: 1800 019 900 www.als.org.au</p> <p>Court Welfare Service (08) 9218 0163</p> <p>Legal Aid WA 1300 650 579 www.legalaid.wa.gov.au</p> <p>Youth Law Unit: (08) 9261 6293</p> <p>Youth Legal Service (08) 9202 1688</p>

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			services/civil-law/	Note: the <i>Director of Child Protection Litigation Act 2016</i> has received royal assent and comes into force on 1 July 2016. See relevant changes below in yellow . The <i>Child Protection Reform Amendment Act 2016</i> has also received royal assent, with key provisions commencing on 1 July 2016. See relevant changes below in pink .			Note: the <i>Children, Young Persons and Their Families Amendment Act 2013</i> (Amending Act) has received royal assent but only sections 41 and 42 have commenced. The remaining provisions have not commenced yet. They will commence on a date to be proclaimed. See key changes below in green .	www.youthlegalserviceinc.com.au
What is the relevant Act, what date did it come into effect and is there provision for review of the Act?	<p>Act: <i>Children, Youth and Families Act 2005</i> (VIC) ("CYF Act")</p> <p>Commencement: Provisions relating to <u>Permanent Care Orders</u> ("PCO") commenced on 23 April 2007.</p> <p>Review: There is no legislative basis for review, however the Minister for Families, Children and Youth Affairs, Jenny Mikakos, has announced that there will be a review of the permanency provisions introduced by the <i>Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014</i> (Vic) on 1 September 2016, being 6 months after its entry into force on 1 March 2016.) (see http://www.jennymikakos.com.au/media-releases/best-interests-of-children-to-be-protected-in-law/)</p>	<p>Act: <i>Children and Young People Act 2008</i> (ACT) ("CYPA")</p> <p>Commencement: Provisions relating to care orders commenced on the 27 October 2008.</p> <p>Review: There is no legislative basis for review.</p> <p>The Permanency Order provisions are not under review and no upcoming review is scheduled.</p>	<p>Act: <i>Care and Protection of Children Act</i> (NT) ("CPCA")</p> <p>Commencement: Provisions relating to care orders commenced on 1 July 2015.</p> <p>Review: Under the CPCA, review teams must be set up to ensure "the operation of Chapter 2 is consistent with the objects and underlying principles of this Act" (<i>Section 294</i>, CPCA). The care order provisions are contained within Chapter 2.</p> <p>The Permanency Order provisions are not under review and no upcoming review is scheduled.</p>	<p>Act: <i>Child Protection Act 1999</i> (Qld) ("CPA")</p> <p>Commencement: Provisions relating to child protection orders commenced on 23 March 2000.</p> <p>Review: There is no legislative basis for review.</p> <p>The Queensland Government is currently building a new legislative regime. Legislative amendments recommended by the Queensland Child Protection Commission of Inquiry (QCPCI) in its report <i>Taking Responsibility: A Roadmap for Queensland Child Protection</i> have been accepted but not yet implemented. Submissions, meetings and focus groups occurred from September 2015 to February 2016 and a discussion paper was produced. The Department of Communities, Child Safety and Disability Services are currently considering the responses. The discussion paper and recommendations by QCPCI include discussions of permanency planning and Aboriginal and Torres Strait Islander children in the system.</p> <p>Some matters under consideration are highlighted in green below.</p>	<p>Act: <i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW) ("CYP Act")</p> <p>Commencement: Provisions relating to care orders commenced on the 18 Dec 2000.</p> <p>Review: A review of the CYP Act was required by section 265 of the CYP Act and occurred in December 2005.</p> <p>The Permanency Order provisions are not under review and no upcoming review is scheduled.</p>	<p>Act: <i>Children's Protection Act 1993</i> (SA) ("CPA", "Act")</p> <p>Commenced: Principle Act commenced 1 January 1994.</p> <p>The definition of 'Aboriginal and Torres Strait Islander Placement Principle' was inserted on 1 Jan 2011.</p> <p>The 'Fundamental Principles' were substituted on 1 Feb 2006 (relevant insofar as they relate to the maintenance of family relationships during a Permanent Order).</p> <p>Section 37 (Relating to the application for a Permanent Order) was amended with effect from 1 Oct 2006.</p> <p>Section 38 (relating to the court's ability to make a Permanent Order) was amended with effect from 1 Oct 2006.</p> <p>Review: There is no legislative basis for review.</p> <p>There is no indication that the Permanency Order provisions are currently under review or will be reviewed in the near future.</p>	<p>Act: <i>Children, Young Persons and their Families Act 1997</i> ("CYPF Act")</p> <p>Commenced: The CYPF Act came into effect 1 July 2000.</p> <p>Review: There is no legislative basis for review.</p> <p>The permanency provisions were subject to a review in 2013 which informed the Amending Act.</p> <p>There is no further upcoming review of the permanency provisions currently scheduled.</p> <p>Please note that the 'Redesign of Child Protection Services Tasmania: Strong families – safe kids' final report was released in March 2016. The government has agreed to all recommendations in the report, some of which will have an impact on the way DHHS will approach permanency issues. Please let us know if you would like further information about this report.</p>	<p>Act: <i>Children and Community Services Act 2004</i> (WA) ("CCSA")</p> <p>Commenced: 20 October 2004, however the majority of the substantive provisions of the Act commenced 1 March 2006.</p> <p>Provisions relating to 'Protection Orders (Special Guardianship)' (see below for further information) and placement of Aboriginal or Torres Strait Islander children commenced 31 Jan 2011.</p> <p>Review: The Minister must carry out a review of the operation and effectiveness of the Act every 5 years, as well as a review of the operation and effectiveness of the amendments made to the Act by the <i>Children and Community Services Amendment (Reporting Sexual Abuse) Act 2008</i> every 3 years.</p> <p><i>Section 249</i>, CCSA</p> <p>The last review was completed in October 2012. The next review, if completed in accordance with the CCSA, will occur in 2017.</p>
What Permanency Orders can be made?	<p>Permanent Care Order ("PCO") - where a carer is given exclusive parental responsibility until the child is 18 years old or gets married (whichever is sooner).</p> <p><i>Section 321</i>, CYF Act</p>	<p>Care and Protection Order</p> <p>The Childrens Court ("Court") can make a care and protection order, which can include:</p> <ul style="list-style-type: none"> a long-term parental responsibility provisions; or an enduring parental responsibility provision. <p><i>Section 422</i>, CYPA</p> <p>A long-term parental responsibility provision involves the transfer of daily care responsibility and long-term care responsibility for the child or young person to the director-general or another stated person, unless the order states that a particular aspect of responsibility is transferred.</p> <p><i>Section 479</i>, CYPA</p> <p>An enduring parental responsibility provision involves the transfer of daily care responsibility and long-term care responsibility for the child or young person to a stated person and does not transfer parental responsibility to the director-general.</p> <p><i>Section 481</i>, CYPA</p> <p>Once either provision is included</p>	<p>Permanent Care Order ("PCO")</p> <p>A PCO is an order made by the Court in relation to a child, for the period that ends when the child turns 18 years of age that orders that a person have the parental responsibility for the child.</p> <p><i>Section 137A</i>, CPCA</p> <p>Specifically, the Court when making an Order may:</p> <ul style="list-style-type: none"> make a PCO for the child as proposed by the CEO: or dismiss the application. <p>If the Court does make a PCO it:</p> <ul style="list-style-type: none"> may, if the application for the order requested a direction authorising the child to travel outside Australia without the consent of a parent of the child, make that direction; and must not make any other direction. <p><i>Section 137F</i>, CPCA</p>	<p>Long Term Guardianship Order ("LTGO") – this is a type of protection order under which long term guardianship of the child is granted to a suitable person who is either a family member (other than the parent of the child) or is nominated by the chief executive, or to the chief executive themselves. (<i>Section 61(f)</i>, CPA)</p> <p>The end date for the order must be the end of the day before the child turns 18 years.</p> <p><i>Section 62</i>, CPA</p>	<p>Guardianship Order ("GO") – under which all aspects of parental responsibility for a child or young person who is in statutory out-of-home care or supported out-of-home care or who is in need of protection, are allocated to a suitable person until the child reaches 18 years.</p> <p><i>Section 79A</i>, CYP Act</p>	<p>Long Term Guardianship Order ("LTGO") - The court may place a child under the guardianship of the minister or such other person or persons until the child attains 18 years of age.</p> <p>Note that this order is one example of an 'order' that can be made under Part 5 Division 2 – the provisions relating to LTGO are not set out in a separate section of the CPA to orders of a shorter term nature.</p> <p><i>Section 38(1)(d)</i>, CPA</p>	<p>Long-term Guardianship Order ("LTGO") – are a type of 'care and protection order' which grant guardianship of the child either to the Secretary or another person(s) until the child is 18 years old.</p> <p><i>Sections 42(4)(d) and 49(5)</i>, CYPF Act</p> <p>The Amending Act omits section 42(4)(d), and amends section 42(4)(c) such that the Court can grant guardianship for a period (including up until the child is 18 years old).</p>	<p>Protection Order (Until 18) ("PO18") – where the CEO of the Department for Child Protection and Family Support ("CEO") is given parental responsibility for a child until the child reaches 18 years of age. The CEO may make a 'placement arrangement' of a child under his or her care.</p> <p><i>Section 57, 79</i>, CCA</p> <p>Protection Order (Special Guardianship) ("POSG") – where an individual, or 2 individuals jointly (other than the CEO), are given parental responsibility for a child until the child reaches 18 years of age.</p> <p><i>Section 60(1)</i>, CCSA</p>

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		in a care and protection order, it remains in force until the child or young person turns 18 years old.						
How are records kept about Permanency Orders made?	Records are kept electronically by the Court. Only parties to the order or their lawyer can make a request for access. DHS keeps an electronic record of all child protection orders. Anyone wanting to access a copy of the order would need to make a Freedom of Information request by contacting the DHS on (03) 9096 8449.	Records are kept by the Department and the Court. Records are kept by the Department pursuant to the <i>Territory Records Act (2002)</i> ACT. Potential to access via a FOI request. The Court also keeps a record of the orders which can be accessed by parties to the proceeding. These records are kept indefinitely, according to the Registry.	The Court's Civil Registry keeps a record of all orders indefinitely. These records can be accessed by parties to the proceeding. They can also be accessed by non-parties providing the non-party provides sufficient reasons, in writing. •	Records are kept in a paper file, although some will have electronic copies. Only parties to a proceeding are able to access these files, and they are able to do so via a request in writing.	Records are kept electronically by the Court where the order was made, and are kept indefinitely. They can also be accessed through Family & Community Services, although it is more efficient to go directly to the Court. Process for accessing records: First ring Family and Community Services on (02) 4621 5600 to find the date the order was made. Then contact the Court where the order was made and provide the child's name, date of birth, date of the order, and some identification. Only parties to the proceedings will have access, unless an application is made to the Court.	Rule 14 of the <i>Youth Court of South Australia Rules</i> provide that the records of the court shall be in the custody and control of the Registrar. Any party to the proceeding or a solicitor or counsel for any party may search, inspect or a request a copy of the relevant record (unless contrary to law). No other party may have access to the records without leave from a Judge or Magistrate.	The Court keeps a hard copy of any care and protection orders made on file indefinitely. Only parties to the order or their lawyer may request a copy of the order. Requests can be made via email to the relevant court email address. DHHS keeps an electronic record of all care and protection orders made in relation to a child, which they retain indefinitely. Anyone wanting to access a copy of this order would need to make a Freedom of Information request (see https://www.dhhs.tas.gov.au/about-the-department/your-rights/rti). Lawyers can subpoena the documents if they relate to another proceeding, for example a Family Law proceeding.	Department for Child Protection and Family Support A hard copy is sent to the Department from the Court, which is retained on the child's file and filed electronically. Care managers have access to the files and a child is able to request access to the files. <u>Children's Court of WA</u> A hard copy version of the file is stored at the court for 2 years, after which the record is sent to State Records. The file can be recalled if request for access is made. The Department and the Court can access the file. The child can apply to the Magistrate (putting forth the reasons behind access etc.) for access to the file. Section 51A(3) & (4) of the <i>Children's Court of Western Australia Act 1988</i> (WA) provide that only a party to the proceedings may inspect the court records unless leave is provided by the Court.
Who may apply for a Permanency Order?	The Secretary of DHS ("Secretary") <i>Section 320, CYF Act</i> DHS is part of the Vic Department of Health & Human Services.	The Director-General of Child and Youth Protective Services. <i>Section 424, CYPA</i> A person other than the Director-General may seek an order if : <ul style="list-style-type: none">the other applicant believes on reasonable grounds that the child or young person is in need of care and protection; andif the director-general has not applied for a care and protection order for the child or young person—the other applicant has consulted the director-general about the application; andthe other applicant has the leave of the Court to make the application. <i>Section 425, CYPA</i>	The CEO of the Department of Children and Families ("CEO") is the only person who may apply for a PCO. <i>Section 137A(2), CPCA</i>	An authorised officer appointed under the CPA – this may be an officer or employee of the department or a person in a class of persons declared by regulation to be eligible (currently none have been declared). <i>Sections 54(1) and 149, CPA</i> Note from 1 July 2016, the Director of Child Protection Litigation ("litigation director") will be established pursuant to the <i>Director of Child Protection Litigation Act 2016</i> ("DCPLA"), whose functions will include preparing and applying for child protection orders and conducting child protection proceedings under the CPA (<i>Section 9, DCPLA</i>). The litigation director will be the only party who can make an application for a child protection order (pursuant to the new section 54 to be inserted into the CPA). The chief executive (child safety) must refer child protection matters to the litigation director (<i>Section 15, DCPLA</i>). The litigation director may either apply for a child protection order for the child, or refer the matter back to the chief executive (<i>Section 17, DCPLA</i>). Section 7A to be inserted into the CPA which states that under the DCPLA the litigation director is empowered to apply for child	The Secretary of the Department of Family and Community Services or, with the written consent of the Secretary, either a designated agency responsible for supervising the placement of the child or a person who is seeking to be allocated all aspects of parental responsibility. <i>Section 79B, CYP Act</i>	The Minister of Education and Child Development ("Minister") <i>Section 37(1), CPA</i>	The Secretary of DHHS ("Secretary") <i>Section 42, CYPF Act</i>	Only the CEO may apply. <i>Section 44(1), CCSA</i>

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				protection orders.				
What informs a decision to apply for a Permanency Order?	<p>A case plan must be prepared by the Secretary if a child is in need of protection (Section 168, CYF Act).</p> <p>The case plan must include a "permanency objective" (Section 167, CYF Act).</p> <p>In order of preference, the permanency objective must be one of the following (Section 167, CYF Act):</p> <ul style="list-style-type: none"> Family preservation; Family reunification; Adoption; Permanent care; or Long term out of home care. <p>The permanency objective included in the case plan will inform the Secretary's decision about which order to apply for. If the permanency objective is "permanent care", then the Secretary will apply for a PCO.</p> <p>When deciding which permanency objective is appropriate, the Secretary must take the following into consideration:</p> <ul style="list-style-type: none"> a "family reunification" objective is appropriate if the child has been in out of home care for a cumulative period of less than 12 months and safe reunification of the child with a parent is likely to be achieved. an "adoption", "permanent care" and "long term OOH care" objective is appropriate if the child has been in out of home care for a cumulative period of 12 months and there is no real likelihood for safe reunification of the child with a parent. In exceptional circumstances, if the child has been in out of home care for a cumulative period of 24 months. <p>Section 167(3), (4), CYF Act</p> <p>More broadly, the CYF Act requires a decision-maker to have regard to the principles set out in Part 1.2 of the CYF Act (where relevant) in making a decision or taking any action.</p> <p>Section 8, CYF Act</p> <p>The best interests of the child must always be paramount. When determining what is in the best interests of the child, consideration must be given to the following (if relevant):</p> <ul style="list-style-type: none"> the need to protect the child from harm; the need to protect the child's rights and promote his or her development; need to give the widest possible protection and assistance to the child as the fundamental group unit of society and ensure that intervention into that relationship is limited to that 	<p>A care plan is a written plan for a child or young person who is, or proposed to be, subject to a care and protection order, for meeting a child or young person's protection or care needs. It may include proposals for the purposes of case planning about:</p> <ul style="list-style-type: none"> who the Director-General considers would be the best person to have a stated aspect of parental responsibility; for an Aboriginal or Torres Strait Islander child or young person – the preservation and enhancement of the identity of the child or young person as an Aboriginal or Torres Strait Islander person; the kind of placement that will be sought or provided for the child or young person; how the Director-General proposes to ensure the living arrangements for the child or young person are as stable as possible; contact arrangements for the child or young person with family and significant people; services to be provided to the child or young person. <p>Section 455, CYPA</p> <p>If the Director-General proposes to place the child or young person in kinship or foster care, the child's care plan must include a stability proposal (Section 456, CYPA).</p> <p>This stability proposal may include, among other things, a proposal for a long-term placement under a care and protection order with a long-term parental responsibility provision or an enduring parental responsibility provision (Section 456(3), (4) CYPA)</p> <p>More broadly, the CYPA requires anyone making a decision under the care and protection provisions of the CYPA in relation to a child or young person to apply several principles except when it is, or would be, contrary to the best interests of a child or young person (Section 350, CYPA).</p> <p>These principles are:</p> <ul style="list-style-type: none"> the primary responsibility for providing care and protection for the child or young person lies with the child's or young person's parents and other 	<p>The CEO may apply to the Court for a PCO if the CEO reasonably believes:</p> <ul style="list-style-type: none"> the child would be in need of protection but for the fact that, at the time the application is made, a protection order with a long-term parental responsibility direction giving parental responsibility for the child to the CEO or another specified person (or both) is in force for the child for a period that ends immediately before the child turns 18 years of age; and the proposed order is the best means to safeguard the wellbeing of the child; and the person proposed to be given the parental responsibility for the child has demonstrated the person's suitability to be given that responsibility. <p>Section 137A(3), CPCA</p> <p>The CEO is not required to prepare a care plan for a child under a PCO as this type of order is not a 'protection order' under the CPCA (Section 69, CPCA).</p>	<p>From 1 July 2016, if a child protection matter is referred to the litigation director pursuant to the DCPLA, the chief executive must provide a brief which includes the type of child protection order the chief executive considers appropriate and desirable for the child's protection (Section 16, DCPLA).</p> <p>If the litigation director applies for a different type of order than that recommended by the chief executive, then they must consult with the chief executive before applying for such order (Section 18, DCPLA).</p> <p>There must be an appropriate case plan under Part 3A of Chapter 2 the CPA before a child protection order is made (Section 59(1), CPA).</p> <p>The specific content of this plan is not prescribed, though it may include any of the matters set out in section 51B(2) of the CPA. The case planning must be carried out in a way that, among other things, encourages and facilitates participation of the child, parents, family group members, Aboriginal or Torres Strait Islander agencies and persons if relevant and gives priority to the child's needs for long-term stable care and continuity of relationships.</p> <p>Section 51D, CPA</p> <p>A family group meeting must be convened to develop a case plan. The convenor must give the following persons a reasonable opportunity to attend and participate:</p> <ul style="list-style-type: none"> the child, unless it would be inappropriate because of the child's age or ability to understand; the child's parents; other members of the child's family group who the convenor considers likely to make a useful contribution; other persons with whom the child has a significant relationship; any legal representative of the child; if the child is an Aboriginal or Torres Strait Islander child – a recognised entity, or member of a recognised entity, for the child; the public guardian; anyone else the convenor considers likely to make a contribution to the plan's development; if the convenor is a private 	<p>If the Secretary applies for a GO, they must present a care plan and a permanency plan to the Court (Sections 78 and 83, CYP Act).</p> <p>The care plan must be made, as far as possible, with the agreement of the parents of the child, and must make provision for the following:</p> <ul style="list-style-type: none"> the allocation of parental responsibility; the kind of placement sought; how the placement relates to permanency planning; any interim measures; arrangements for contact between the child and their relatives; the designated supervisory agency; services that need to be provided to the child. <p>Section 78, CYP Act</p> <p>Permanency planning means the making of a plan that aims to provide a child or young person with a stable placement that offers long-term security, that meets the needs of the young child or young person, avoids the instability and uncertainty arising through a succession of different placements or temporary care arrangements, and that has regard to the principles set out in sections 9(2)(e) and (g) namely:</p> <ul style="list-style-type: none"> arrangements should be made in a timely manner, to ensure the provision of a safe, nurturing, stable and secure environment (recognising the child's circumstances e.g. younger age of the child and greater need for early decisions); and the permanent placement principles. <p>Section 78A, CYP Act</p> <p>The permanent placement principles are as follows:</p> <ol style="list-style-type: none"> the first preference for permanent placement is for the child or young person to be restored to the care of his or her parent; the second preference is guardianship of a relative, kin or other suitable person; if it is not practicable or in the best interests of the child to be placed in accordance with the previous options the next preference is (except in the case of an Aboriginal or Torres Strait Islander child) for the child to be adopted; if it is not practicable or in the best interests of the child or young person to be placed in accordance with paragraph (a), (b) or (c), the last preference is for the child or young person to be placed under the parental responsibility of the Minister under this Act or any other law; 	<p>If the Minister is of the opinion that a child is at risk and an order under Part 5 Division 2 (including a LTGO) should be made to secure the child's protection, the Minister may apply to the Court for such an order.</p> <p>Section 37(1), CPA</p> <p>If the Minister knows or suspects on reasonable grounds that a child is at risk of drug abuse by a parent/guardian/other person and the cause of the child being at risk is not being adequately addressed and is of the opinion that the most appropriate response is an order under Part 5 Division 2 (including a LTGO) for one of the following purposes:</p> <ul style="list-style-type: none"> to ensure that the parent/guardian/other person undergoes appropriate treatment for drug abuse; to ensure that the parent, guardian or other person submits to periodic testing for drug abuse; or to authorise or require the release of information regarding the treatment or the results of the test to the Chief Executive, <p>the Minister must apply to the Court for an order.</p> <p>Section 37(1a), CPA</p> <p>If the Minister is of the opinion that:</p> <ul style="list-style-type: none"> proper arrangements exist for the care and protection of a child (whether pursuant to a decision of a family care meeting or pursuant to an exercise of administrative powers under the Family and Community Services Act); the child would be likely to suffer significant psychological injury if the arrangements were to be disturbed; and it would be in the best interests of the child for the arrangements to be the subject of an order under Part 5 Division 2, <p>the Minister <i>may</i> apply for an LTGO.</p> <p>Section 37(2), CPA</p> <p>The Minister cannot make an application for an order before a 'family care meeting' has been held, unless it isn't possible to hold a meeting, an order should be made without delay or the guardians of the child consent to the making of a LTGO.</p> <p>Section 27(2), CPA</p> <p>A review of the circumstances of</p>	<p>After the Secretary receives a notification that someone is concerned about the safety or wellbeing of a child, they will carry out an assessment if they believe the child is at risk (Section 18, CYPF Act).</p> <p>If the Secretary believes the risk is ongoing, they will apply to the Court for a Care and Protection Order (Section 42, CYPF Act).</p> <p>Note, under the Amending Act, the Secretary may only apply for a care and protection order if a family meeting or family group conference has been held in relation to the child, or if the Secretary considers that it is in the best interests of the child for the application to be made without delay.</p> <p>The Secretary can apply for a care and protection order which includes an order placing the child under the guardianship of the Secretary or one or two other persons, until the child is 18 years old (Section 42(4)(d), CYPF Act).</p> <p>Note that this sub-section is omitted in the Amending Act. Instead, section 42(4)(c) will provide that an order can be made placing the child for a specified period (no limitation) under the guardianship of the Secretary, one or two other persons, or the Secretary and one or two other persons.</p> <p>Furthermore, if:</p> <ul style="list-style-type: none"> a child has been subject to a custody or guardianship (or custody then guardianship order) under 1 or more care and protection orders for a continuous period of 2 or more years; and the Secretary makes application for another such order, or extension of that order to the Court, <p>The Court must, in the interests of securing a <i>settled and permanent living arrangement</i> for the child, consider making a care and protection order under section 42(4)(d) granting guardianship of the child until they are 18 years old.</p> <p>Note under the Amending Act the court will be directed to consider making an order under s 42(4)(c) instead – see above. Further, the Amending Act omits "settled and permanent" and substitutes "stable".</p> <p>Section 49(5), CYPF Act</p>	<p>If the CEO receives information that raises concerns about a child's wellbeing, the CEO may cause inquiries to be made that the CEO considers reasonably necessary for the purpose of determining whether action should be taken to safeguard or promote the child's wellbeing.</p> <p>Section 31, CCSA</p> <p>As soon as practicable after a child first comes into the CEO's care (which may occur prior to the making of a PO18 or a POSG), the CEO must prepare and implement a care plan for the child.</p> <p>A care plan identifies the needs of the child including decisions about placement arrangements and decisions about contact between the child and a parent, sibling or other relative of the child or any other person who is significant in the child's life.</p> <p>Section 89(1) & (2), CCSA</p>

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	<p>necessary to secure the safety and wellbeing of the child;</p> <ul style="list-style-type: none"> the need, in relation to an Aboriginal child, to protect his or her Aboriginal identity by, wherever possible, maintaining and building their connections to their Aboriginal family and community; the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances; the effects of cumulative patterns of harm on a child's safety and development; the desirability of continuity and permanency in the child's care; the desirability of making decisions as expeditiously as possible and the possible harmful effect of delay; that a child is only to be removed from the care of his or her parents if there is an unacceptable risk of harm; if the child is removed from parent's care, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered; the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child; the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child; contact arrangements between the child and child's parents, siblings, family members and other persons significant to the child; the child's social, individual, and cultural identity and religious faith and their age, maturity, sex and sexual identity; the desirability of the child retaining a connection to their culture where placed with a carer outside their cultural community; the desirability of the child being supported to gain access to appropriate educational services, health services, and accommodation and to participate in appropriate social opportunities; 	<p>family members;</p> <ul style="list-style-type: none"> priority must be given to supporting the child's or young person's parents and other family members to provide for the wellbeing, care and protection of the child or young person; if the child or young person does not live with his or her family because of the operation of the CYP A — contact with his or her family, and significant people, must be encouraged, if practicable and appropriate; if the child or young person is in need of care and protection and the child's or young person's parents and other family members are unwilling or unable to provide the child or young person with adequate care and protection (whether temporarily or permanently) — it is the responsibility of the government to share or take over their responsibility; if the child or young person does not live with the child's or young person's parents because of the operation of the CYP A — the safety and wellbeing of the child are more important than the interests of the parents; a court should make an order for a child or young person only if the court considers that making the order would be better for the child or young person than making no order at all. <p>These care and protection principles must be applied in addition to the principles under section 9 (Principles applying to Act) and section 10 (Aboriginal and Torres Strait Islander children and young people principle). <i>Section 350, CYP A</i></p>		<p>convenor – the chief executive; and</p> <ul style="list-style-type: none"> on the request of the chief executive – the litigation director. <p><i>Sections 51H and 51L, CPA</i></p> <p>If a child has a long-term guardian, the chief executive must contact the child at least once every 12 months to give them the chance to make comments on, or ask for a review of the case plan. At any time the child or long-term guardian can ask the chief executive to review the case plan. (<i>Section 51VA, CPA</i>). A parent may ask the chief executive to review the case plan at any time, if the plan has not been reviewed in the last 12 months (<i>Section 51VA(5) to be inserted, CPA</i>).</p>	<p>(e) if it is not practicable or in the best interests of an Aboriginal or Torres Strait Islander child or young person to be placed in accordance with paragraph (a), (b) or (d), the last preference is for the child or young person to be adopted.</p> <p><i>Section 10A, CYP Act</i></p> <p>Permanency planning recognises that long-term security will be assisted by a permanent placement (<i>section 78A(2), CYP Act</i>).</p> <p>If the Secretary applies to the Court for a GO, the Secretary must assess whether there is a realistic possibility of the child or young person being restored to their parents, having regard to the child's circumstances and the evidence, if any, that the child's parents are likely to be able to satisfactorily address the issues that have led to the removal of the child from their care (<i>Section 83(1) CYP Act</i>).</p> <p>If there is a realistic possibility of restoration, the Secretary must prepare a permanency plan involving restoration to submit to the Court for consideration (<i>Section 83(2), CYP Act</i>).</p> <p>If the Secretary concludes that restoration is not a realistic possibility, they must prepare a permanency plan which incorporates another suitable long term placement plan for the child. The Secretary must consider whether adoption is the child's preference when determining the details of this proposed long term placement (<i>Section 83(2)-(3) CYP Act</i>).</p> <p>The permanency plan does not need to provide exact details of the long term placement, but enough details to have a reasonably clear plan as to how the child's needs are going to be met (<i>Section 83(7A), CYP Act</i>).</p> <p>A permanency plan is enforceable only to the extent to which it is embodied or approved in the Court's orders (<i>Section 83(8), CYP Act</i>).</p>	<p>a child placed under the guardianship of the Minister must be conducted every year by a panel appointed by the Minister.</p> <p>The panel must keep under constant consideration whether the existing arrangements for the care and protection of the child continue to be in the best interests of the child.</p> <p>The Minister must cause a copy of the conclusions reached by a review panel to be given to the child, the child's guardians and the persons who have the care of the child unless it is determined that it is not in the best interests of the child to do so.</p> <p><i>Section 52, CPA</i></p>		

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	<ul style="list-style-type: none"> the desirability of allowing the education, training or employment of the child to continue without interruption or disturbance; the desirability of siblings being placed together when they are placed in out of home care; and any other relevant consideration. <p>Section 10, CYF Act</p>							
General pre-requisites for a Court to make a Permanency Order	<p>The Court may make a PCO if the child hasn't been in the parent's care for a period of at least 6 months (or for periods that total at least 6 months of the last 12 months) and it is satisfied that:</p> <ul style="list-style-type: none"> the parent is unable or unwilling to resume parental responsibility for the child, or it would not be in the best interests of the child for the parent to resume parental responsibility for the child; the person(s) named in the application as suitable to have parental responsibility for the child, is or are suitable; the permanent carer is willing and able to assume responsibility for the permanent parental care of the child; as far as possible, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child; and the best interests of the child will be promoted by the making of the order. <p>PCO must include a condition that the person caring for the child must preserve the child's identity and connection to culture of origin, and child's relationship with birth family (unless the Court orders otherwise).</p> <p>Section 319, CYF Act</p>	<p>The Court may make a care and protection order if the court:</p> <ul style="list-style-type: none"> is satisfied that the child or young person is in need of care and protection; and has considered the care plan prepared by the director-general for the child or young person; and is satisfied that: <ul style="list-style-type: none"> the provisions included in the order are necessary to ensure the care and protection of the child or young person; and making the order is in the best interests of the child or young person. <p>Section 464(1), CYPA</p>	<p>When making the decision whether or not to make a PCO, the Court must consider:</p> <p>(a) the wishes of the following:</p> <ol style="list-style-type: none"> the child; a parent of the child; the person proposed to be given parental responsibility for the child under the order; any other person considered by the Court to have a direct and significant interest in the wellbeing of the child; and <p>(b) any other matters the Court considers relevant.</p> <p>Section 137H, CPCA</p> <p>Furthermore, per s 137G of the CPCA, the Court must make a PCO if it is satisfied:</p> <ul style="list-style-type: none"> the child would be in need of protection but for the fact that the child is, at the time the order is made in the care of the CEO or another person; the order is the best means to safeguard the wellbeing of the child; and the person proposed to be given the parental responsibility for the child under the order has demonstrated the person's suitability to have that responsibility. <p>An application for a PCO must include:</p> <ul style="list-style-type: none"> the proposed order; when the order is proposed to have effect; why the CEO considers the order is necessary; a statement that the person proposed to be given the parental responsibility for the child consents to the making of the order; and if the CEO considers it appropriate to do so – a request that the PCO include a direction authorising the 	<p>To make any child protection order, the Court must be satisfied:</p> <ul style="list-style-type: none"> the child is in need of protection and the order is appropriate and desirable for the child's protection; there is a case plan for the child developed under Part 3A of Chapter 2, which is appropriate for meeting the child's assessed protection and care needs, and for an order granting long-term guardianship of the child – that includes living arrangements and contact arrangements for the child; if the making of the order is contested, a conference between the parties has been held (or reasonable attempts to hold one); the child's wishes or views, if able to be ascertained, have been made known to the Court; and the protection sought to be achieved by the order is unlikely to be achieved by an order under this part on less intrusive terms. <p>Section 59(1), CPA</p> <p>Before making a long term guardianship order, the Court must further be satisfied that:</p> <ul style="list-style-type: none"> there is no parent able and willing to protect the child within the foreseeable future; or the child's need for emotional security will be best met in the long term by making the order. <p>Section 59(6), CPA</p> <p>Before making an order granting guardianship to a person other than the chief executive, the court must have regard to any report or recommendation about that person.</p> <p>Section 59(5), CPA</p> <p>The Discussion Paper called for submissions discussing how the legislation can promote the importance of permanence and provide options for providing</p>	<p>The Court must not make a GO unless it is satisfied that:</p> <ul style="list-style-type: none"> there is no realistic possibility of restoration of the child or young person to his or her parents; the prospective guardian will provide a safe, nurturing, stable and secure environment for the child or young person and will continue to do so in the future; if the child or young person is an Aboriginal or Torres Strait Islander child or young person – permanent placement of the child or young person under the order is in accordance with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in section 13 of the Act; and if the child or young person is 12 or more years of age and capable of giving consent – the consent of the child or young person is given in the form and manner prescribed by the regulations. <p>Section 79A(3), CYP Act</p> <p>The Court cannot make a final care order (for example a GO) unless it expressly finds that permanency planning has been addressed and that, in the case of a permanency plan involving restoration, proper regard was had to the relevant factors when preparing the permanency plan.</p> <p>Section 83(7), CYP Act</p>	<p>The Court may make an order if the grounds of the application have been made out (see above row) and that an order should be made in respect of the child.</p> <p>Section 38(1), CPA</p> <p>The Minister cannot make an application for a care and protection order granting guardianship of the child before a family care meeting is held pursuant to Division 1 of Part 5 of the CPA, unless satisfied:</p> <ul style="list-style-type: none"> that it has not been possible to hold a meeting despite reasonable endeavours to do so; or that an order should be made without delay; or that the guardians of the child consent to the making of the application; or that there is other good reason to do so. <p>Section 27, CPA</p> <p>Before the Court makes an order giving custody or guardianship of a child to a person who is not a parent of the child, the Court must be satisfied that:</p> <ul style="list-style-type: none"> there is no parent willing and available to provide adequate care and protection for the child; and the order is the best available solution having regard to the child's need for care and protection (including emotional security) and the child's age, developmental needs and emotional attachments. <p>Section 38(2), CPA</p> <p>If a child is to be placed in guardianship, the Court must consider the importance of settled and stable living arrangements for the child and, as a general rule, a long term guardianship order is to be preferred to a series of temporary arrangements for the custody or guardianship of the child.</p> <p>Section 38(2a), CPA</p>	<p>The Court may make a care and protection order (including a LTGO) if the Court is satisfied that:</p> <ul style="list-style-type: none"> the child is at risk and that a care and protection order should be made to secure the care and protection of the child; or proper arrangements exist for the care and protection of a child, and the child would be likely to suffer significant psychological harm if the arrangements were to be disturbed, and it would be in the best interests of the child for the arrangement to be incorporated in a care and protection order <p>Section 42(3), CYPF Act</p>	<p>The court may make an order if it finds that the child is in need of protection.</p> <p>Section 45, CCSA</p> <p>In relation to a POSG, the CEO must provide the Court with a written report that contains information addressing the existence and suitability of a proposed special guardian as well as the proposed arrangements for the well-being of the child.</p> <p>Section 61(3), CCSA</p>

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			child to travel outside Australia without the consent of the child's parent. <i>Section 137B, CPCA</i>	children with relationship permanence, physical permanence and legal permanence.				
Restrictions on making a Permanency Order	<p>The Court must not make a PCO:</p> <ul style="list-style-type: none"> unless it has received a dispositional report; if an application has been made in relation to a protection order in force in respect of the child; and if there is a current proceeding commenced by a person who is not a parent of the child under the <i>Family Law Act 1975</i> (Cth) regarding parental responsibility of the child. <p><i>Section 322, CYF Act</i></p>	<p>Enduring Parental Responsibility Criteria are further criteria that the Court must consider when including an enduring parental responsibility provision in a care and protection order.</p> <p><i>Section 482(1), CYPA</i></p> <p>These are as follows:</p> <p>(a) no-one with parental responsibility for the child or young person (other than under a care and protection order) has had care of the child or young person for—</p> <p>(i) the year immediately before the order is made; or</p> <p>(ii) a total of at least 1 year in the 2 years immediately before the order is made; and</p> <p>(b) the child or young person has been living with a stated person under a care and protection order for—</p> <p>(i) the year immediately before the order is made; or</p> <p>(ii) a total of at least 1 year in the 2 years immediately before the order is made; and</p> <p>(c) the court is satisfied that—</p> <p>(i) no-one with parental responsibility for the child or young person (other than under a care and protection order) (a previous carer) is willing or able to exercise daily care responsibility or long-term care responsibility for the child or young person; or</p> <p>(ii) it is not in the best interests of the child or young person for a previous carer to exercise those responsibilities for the child or young person; and</p> <p>(d) the court is satisfied that—</p> <p>(i) it is unlikely that a previous carer of the child or young person will be willing or able to exercise daily care responsibility or long-term care responsibility for the child or young person before the child or young person is 18 years old; or</p> <p>(ii) it is unlikely that it would</p>	No equivalent provisions in the CPCA.	<p>The Court must not grant long term guardianship of a child to:</p> <ul style="list-style-type: none"> a person who is not a member of the child's family unless the child is already in custody or guardianship under a child protection order; or the chief executive if the court can properly grant guardianship to another suitable person. <p><i>Section 59(7), CPA</i></p> <p>The Court may make a child protection order only if it is satisfied that:</p> <ul style="list-style-type: none"> the child is in need of protection and the order is appropriate and desirable for the child's protection; there is an appropriate case plan for the child; if the order is contested, a conference between the parties has been held, or reasonable attempts to hold one have been made or because of exceptional circumstances, it would be inappropriate to require the parties to hold one; the child's wishes or views if able to be ascertained have been made known to the court; and the protection sought is unlikely to be achieved by an order with less intrusive terms. <p><i>Section 59, CPA</i></p>	<p>The Court must not make a GO if it would be inconsistent with:</p> <ul style="list-style-type: none"> any order made with by the Supreme Court in the exercise of its jurisdiction with respect to the custody and guardianship of children; or a GO with respect to the younger person made by the Guardianship Tribunal. <p><i>Section 79A(5), CYP Act</i></p> <p>The Secretary cannot make an application or give consent for one unless satisfied that the person to whom parental responsibility is to be allocated has agreed to undergo and has satisfied, any suitability assessments in the regulation (<i>Section 79B(1A)</i>, CYP Act).</p> <p>The applicant must make reasonable efforts to notify the parents of the making of the application (<i>Section 79B(3)</i>, CYP Act).</p> <p>The applicant for a GO must present the Court with copies of any written consent required, a care plan prepared by the applicant, a copy of any report on the health, educational or social well-being of the child or young person that is available to the applicant and relevant to the care plan (<i>Section 79B(8)</i>, CYP Act)</p>	No equivalent provisions in the CPA.	<p>The Court cannot make a LTGO under <i>section 42(4)(d)</i>, unless satisfied that:</p> <ul style="list-style-type: none"> all reasonable steps have been taken to provide the services required to enable the child's protection and care needs to be met within the home of a parent or other existing guardian of the child; the person proposed as guardian is suitable, and is willing and able to assume guardianship; the wishes and feelings of the child have been duly considered, having regard to the age, understanding and maturity of the child; the wishes of the parents in relation whether the guardian is suitable have been duly considered; and no other order, apart from the order considered, would be in the best interests of the child. <p><i>Section 42(6), CYPF Act</i></p> <p>Note this subsection is omitted, and replaced with a new subsection:</p> <p>The Court may not make a care and protection order (ie any care and protection order) unless satisfied:</p> <ul style="list-style-type: none"> the views of the child have been duly considered, having regard to the age, understanding and maturity of the child the views of the parents or other existing guardians have been duly considered if the order places the child under the guardianship of a person who is not an existing guardian, all reasonable steps have been taken to enable the child's protection and care needs to be met at the home of a parent/existing guardian, and the person proposed as a guardian is suitable to have guardianship of the child and is willing and able either a family meeting or family group conference has been held in relation to the child OR it is in the best interests of the child for the order to be made without delay no other order would be in the best interests of the child 	<p>The Court must not make any protection order unless it is satisfied that making the order would be better for the child than making no order at all.</p> <p><i>Section 46, CCSA</i></p> <p>The Court must not make a PO18 unless the court is satisfied that long-term arrangements should be made for the wellbeing of the child.</p> <p><i>Section 58, CCSA</i></p> <p>The Court must not make a POSG unless the court is satisfied that long term arrangements should be made for the well-being of the child and a suitable person to provide long-term care is willing and able to provide such care.</p> <p><i>Section 61(2), CCSA</i></p>

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		<p>be in the best interests of the child or young person for a previous carer to exercise those responsibilities for the child or young person before the child or young person is 18 years old; and</p> <p>(e) the court is satisfied that the stated person is willing and able to exercise daily care responsibility or long-term care responsibility for the child or young person; and</p> <p>(f) the court is satisfied that including the provision is the best way to meet the child's or young person's need for emotional security in the long-term; and</p> <p>(g) for an Aboriginal or Torres Strait Islander child or young person—the court has given any Aboriginal or Torres Strait Islander person or organisation that has provided ongoing support services to the child or young person and his or her family a reasonable opportunity to provide a written report about the making of the proposed provision.</p> <p><i>Section 482, CYPA</i></p>					<p>The Court must, in any proceeding under the CYPF Act, consider the best interests of the child to be paramount and observe the principles in sections 8 and 9 (<i>Section 54, CYPF Act</i>).</p> <p>Note that the amending Act omits the words "in sections 8 and 9" and substitutes "Part 1A"</p> <p>Part 1A will be inserted which sets out principles to be observed in dealing with children under the Act and includes:</p> <ul style="list-style-type: none"> section 10A – principles section 10B – responsibility of government section 10C – role of child's family section 10D – treating the child with respect section 10E – best interests of the child section 10F – child participation section 10G – Aboriginal children (see below) <p>Section 10A states that in performing or exercising a function or power under the CYPF Act, a person must uphold sections 10B, 10C, 10D, 10E, 10F and 10G as far as practicable, and have regard to any national standards or charters relating to the rights or treatment of children published by the Commonwealth Government that are relevant.</p>	
Further considerations in relation to an Aboriginal or Torres Strait Islander child	<p>In determining what decisions to make or action to take, in relation to the best interests of an Aboriginal child, consideration must be given to the need to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community.</p> <p><i>Section 10(3)(c), CYF Act</i></p> <p>In recognition of the principle of Aboriginal self-management and determination, in making a decision or taking an action in relation to an Aboriginal child, the Secretary must also give consideration to the following principles:</p> <ul style="list-style-type: none"> an opportunity should be given, where relevant, to the members of the Aboriginal community to which the child belongs and other respected Aboriginal persons to contribute to their views; and a decision in relation to the placement of an Aboriginal child, or other significant decisions in relation to an Aboriginal child, 	<p>The CYPA contains broad principles relating to the placement of Aboriginal or Torres Strait Islander children with an out-of-home carer as well as other more specific provisions. Relevantly, section 513 provides:</p> <p>(1) If the director-general is placing an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer under section 512, the director-general must place the child or young person with the first of the options mentioned in subsection (2) that:</p> <p>(a) is available; and</p> <p>(b) to which the child or young person does not object; and</p> <p>(c) is consistent with any Aboriginal or Torres Strait Islander cultural plan in force for the child or young person.</p> <p>(2) The director-general may place an Aboriginal or Torres</p>	<p>The CPCA contains a broad statement of underlying principles, including some relevant to Aboriginal and Torres Strait Islander children. Section 12 of the CPCA provides, in relation to Aboriginal and Torres Strait Islander children:</p> <ul style="list-style-type: none"> Kinship groups, representative organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children; In particular, a kinship group, representative organisation or community of Aboriginal people nominated by an Aboriginal child's family should be able to participate in the making of a decision involving the child; An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority: 	<p>The CPA is to be administered under the principles set out in Part 2 of Chapter 1.</p> <p>Section 5C details principles which apply in relation to an Aboriginal or Torres Strait Islander child:</p> <ul style="list-style-type: none"> the child should be allowed to develop and maintain a connection with the child's family, culture, traditions, language and community; and the long-term effect of a decision on the child's identity and connection with their family and community should be taken into account. <p>When making a significant decision about an Aboriginal or Torres Strait Islander child, the chief executive, the litigation director, or an authorised officer must give an opportunity to recognised entity for the child to participate in the decision-making process (<i>Section 6(1), CPA</i>).</p>	<p>A permanency plan regarding an Aboriginal or Torres Strait Islander child must address how it complies with the Aboriginal or Torres Strait Islander Child and Young Person Placement Principles in <i>section 13</i> of the CYP Act</p> <p><i>Section 78A(3), CYP Act</i></p> <p>Aboriginal or Torres Strait Islander children must be placed with persons accordance with the following priority list:</p> <ul style="list-style-type: none"> with a member of the child's extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which they belong; if that is not practicable or it would not be in the best interests of the child or young person – a member of the Aboriginal or Torres Strait Islander community to which the child belongs; if that is not practicable or it would not be in the best interests of the child or young person, – a member of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child's usual place of 	<ul style="list-style-type: none"> No decision or order may be made under the CPA as to where or with whom an Aboriginal or Torres Strait Islander child will reside unless consultation has first been had with a recognised Aboriginal or Torres Strait Islander organisation; <p>Regard must be had to: submissions made by or on behalf of a recognised Aboriginal or Torres Strait Islander organisation consulted in relation to the child, and if there has been no such consultation – Aboriginal or Torres Strait Islander traditions and cultural values (including kinship rules) and the general principle that an Aboriginal or Torres Strait Islander child should be kept within the Aboriginal or Torres Strait Islander community;</p> <ul style="list-style-type: none"> All reasonable endeavours should be made when 	<p>Any decision or order as to where, or with whom, an Aboriginal or Torres Strait Islander child will reside with may not be made under the CYPF Act, except where a recognised Aboriginal or Torres Strait Islander organisation has first been consulted (<i>Section 9(1), CYPF Act</i>).</p> <p>In any decision or order in relation to an Aboriginal child, a person or the Court must:</p> <ul style="list-style-type: none"> have regard to any submissions made by or on behalf of a recognised Aboriginal organisation consulted in relation to the child; if a recognised Aboriginal organisation has not made any submissions, have regard to Aboriginal traditions and cultural values (including kinship rules) as generally held by the Aboriginal community; and have regard to the general principle that an Aboriginal 	<p>In making a decision about the placement of an Aboriginal or Torres Strait Islander child, so far as is consistent with the child's best interests, placement must be in accordance with the following order of priority-</p> <ul style="list-style-type: none"> placement with a member of the child's family; placement with an Aboriginal or Torres Strait Islander person from the child's community in accordance with customary practice; placement with an Aboriginal or Torres Strait Islander person; placement with a person who is not an Aboriginal or Torres Strait Islander but is sensitive to the needs of the child and is capable of promoting the ongoing affiliation with the child's culture, and where possible, the child's family. <p><i>Section 12(2)(b), CCSA</i></p> <p>In relation to a POSG, if a child is</p>

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	<p>should involve a meeting convened by an Aboriginal convenor, who has been approved by an Aboriginal agency or by an Aboriginal organisation approved by the Secretary, and attended wherever possible by the child, parent, extended family and other appropriate members of the Aboriginal community as determined by the child's parent; and</p> <ul style="list-style-type: none"> in making a decision to place an Aboriginal child in out of home care, an Aboriginal agency must first be consulted and the Aboriginal Child Placement Principle must be applied. <p><i>Section 12, CYF Act</i></p> <p>A case plan for an Aboriginal child placed in out-of-home care, must address the cultural support needs of the child. The Secretary must provide a cultural plan to each Aboriginal child in out of home care that is aligned with their case plan. The case plan must reflect and be consistent with the child's cultural support needs, having regard to the child's circumstances so as to maintain and develop the child's Aboriginal identity, and encourage the child's connection to the child's Aboriginal community and culture.</p> <p>The child's cultural support needs may vary depending on the length of time they have been in out-of-home care, their age, the length of time they are expected to remain in out of home care, the extent of their contact with Aboriginal family members, and whether the child is placed within their own Aboriginal community or with non-Aboriginal carers.</p> <p><i>Section 176, CYF Act</i></p> <p>The Aboriginal Child Placement Principle sets out a hierarchy for placement of Aboriginal children:</p> <ul style="list-style-type: none"> kinship care with extended Aboriginal family or relatives; other extended family or relatives, <p>If, after consultation with relevant Aboriginal agency, this is not feasible, the child may be placed with:</p> <ul style="list-style-type: none"> an Aboriginal family from the local community and within close geographical proximity to the child's natural family; an Aboriginal family from another Aboriginal community; as a last resort, a non-Aboriginal family living in close proximity to the child's natural family. <p><i>Section 13, CYF Act</i></p> <p>Any non-Aboriginal placement must ensure the maintenance of the child's culture and identity through contact with the child's community (<i>Section 13, CYF Act</i>).</p> <p>The Court must not make a PCO to place an Aboriginal child solely with a</p>	<p>Strait Islander child or young person with any of the following out-of-home carers:</p> <ol style="list-style-type: none"> a kinship carer; a foster carer who is a member of the child's or young person's Aboriginal or Torres Strait Islander community in a relationship of responsibility for the child or young person according to local custom and practice; a foster carer who is a member of the child's or young person's community; an Aboriginal or Torres Strait Islander foster carer; a non-Aboriginal or Torres Strait Islander foster carer who: <ol style="list-style-type: none"> the director-general believes on reasonable grounds is sensitive to the child's or young person's needs; and the director-general believes on reasonable grounds is capable of promoting the child's or young person's ongoing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community and culture; and if family reunion or continuing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community or culture is a consideration in the placement—lives near the child's or young person's Aboriginal or Torres Strait Islander family or community. <p>However, section 513 doesn't appear to apply in regard to an enduring parental responsibility provision in a care order as the provision only relates to situation where the director-general has an aspect of parental responsibility for the care of a child or young person.</p> <p>The CYPA also contains various other provisions, requiring consideration of the preservation and enhancement of Aboriginal or Torres Strait Islander children's</p>	<ol style="list-style-type: none"> a member of the child's family; an Aboriginal person in the child's community in accordance with local community practice; any other Aboriginal person; a person who: <ol style="list-style-type: none"> is not an Aboriginal person; but in the CEO's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community (and, if possible, ongoing contact with the child's family); and <ul style="list-style-type: none"> In addition, an Aboriginal child should, as far as practicable, be placed in close proximity to the child's family and community. 	<p>QLD</p> <p>Note: the <i>Director of Child Protection Litigation Act 2016</i> has received royal assent and comes into force on 1 July 2016. See relevant changes below in yellow. The <i>Child Protection Reform Amendment Act 2016</i> has also received royal assent, with key provisions commencing on 1 July 2016. See relevant changes below in pink.</p> <p>Significant decisions include a decision to place a child in care or a decision by the litigation director as to whether or not to apply for a child protection order (<i>Section 6(6), CPA</i>).</p> <p>When making a decision other than a significant decision, about an Aboriginal or Torres Strait Islander child, the chief executive, the litigation director, or authorised officer must consult with a recognised entity for the child before making that decision (<i>Section 6(2), CPA</i>).</p> <p>If not practicable, then there must be consultation after the decision is made (<i>Section 6(3), CPA</i>).</p> <p>If the Court exercises a power under the CPA, it must have regard to:</p> <ul style="list-style-type: none"> the views, about the child and about Aboriginal tradition and Island custom relating to the child, of a recognised entity or if that is not practicable, members of the child's community; and the general principle that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander Community. <p>If the Court grants guardianship to the chief executive, there are additional provisions setting out in whose care an Aboriginal or Torres Strait Islander child may be placed.</p> <p>Proper consideration must be given to placing the child with the following, in order of priority:</p> <ul style="list-style-type: none"> a member of the child's family; a member of the child's community or language group; another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group; or another Aboriginal person or Torres Strait Islander. <p><i>Section 83(4), CPA</i></p> <p>The chief executive must give proper consideration to the view of a recognised entity for the child and ensuring the decision provides for the optimal retention of the child's relationships with parents, siblings and other people of significance under Aboriginal tradition or Island custom.</p>	<p>residence;</p> <ul style="list-style-type: none"> finally if none of these options are practicable, or would be detrimental to the safety, welfare and well-being of the child, placement should be with a suitable person approved by the Secretary after consultation with members of the child's extended family or kinship group and with such Aboriginal or Torres Strait Islander organisations as are appropriate to the child. <p><i>Section 13(1), CYP Act</i></p> <p>If a child or young person has parents from different Aboriginal or Torres Strait Islander communities, the order for placement established in section 13(1) still applies, but the choice of a member or person referred to is to be made so that the best interests of the child or young person are served having regard to the principles of the CYP Act (<i>Section 13(3), CYP Act</i>).</p> <p>If a child or young person has one Aboriginal or Torres Strait Islander parent and one non-Aboriginal or Torres Strait Islander parent, the child or young person may be placed with the person with whom the best interests of the child or young person will be served, having regard to the principles of the CYP Act.</p> <p>If the child or young person to whom section 13(4) applies:</p> <ul style="list-style-type: none"> is placed with a person who is not within an Aboriginal or Torres Strait Islander family or community, arrangements must be made to ensure that the child or young person has the opportunity for continuing contact with his or her Aboriginal or Torres Strait Islander family, community and culture; or is placed with a person who is within an Aboriginal or Torres Strait Islander family or community, arrangements must be made to ensure the child or young person has the opportunity for continuing contact with his or her non-Aboriginal and Torres Strait Islander family, community and culture. <p><i>Section 13(5), CYP Act</i></p> <p>There are a number of other principles which must be applied in relation to Aboriginal and Torres Strait Islander children and young people under the CYP Act:</p> <ul style="list-style-type: none"> Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children and young persons with as much self-determination as possible (<i>Section 11, CYP Act</i>); Aboriginal and Torres Strait Islander families, kinship groups, representative organisations and communities are to be given the opportunity, by means approved by the Minister, to participate in decisions made concerning the 	<p>conducting consultations, negotiations, meetings or proceedings of any kind under the CPA involving an Aboriginal or Torres Strait Islander person (whether a child or not) to do so in a manner and in a venue that is as sympathetic to Aboriginal or Torres Strait Islander traditions as is reasonably practicable.</p> <p><i>Section 5, CPA</i></p> <p>In addition, the 'Aboriginal & Torres Strait Islander Child Placement Principle' is to be observed, which involves:</p> <ul style="list-style-type: none"> Considering the child's cultural needs and identity when determining the child's best interests; Placing the child in the care of the following parties in descending order of priority: <ul style="list-style-type: none"> A member of the child's family; A member of the child's community; A person of Aboriginal or Torres Strait Islander background; A person who is able to ensure the child maintains contact with their culture and/or family. <p><i>Section 5, CPA; Section 4, Children's Protection Regulations 2010 (SA)</i></p>	<p>TAS</p> <p>Note: the <i>Children, Young Persons and Their Families Amendment Act 2013</i> (Amending Act) has received royal assent but only sections 41 and 42 have commenced. The remaining provisions have not commenced yet. They will commence on a date to be proclaimed. See key changes below in green.</p> <p>child should remain within the Aboriginal community.</p> <p><i>Section 9(2), CYPF Act</i></p> <p>When determining what is in the best interests of the child, the Court must consider the child's background and culture (including any need to maintain a connection with the lifestyle, culture, and traditions of the Aboriginal community).</p> <p><i>Section 55(1)(f), CYPF Act</i></p> <p>Note, the Amending Act repeals sections 9 and 55.</p> <p>Part 1A will be inserted, including section 10A which states that a person performing or exercising a function of power under the CYPF Act must uphold to the extent practicable section 10G, which provides that:</p> <ol style="list-style-type: none"> Aboriginal families, kinship groups, Aboriginal communities and organisations representing the Aboriginal people have a major, self-determining role in promoting the wellbeing of Aboriginal children. A kinship group, Aboriginal community or organisation representing the Aboriginal people nominated by an Aboriginal child's family should be allowed to contribute to the making of a decision under the CYPF Act. An Aboriginal child, as far as is practicable, should be placed with a person in the following order of priority: <ol style="list-style-type: none"> a member of the child's family; an Aboriginal person in the child's community in accordance with local community practice; another Aboriginal person; a person who – <ol style="list-style-type: none"> is not an Aboriginal person; but in the Secretary's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing 	<p>an Aboriginal or Torres Strait Islander child the court must have regard to the Aboriginal or Torres Strait Islander child placement principle in section 12 in assessing the suitability of the proposed special guardian.</p> <p><i>Section 61(4), CCSA</i></p> <p>In relation to a placement arrangement made following a PO18, the CEO must consult with at least one of the following prior to making the arrangement: an officer who is an Aboriginal or Torres Strait Islander, an Aboriginal or Torres Strait Islander who has relevant knowledge of the child, the child's family or the child's community or an Aboriginal or Torres Strait Islander agency that has relevant knowledge of the child, the child's family or the child's community.</p> <p><i>Section 81, CCSA</i></p> <p>The principles of:</p> <ul style="list-style-type: none"> allowing Aboriginal or Torres Strait Islander people to participate in the protection and care of their children with as much self-determination as possible; and giving Aboriginal or Torres Strait Islander kinship groups, community or representation organisations an opportunity and assistance to participate in decision-making processes that are likely to have a significant impact on the life of a child who is a member of or represented by the group, community or organisation <p>should be adhered to in the administration of the CCSA.</p> <p><i>Section 13, 14, CCSA</i></p>

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	<p>non-Aboriginal person(s) unless the dispositional report states that:</p> <ul style="list-style-type: none"> no suitable placement can be found with an Aboriginal person(s); the decision to seek the order has been in consultation with the child where appropriate; and the Secretary is satisfied that the order will accord with the Aboriginal Child Placement Principle. <p>The Court must not make a PCO in respect of an Aboriginal child unless:</p> <ul style="list-style-type: none"> the Court has received a report from an Aboriginal agency that recommends the making of the order; and a cultural plan has been prepared for the child. <p><i>Section 323, CYF Act</i></p>	<p>cultural identity in relation to care plans (s 455(b)(ii) and s 457(1)(iv)) and stability proposals (s456(5)).</p> <p>The director-general must also consult with certain Aboriginal or Torres Strait Island people or organisations about a proposal included in a care plan and must consider any submission about the proposal from those Aboriginal or Torres Strait Island people or organisations (Section 457).</p> <p>Furthermore, as noted above, if an enduring parental responsibility order is proposed to be made in relation to an Aboriginal or Torres Strait Islander child the Court must give any Aboriginal or Torres Strait Islander person or organisation that has provided ongoing support services to the child or young person and his or her family a reasonable opportunity to provide a written report about the making of the proposed provision (<i>Section 482, CYPA</i>).</p>		<p><i>Section 83(5), CPA</i></p> <p>Before placing a child in the care of a family member or other person who is not an Aboriginal or Torres Strait Islander, the chief executive must give proper consideration to whether the person is committed to:</p> <ul style="list-style-type: none"> facilitating contact with parents and family members; helping maintain contact with the child's community or language group; helping the child to maintain a connection with the child's Aboriginal or Torres Strait Islander culture; and preserving the child's sense of Aboriginal or Torres Strait Islander identity. <p><i>Section 83(7), CPA</i></p>	<p>placement of their children and young persons and in other significant decisions made under the CYP Act (<i>Section 12, CYP Act</i>)</p> <p>Consideration should also be given to:</p> <ul style="list-style-type: none"> relevance of self-identification and expressed wishes of the child; continuing contact with Aboriginal or Torres Strait Islander families, communities and culture; a fundamental object being the reunion of the child with their family or community. <p><i>Sections 13(2) and (6), CYP Act</i></p>		<p>affiliation with the culture of the child's community and, if possible the child's ongoing contact with his or her family</p> <p>(4) As far as is practicable, an Aboriginal child removed from his or her family and community should be placed in close proximity to them.</p>	
<p>Contact with biological parents and siblings</p>	<p>PCO may include contact condition:</p> <ul style="list-style-type: none"> providing for contact with the child's parent up to 4 times p.a. that the child must not have contact with parent, sibling or other person at all. that the Court considers in the best interests of the child concerning contact with siblings and other significant persons. <p>However, additional contact may be arranged from time to time by agreement in the child's best interests.</p> <p><i>Sections 321(1)(d) and (1A), CYF Act</i></p> <p>Before including any contact condition, the Court must have regard to the primacy of the child's relationship with the permanent care family and whether the condition:</p> <ul style="list-style-type: none"> is necessary to protect the child or support the permanence of the placement; is necessary to promote the child's continuing connection to the parent, siblings or culture; is sufficiently flexible to accommodate the child's changing developmental needs over time; is reasonable in the context of the child's permanent care family's life; and is necessary given the capacity of the person caring for the child to meet a condition which preserves the child's identity and connection to culture of origin and relationships with birth family. <p><i>Section 321(1B), CYF Act</i></p>	<p>The Court must include a contact provision in a care and protection order (either on application or its own initiative) if satisfied it is in the best interests of the child or young person (<i>Section 464(2), CYPA</i>).</p> <p>Section 486 of the CYPA creates, a rebuttable presumption that it is in the best interests of the child or young person to have contact with a person with parental responsibility for the child or young person or his or her siblings.</p> <p>A sibling does not require leave of Court to be joined as a party to the proceeding on an application for a contact provision to be included in a care and protection order (<i>Section 487, CYPA</i>).</p>	<p>There is a general principle contained in s 8(4) of the CPCA which states that if a child is removed from their family, contact with the child's family should be encouraged.</p> <p>Section 137F states that when making a PCO for a child, the Court must not make any direction (other than that the child may travel outside Australia without the consent of the parent, if requested).</p> <p>Therefore, the Court does not have the power to make a direction in a PCO that the child have contact with their biological parents and/or siblings.</p>	<p>The case plan may provide for the child's contact with their family group or other people with whom they are connected, although this is not mandatory.</p> <p><i>Section 51B(2)(e), CPA Act</i></p> <p>The Court may make an order preventing contact between a parent and their child or restricting it to supervised contact (<i>Section 61(b), CPA</i>).</p> <p>If a family member of other suitable person is granted guardianship under a child protection order, they must provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances. If the Court is satisfied that compliance with this would constitute a significant risk to the safety of the child or anyone else they are living with, the court may order that these requirements do not apply.</p> <p><i>Section 80, CPA</i></p> <p>If guardianship is granted to the chief executive they must also provide opportunity for contact with family and community as often as is appropriate in the circumstances. They can also refuse to allow or restrict or impose conditions on the contact if satisfied it is in the child's best interests to do so, or it is not reasonably practicable to have the contact.</p> <p><i>Section 87 CPA</i></p> <p>If guardianship is granted to the</p>	<p>Maintaining contact with family, community and culture when placed with a non- Aboriginal or Torres Strait Islander person is one of the considerations within the Aboriginal or Torres Strait Islander Child and Young Person Placement Principles.</p> <p><i>Section 13(6), CYP Act</i></p> <p>In all cases, the care plan must also make provision for arrangements for contact between the child or young person and his or her parents, relatives, friends and other person connected with them.</p> <p><i>Section 78(2), CYP Act</i></p> <p>The Court may make a contact order including:</p> <ul style="list-style-type: none"> stipulating minimum requirements concerning the frequency and duration of contact between a child or young person and his or her parents, relatives, or other persons of significance to the child or young person; requiring contact with a specified person to be supervised; denying contact with a specified person if contact with that person is not in the best interests of the child or young person. <p><i>Section 86(1), CYP Act</i></p> <p>A contact order setting out minimum requirements does not prevent more frequent contact with a child or young person with consent of a person having parental responsibility (<i>Section 86(3), CYP Act</i>).</p> <p>A contact order may be made by the Court:</p> <ul style="list-style-type: none"> on application by any party to a 	<p>When making a LTGO the Court may make consequential or ancillary orders, among other things, providing for access to the child (<i>Section 38(1)(f), CPA</i>).</p> <p>The Court may also direct a party to the application:</p> <ul style="list-style-type: none"> to cease or refrain from residing in the same premises as the child; to refrain from coming within a specified distance of the child's residence; to refrain from having any contact with the child except in the presence of some other person; or to refrain from having any contact at all with the child. <p><i>Section 38(1)(e), CPA</i></p>	<p>When the Court makes a care and protection order (including a longer term guardianship order), it can include an order in relation to access.</p> <p><i>Section 42(4)(e), CYPF Act</i></p>	<p>A POSG may include conditions about contact between the child and another person (note that no such provision exists for a PO18).</p> <p><i>Section 63(1), CCSA</i></p> <p>In the administration of the CCSA, the principle that if a child is removed from the child's family then, so far as is consistent with the child's best interests, the child should be given encouragement and support in maintaining contact with the child's parents, siblings and other relatives and with any other people who are significant in the child's life should be adhered to.</p> <p><i>Section 9, CCSA</i></p>

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				<p>chief executive, and the child is Aboriginal or Torres Strait Islander, the chief executive must provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group.</p> <p><i>Section 88, CPA</i></p>	<p>proceeding (including a GO) currently before the Court;, or</p> <ul style="list-style-type: none"> with leave of the court – on application made by a person who was party to care proceedings, including the Secretary, the child or young person, a person having parental responsibility for the child or young person, a person from whom parental responsibility for the child or young person has been removed, or any person who considers himself or herself to have sufficient interest in the welfare of the child or young person; or with leave of the court – on application made by any person who considers himself or herself to have a sufficient interest in the welfare of the child or young person. <p><i>Section 86(1A), CYP Act</i></p> <p>The Court may grant leave if it appears to the Court that there has been a significant change in any relevant circumstances since a final order was made in the proceedings (<i>Section 86(1B), CYP Act</i>).</p> <p>If the Court decides that there is no realistic possibility of restoration of a child or young person to his or her parent, the maximum period that may be specified in a contact order is 12 months (<i>Section 88(6), CYP Act</i>).</p> <p>This does not apply to a contact order made on the application of a former party to proceedings in which an earlier contact order was made that has expired.</p> <p><i>Section 86(7), CYP Act</i></p> <p>Contact orders have effect for the period specified in the order (unless it is varied or rescinded under section 86A or 90 of the <i>CYP Act</i>.)</p> <p>If any Contact Order expires:</p> <ul style="list-style-type: none"> There is no automatic process that the Court must follow when a Contact Order expires – there will be no new Contact Order unless another application is made and the Court grants leave; The Contact Order may not necessarily have the same length as any other orders in place, so the expiration of a Contact Order may not coincide with a change in other living arrangements for the child; If an application for a Contact Order is made by a party to a previous contact order proceeding relating to the same child, there is no maximum period for that order (<i>Section 86(7), CYP Act</i>); <p>If a final order has already been made in earlier proceedings, the Court will only grant leave to hear another Contact Order application if it appears there has been a significant change in any relevant</p>			

	VIC	ACT	NT	QLD Note: the <i>Director of Child Protection Litigation Act 2016</i> has received royal assent and comes into force on 1 July 2016. See relevant changes below in yellow . The <i>Child Protection Reform Amendment Act 2016</i> has also received royal assent, with key provisions commencing on 1 July 2016. See relevant changes below in pink .	NSW	SA	TAS Note: the <i>Children, Young Persons and Their Families Amendment Act 2013</i> (Amending Act) has received royal assent but only sections 41 and 42 have commenced. The remaining provisions have not commenced yet. They will commence on a date to be proclaimed. See key changes below in green .	WA
					circumstances since that final order.			
Who can apply for variation or revocation of a Permanency Order?	<p>The child, biological parent (with leave from the court), the Secretary, the person with parental responsibility or sibling (for variation only) can apply to the Court for variation or revocation (<i>Section 326(1)</i>, CYF Act).</p> <p>If the application is made before the end of 12 months after order is made, it can only be made on the basis that a contact condition in the order has not been complied with (<i>Section 326(1B)</i>, CYF Act).</p> <p>When determining an application to vary/revoke, the best interests of the child are the paramount consideration and the Court must:</p> <ul style="list-style-type: none"> first have regard to the current circumstances of the child; have regard to the same considerations as relevant to determining original contact conditions; have regard to potential disruption to the child's permanent care placement and the child's relationship with the PCO; in the case of an application to vary the order, have regard to whether a party has not complied with a condition of the order, or there has been a significant change in the circumstances of the parent or the child since the original order was made; and in the case of an application to revoke the order, have regard to whether the circumstances of the parent have changed significantly to the extent that the parent can demonstrate that they would be able to permanently fulfil the responsibilities and duties of parenthood, including capacity to provide adequately for the emotional, intellectual, educational and other needs of the child. <p><i>Section 326(1C)</i>, CYF Act</p>	<p>Any person may apply for amendment or revocation of an order provided, among other things, they receive the leave of the Court.</p> <p><i>Sections 466 (amendment) and 467 (revocation)</i>, CYPA</p> <p>The Court must give leave if the person applying for amendment or revocation was a party to the original proceeding in which the care order was made.</p> <p><i>Sections 466(2) (amendment) and 467(2) (revocation)</i>, CYPA</p> <p>However, the Court may only give leave more than once in a 12 month period if satisfied that there has been a significant change in relevant circumstances since the order was last made or changed.</p> <p><i>Sections 466(3) and 467(3)</i>, CYPA</p> <p>The Court may amend a care and protection order if it is satisfied that doing so is in the best interests of the child or young person (<i>Section 471(1)</i>, CYPA).</p> <p>The Court may revoke a care and protection order if it is satisfied that: (a) the child or young person would not be in need of care and protection if the order was revoked; or (b) the order cannot be administered effectively because of the child or young person's persistent refusal to comply with the residence provision of the order; or (c) it is otherwise in the best interests of the child or young person to revoke the order (<i>Section 472(1)</i>, CYPA). There are various matters that the Court must consider before revoking the order, set out in <i>section 472(2)</i>, CYPA.</p>	<p>There is no provision allowing for variation of a PCO.</p> <p>The CEO is the only person who may apply for the revocation of a PCO.</p> <p><i>Section 137M</i>, CPCA</p> <p>The Court may only revoke the PCO if satisfied that to revoke the PCO is the best means to safeguard the wellbeing of the child (<i>Section 137M(3)</i>).</p> <p>The Court may simply revoke the PCO, or revoke the PCO and make a protection order which includes any directions the Court considers appropriate (<i>Section 137M(4)</i>).</p>	<p>An authorised officer, a child's parent or the child may apply to the Court for an order to vary or revoke the child protection or to revoke the order or revoke the child protection order and make another (<i>Section 65(1)</i>, CPA).</p> <p>From 1 July 2016, the DCPLA will omit the words 'authorised officer' from Section 65(1) CPA, and insert the words 'litigation director'.</p> <p>A child's parent can not apply for an order to revoke the child protection order and make another in its place that grants guardianship (<i>Section 65(2)</i>, CPA).</p> <p>A child's parent requires leave of the court to apply to vary or revoke a child protection order if a previous application has been decided. The Court may only grant leave if it is satisfied the child's parent has new evidence to give to the Court.</p> <p><i>Section 65(2), (3)</i>, CPA</p> <p>The court may revoke a child protection order only if it is satisfied that the order is no longer appropriate and desirable for the child's protection.</p> <p><i>Section 65(6)</i>, CPA</p>	<p>An application for variation or revocation of a GO may be made by the Secretary, the child, the person with parental responsibility, the person from whom parental responsibility has been removed and any person with sufficient interest in the welfare of the child or young person (<i>Section 90(3)</i>, CYP Act)..</p> <p>The Court must grant leave for an application for rescission or variation to be made. Leave will be granted if there has been a significant change in any of the relevant circumstances since the order was last made or varied (<i>Section 90(1), (2)</i>, CYP Act).</p> <p>Before granting leave to vary or rescind, the Court must consider:</p> <ul style="list-style-type: none"> the nature of the application; the age of the child or young person; the length of time for which the child has been in the care of the present carer; the plans for the child; whether the applicant has an arguable case; and matters concerning the care and protection of the child identified in a suitability report created under <i>section 82</i> of the CYP Act or a report prepared by the Children's Guardian in accordance with <i>section 85A or 150</i> of the CYP Act. <p>The Secretary must be notified if they are not a party to the proceedings.</p> <p><i>Section 90(3A)</i>, CYP Act</p>	<p>Any party to the proceedings in which an order was made can apply to the Court for revocation or variation of the LTGO.</p> <p><i>Section 40</i>, CPA</p>	<p>The child, the Secretary, or a person granted guardianship or custody of the order may apply to vary or revoke a care and protection order.</p> <p>A parent (or former guardian) of the child may apply to vary or revoke a care and protection order only if:</p> <ul style="list-style-type: none"> circumstances have changed since the order was made; and the application is made with leave of the Court. <p><i>Section 48(1)</i>, CYPF Act</p> <p>Note that a care and protection order granting guardianship of the child until they are 18 (under s 42(4)(d)) ceases to have effect on the making of an application for a parenting order under the Family Law Act 1975, or application for registration of a parenting plan if:</p> <ul style="list-style-type: none"> the application is made by a person who is not the parent of the child; and with the consent of the Secretary and all parties to the proceedings. <p><i>Section 48(2)</i>, CYPF Act</p> <p>Note that the Secretary must periodically review the circumstances of a child under a LTGO, and do so annually during the first 3 years of the order and every 2 years afterwards until the child is 18 years old (or the order ends). If the child is Aboriginal or Torres Strait Islander the Secretary must give a copy of the review determination to the appropriately recognised Aboriginal organisation.</p> <p><i>Section 71</i>, CYPF Act</p>	<p>A party to the initial proceedings (excluding the child unless the child has legal representation or has sufficient maturity and understanding to give consent) may apply to the Court for the variation, addition or substitution of a condition in a PO18 or a POSG (<i>Section 64(2)</i>, CCSA).</p> <p>The Court must not grant such an application unless it is satisfied that new facts or circumstances have arisen since the condition was imposed or last varied, or each party to the initial proceedings consents to the application.</p> <p><i>Section 64(4) and (5)</i>, CCSA</p> <p>A party to the initial proceedings may apply to the Court for the revocation of a PO18 or a POSG.</p> <p><i>Section 67(1)</i>, CCSA</p> <p>The CEO may apply to the Court for the revocation of a POSG and the making of another protection order in respect of a child.</p> <p><i>Section 68(1)</i>, CCSA</p>
Who has the right to appeal against a Permanency Order, an order varying or revoking a Permanency Order or the dismissal of an application for a Permanency Order?	<p>The following can be appealed:</p> <ul style="list-style-type: none"> a PCO; and the dismissal of an application for a PCO. <p>Biological parent(s), the child, a protective intervenor (if relevant), person granted parental responsibility under the PCO, the Secretary or Attorney-General (if relevant) may appeal such orders.</p> <p>If the child is under 15 years an appeal may be made on the child's behalf and in the name of the child by the child's parent.</p> <p><i>Section 328</i>, CYF Act</p>	<p>Section 836(2) provides that:</p> <ul style="list-style-type: none"> a party to the relevant proceeding; a person named in the order or decisions; and anyone else, with the leave of the Supreme Court <p>may appeal a decision of the Court to the Supreme Court.</p>	<p>A party to any Court proceedings (including a PCO proceeding) may appeal against any Order or decision of the Court ("the original decision"), other than a temporary protection order (<i>Section 140(1)</i>, CPCA).</p> <p>This must be done within 28 days after the original decision is made.</p> <p>The parties to a PCO proceeding are generally the CEO, the parents of the child, the child and the person being given parental responsibility for the child under the PCO.</p> <p><i>Section 137D</i>, CPCA</p>	<p>A party to the proceeding may appeal to the appellate court.</p> <p><i>Section 117</i>, CPA</p>	<p>A party to the proceedings who is dissatisfied with a GO may appeal.</p> <p><i>Section 91</i>, CYP Act</p>	<p>There are no additional provisions for the appeal of a LTGO in addition to the ability for a party to the original proceedings to apply for a revocation/variation order (see above row).</p>	<p>There is no specific appeal right in relation to long-term guardianship orders in the CYPF Act. There is only the right to apply for revocation/variation (see above row).</p>	<p>There are no additional provisions for the appeal of an order in addition to the ability for a party to the original proceedings to apply for a revocation/variation of the order (see above row).</p>
Which Court may	County Court, or if the Children's	The Supreme Court of the	The Supreme Court of the	If the decision was made by the	The District Court.	Youth Court of South Australia.	Magistrates' Court (Children's	The Childrens Court.

	VIC	ACT	NT	QLD	NSW	SA	TAS	WA
hear the appeal?	<p>Court was constituted by the President, to the Trial Division of the Supreme Court.</p> <p>A party to a proceeding before the Family Division, or the Attorney-General (if appeared in proceeding) may appeal to the Supreme Court on a question of law from a final order of the Children's Court. There is a limitation period of 30 days from when the order was made (otherwise leave of the Supreme Court required).</p> <p>S 328, CYF Act</p>	<p>Australian Capital Territory</p> <p>Section 836, CYPA</p>	<p>Northern Territory</p> <p>Section 140, CPCA</p>	<p>Note: the <i>Director of Child Protection Litigation Act 2016</i> has received royal assent and comes into force on 1 July 2016. See relevant changes below in yellow. The <i>Child Protection Reform Amendment Act 2016</i> has also received royal assent, with key provisions commencing on 1 July 2016. See relevant changes below in pink.</p> <p>Court constituted by a judge – the Court of Appeal.</p> <p>If the decision was made by the Court constituted in another way - the Court constituted by a judge.</p> <p>Schedule 3 Dictionary, CPA</p>	<p>Section 91, CYP Act</p>	<p>Sections 6 and 40, CPA</p>	<p>Note: the <i>Children, Young Persons and Their Families Amendment Act 2013</i> (Amending Act) has received royal assent but only sections 41 and 42 have commenced. The remaining provisions have not commenced yet. They will commence on a date to be proclaimed. See key changes below in green.</p> <p>Division)</p> <p>Section 3, CYPF Act</p>	<p>Section 3, CCSA</p>