

# Case Management Policy

*This paper clarifies terminology used in case management within the Out-of-Home Care (OOHC) program.*

*It defines case management, outlines its elements and provides a set of principles to guide practice. It also describes the criteria for the assignment of case management and notes strategies to manage associated risks.*

*The paper clarifies the roles and responsibilities of Family and Community Services, Community Services (Community Services) and the non-government sector in the delivery of case management for a child or young person placed in a statutory OOHC foster, relative, kinship or residential care placement.*

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## **Part 1: Defining Case Management – Elements Principles, Responsibilities and Risks**

### **What is case management?**

Case management is the process of assessment, planning, implementation, monitoring and review. Case management aims to strengthen outcomes for both families and children and young people through integrated and coordinated service delivery.

### **What are the principles that drive case management practice?**

Case management should:

- Occur as closely as possible to casework for the child or young person
- Concentrate on strength-based, child-centred and family-focused practice
- Include active involvement and participation of children and young people and their carers and families and communities in the process
- Promote partnerships and shared decision-making between service providers where this will facilitate the achievement of the planned goal
- Support self-determination for Aboriginal children and young people
- Be responsive to the cultural beliefs and needs of the child and their family and community to which they belong
- Draw on all available supports including extended family and community
- Ensure the goal, objectives and strategies are recorded and monitored for progress/achievements and arrangements reviewed to ensure their continued appropriateness
- Achieve continuity of support through appropriate referral, transition and follow up

### **What are the elements of case management?**

The process of case management is interactive and dynamic, with an emphasis on: building relationships with the child or young person and their family to facilitate change; developing partnerships and joint planning with other agencies involved in the care and wellbeing of the child or young person; and ongoing analysis, decision-making and record-keeping to ensure that the identified needs of the child or young person are being met.

The elements of case management are:

- **Screening and assessment of individual/family capacities and needs:** a continuous process of analysing available information leading to professional judgement of risks, strengths and needs. This information and

analysis is used to determine whether individuals are in the target group for support programs and to inform a realistic plan of action

- **Relationship building with the child or young person and their family:** a process of developing an understanding of each child or young person's experiences and building relationships with parents, families and communities in order to drive the process of case planning and working alongside families to create change. This requires trust, communication and cooperation as well as respecting and seeking to understand the context within which each family operates
- **Case planning to determine the goal and objectives:** identifying the strategies that will address the physical, emotional, educational, social, religious and cultural needs of the child or young person. Case planning is an interactive process involving participation of the child or young person, their family and carer. It is important that the child or young person is able to participate in this process. Case plans must be documented and identify goals, objectives and tasks with clearly identified responsibilities and timeframes. Goals must be realistic and achievable within available resources. Goals should be communicated to the child or young person as well as other key stakeholders
- **Implementation:** delivering or arranging services within available resources to meet the identified case plan goal. This should include regular communication with the child or young person to ensure their needs are being met
- **Coordination of services and supports:** arranging, co-ordinating and following up on the delivery of services and supports
- **Monitoring:** obtaining regular feedback from the child or young person, carers and service providers to determine whether services are being provided in the manner determined by the case plan and whether needs have changed
- **Review:** assessing whether the case plan goal has been effectively and efficiently met and whether modification or change to the plan is required
- **Transition:** preparing for and supporting the move out of the system or to another service or program where appropriate
- **Case closure:** closing a case when appropriate

### What is casework?

The term casework refers to the practical day-to-day involvement with children, young people, their carers and families. It generally comprises:

- Implementation of the case plan
- Continuous assessment of safety and risk

- Building relationships with the child or young person and their parents, families and communities to create change
- Coordination of services and supports
- Monitoring

### **What is the difference between case management and parental responsibility?**

Case management is not an aspect of parental responsibility. In most cases, case management will be assigned to a non-government designated agency that does not hold parental responsibility.

Parental responsibility is defined under section 3 of the *Children and Young Persons (Care and Protection) Act 1998* as 'all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children'. Case management, on the other hand, is a systematic process involving assessment, planning, implementation, monitoring and review to achieve the identified goal.

Parental responsibility and case management are not mutually inclusive and either can be delegated. A non-government designated agency does not have to hold parental responsibility to assume case management responsibility. Similarly, a non-government designated agency does not have to have case management responsibility simply because it holds functions of parental responsibility. Further, the Children's Court can allocate aspects of parental responsibility to different parties.

In practice, where the Minister for Family and Community Services has delegated functions of parental responsibility to a non-government designated agency, that non-government designated agency will be responsible for all case management decisions. However, in these circumstances Community Services must retain decision-making powers in certain areas such as end of life matters, application for a passport, residency outside NSW jurisdiction, marriage and termination of pregnancy.

### **When is case management assigned?**

Under Guiding Principle 9 of the [OOHC Transition Plan: Stage 1 – The 'Who' and the When](#) (October 2011), case management responsibility belongs to the designated agency accepting the placement of a child or young person in statutory OOHC, regardless of Children's Court proceedings.

This means that non-government designated agencies will make case management decisions directly related to the care of a child or young person:

- Immediately after accepting the placement of a child or young person on a care order for a period of more than 14 days (as per 135A of the *Children and Young Persons (Care and Protection) Act, 1998*)

- While a child or young person is on interim orders. A child may be on an interim order for several days up to 12 months
- For children or young people who have transferred from a Community Services placement to a non-government designated agency placement

Community Services retains all statutory child protection responsibilities during interim orders. These include the assessment and/or investigation of reports of risk of significant harm and taking steps to ensure the safety of children and young people, including seeking appropriate orders from the Children's Court.

The respective case management roles and responsibilities of Community Services and non-government designated agencies are detailed in Part 2 of this paper.

For details on assigning case management responsibility to an Intensive Family Preservation (IFP) or Intensive Family Support (IFS) service provider, refer to the [IFP Service Provision Guidelines](#) and the [IFS Service Provision Guidelines](#) on the Community Services website.

### **Will case management for any children and young people be assigned to Community Services?**

Case management for most children and young people in statutory OOHC will be assigned to a non-government designated agency.

Case management for children and young people in Intensive and General Residential Care will be assigned to the non-government designated agency responsible for the placement except in extraordinary circumstances where case management may be assigned to Community Services. In these exceptional circumstances, the case management arrangement must be approved by the Family and Community Services District Director and reviewed every six months.

### **Can case management for a child or young person be transferred between designated agencies?**

In circumstances where a child or young person is, for whatever reason, unable to remain in or return to their placement, the non-government designated agency with case management will be responsible for locating a new placement. If no placement is available within their non-government designated agency, then the non-government designated agency must arrange a placement with another non-government designated agency.

The non-government designated agency will need to confirm with Community Services that there are no contractual barriers to making the placement, (subject to extension of the Referral Management System to non-government agencies for referrals). Community Services will arrange for case management to be re-assigned to the new placement provider.

The non-government designated agency must immediately notify Community Services of a change of placement. The non-government designated agency should also notify the child and young person's birth family, other relevant family members and key agencies and services involved with the child and young person of the placement change. At this point, the non-government designated agency may also request a review of the Child Assessment Tool outcome if there is new information or a change in circumstances, behaviour or need which warrants a review.

The non-government designated agency must immediately notify Community Services when an unplanned restoration of a child or young person to birth family has occurred. In these cases, the non-government designated agency should conduct an assessment of the child or young person's circumstances and work with Community Services to ensure the child or young person's needs are being met.

For Aboriginal children and young people, all transfers of Aboriginal children must be placed with an Aboriginal agency or an agency that is currently in partnership with an Aboriginal agency, except in limited situations where exceptions may be considered as described in [Transfer and Placement of Aboriginal Children and Young People](#) paper.

In addition, the non-government designated agency with case management must ensure the Aboriginal and Torres Strait Islander Child and Young Persons Placement Principles in section 13 of the *Children and Young Persons (Care and Protection) Act 1998* are applied. The Principles require that Aboriginal children and young people being placed in statutory OOHC be placed:

- Within their own family or extended family
- Within their own community, or if that is not possible
- In other Aboriginal families or communities
- With a suitable person approved by the Director-General, Family and Community Services after consultation (using the consultation process proscribed in the Act). The suitable person may be a non-Aboriginal carer

The non-government designated agency will need to ensure and document compliance with the Aboriginal and Torres Strait Islander Placement Principles as part of its responsibilities as an accredited OOHC designated agency.

## **Part 2: Case Management - Respective Roles and Responsibilities of Community Services and Non-Government Designated Agencies**

The principle of partnership between service providers, both government and non-government, will always guide good practice. This means working collaboratively to develop and review plans and to coordinate and deliver services to children, young people, their families and carers.

Community Services has responsibility for all statutory child protection decisions. This includes the initial response to a Risk of Significant Harm report and court work such as the preparation of court applications (although the non-government designated agency will collaborate in development of the care plan and may be requested to provide affidavits and reports for the court).

Important court-related decisions should be made by Community Services in consultation with the non-government designated agency case managing the child or young person and their carer. For example, having determined that it is appropriate to do so, Community Services will develop a care plan for approval by the Children's Court in collaboration with a non-government designated agency, which then assumes responsibility for implementing the case plan.

The *Children and Young Persons (Care and Protection) Act 1998* and *Children and Young Persons (Care and Protection) Regulation 2012* do not prohibit the care plan being shown to non-government designated agencies with case management. The Regulations foresee a situation where more than one agency or body participates in the care plan. Therefore, it is expected that Community Services will provide a copy of the draft care plan to the non-government designated agency.

A **care plan** makes provision for the allocation of parental responsibility between the Minister and the parents for the duration of a child's placement in OOHC. It also outlines arrangements for permanency planning and family contact.

The **case plan** identifies strategies that will address the physical, emotional, educational, social, religious and cultural needs of a child or young person.

Where a non-government designated agency holds case management for the child or young person, any decision about court orders being sought needs to be settled collaboratively between Community Services and the non-government designated agency wherever possible. However, final approval of the care plan is a Community Services responsibility.

Where there is a difference of view relating to the development of care plans and other court work, the process set out in the Attachment 2: *Guideline for Implementation of the Case Management Policy in Relation to Development of Care Plans and other Court Work* should be followed. As a model litigant



Community Services is obliged to present all views to the court and to explain to the court why its care plan and application seeks arrangements that differ from the preferred position of the non-government designated agency with case management. More information on resolving differences can be obtained from the [Child Wellbeing and Child Protection – Interagency Guidelines](#).

While court proceedings are underway, non-government designated agencies with case management will provide to Community Services regular reports and, when requested, affidavits (with the reports attached) on the placement and other information relating to the child or young person including but not limited to:

- Contact with birth family reports
- School reports
- Medical and psychological and psychiatric reports
- Incident reports
- Information about the placement required by the court

The non-government designated agency with case management may also need to arrange for the writer of a report to attend court and give evidence when required for the care proceedings.

Solicitors acting for the Director-General, Family and Community Services cannot provide legal advice to non-government designated agencies. However, where a non-government designated agency staff member appears as a witness for the Director-General, solicitors acting for the Director-General can provide assistance, such as assisting to prepare affidavits.

During interim orders and after final orders, non-government designated agencies with case management will undertake a range of responsibilities and make various decisions relating to the care of the child or young person and their carer. The scope of decisions will depend on whether or not parental responsibility of the child or young person has been delegated to the non-government designated agency.

The table *Case Management – Roles and Responsibilities of Community Services and Non-Government Designated Agencies for a Child or Young Person in Statutory OOHC* (Attachment 1) outlines the two possible scenarios between Community Services and non-government designated agencies with regard to case management and parental responsibility.

For each scenario, the table indicates who is responsible for decision making and undertaking the key elements of the case management task. The authority for responsibility is also stated – whether it is stipulated as an activity or decision within the Act or Regulations.

**Scenario one:**

Assumes that Community Services retains parental responsibility and a **non-government designated agency has been assigned case management**

**responsibility.** The non-government designated agency also provides placement and casework services.

Under this scenario, the non-government designated agency will immediately after accepting the placement of a child or young person in statutory OOHC take responsibility for case management of anything directly related to daily care and control of the child or young person, the placement or the carer.

Under this scenario, the non-government designated agency has responsibility for assessment, case planning, implementation, monitoring, review, transition and case closure. The placement of a child with an authorised carer or the decision to remove a child from a carer is not a function of parental responsibility, but part of case management. Therefore, a non-government designated agency is the relevant decision maker in relation to placement changes under this scenario. Community Services must be immediately notified of any placement changes.

Community Services and the non-government designated agency have joint responsibility for:

- Developing the initial care plan, including making an assessment as to whether there is a realistic possibility of restoration of the child or young person to either parent; and alternative placement options
- Decisions to re-engage the Children's Court for new or changed care orders

Community Services has the final decision making role in approving the care plan and making court applications in relation to restoration and adoption.

**Scenario two:**

Assumes that **Community Services has delegated parental responsibility to a non-government designated agency (while retaining residual powers) and has assigned case management.** The non-government designated agency is also responsible for provision of placement and casework services.

Community Services retains responsibility for decisions in matters related to residual powers. These relate to:

- Consent to marriage
- Residency outside the NSW jurisdiction
- Application for a passport
- Consent to end of life medical treatment
- Consent to medical treatment involving termination of pregnancy, rendering a child or young person infertile or medical treatment involving potential terminal illness
- Initiating an application to a court or tribunal or appearing in proceedings as a delegate of the Minister

- Sub-delegating any function to an authorised carer

Under this scenario there are certain joint responsibilities between Community Services and a non-government designated agency. These are:

- Developing the initial care plan including making an assessment as to whether there is a realistic possibility of restoration of the child or young person to either parent; and alternative placement options
- Decisions to re-engage the Children's Court for new or changed care orders

Community Services has the final decision making role in approving the care plan and making court applications in relation to restoration and adoption.

### **Shared and Joint parental responsibility and case management**

There are circumstances where parental responsibility may be **shared** between the Minister for Family and Community Services and another person. Certain aspects of parental responsibility may be allocated solely to the Minister (e.g. residency) and other aspects allocated solely to another person/s (e.g. religious upbringing allocated to parents).

Where parental responsibility is shared between the Minister and another person, case management can still be assigned to a non-government designated agency as long as the Minister holds full parental responsibility for the aspect of residency. It will, however, be important for the non-government designated agency with case management to consult with other persons holding aspects of parental responsibility when exercising their case management responsibilities.

For example, the Minister may be responsible for residence and a parent may be responsible education and religious upbringing. If a child's placement is to change, this may impact on a child's schooling, involvement in extra-curricular or religious/cultural activities. It is therefore important for the non-government designated agency with case management responsibility to consider if they need to consult with the parent before making a placement change.

In some circumstances the Minister exercises parental responsibility (or aspects) **jointly** with another person/s. Where parental responsibility is exercised jointly between the Minister and another person/s, case management can still be assigned to a non-government agency. In this circumstance, consent is required from the person/s who exercises parental responsibility jointly with the Minister before those aspects of parental responsibility are exercised.

### **Part 3: Managing the Risks Involved in Assigning Case Management**

Case management entails a significant and complex range of decision making responsibilities to ensure that all care and protection needs of each child or young person are identified and met. Where there are responsibilities there are also risks. Risks can and should be managed. There are safeguards in place to minimise or manage risks associated with the assignment of case management.

- All designated agencies must be accredited by the NSW Children's Guardian in order to provide OOHC services. The *NSW Standards for Statutory OOHC* set out the requirements for accreditation to provide OOHC services and provide a framework for driving continuous improvement in the quality of OOHC services
- In terms of non-government designated agency performance and accountability, Community Services' contractual arrangements (service agreements and service specifications) include appropriate performance monitoring and reporting requirements. The performance monitoring framework for funded services comprises:
  1. Self assessment
  2. Desktop review
  3. Monitoring and review meeting (if required)
  4. Performance improvement planning (if required)
  5. Continuation of funding
- In terms of management of individual cases, the Case Management Policy outlines circumstances when a non-government designated agency must inform Community Services of progress and collaborate with Community Services on key case management decisions (e.g. placement changes, seeking to change court orders). Service Agreements that operate between Community Services and the non-government designated agency also contain information sharing provisions

As a result of monitoring and reporting, where case management has been assigned, Community Services may decide to become re-involved in a case (although not necessarily resume case management) when:

- Unforeseen events in relation to an individual child or young person require Community Services involvement or intervention. For example, where there are multiple placement breakdowns, Community Services may be concerned and seek further information about plans to meet the needs of the child or young person for permanency and stability
- There is a change to the case plan goal, for example, restoration

- A breakdown in interagency negotiations has occurred particularly where Community Services has a Memorandum of Understanding (MOU) in place with another government service provider, for example NSW Health, Ageing, Disability and Home Care, Department of Education and Communities or Juvenile Justice

Prior to becoming re-involved in a case, Community Services should contact the non-government designated agency to advise what action it plans to take and provide reasons for the approach that has been decided upon.

Where there is a change to the case plan goal (i.e. to restoration) or a breakdown in interagency negotiations, the non-government designated agency may request the re-involvement of Community Services. This involvement could include attending regular joint meetings until the issue has been resolved. In these circumstances, a decision to become re-involved should be approved by the relevant Director, Child and Family, Community Services.

In addition, there may be points at which Community Services is required to provide a response because the Minister has a non-delegable duty of care for children and young people under his or her care and protection. This includes situations when:

- A Risk of Significant Harm report is received on the child or young person
- Further court work is initiated including making an application to the Children's Court for the rescission or variation of a care order or for appeals to the Administrative Decisions Tribunal
- A placement breakdown has occurred and the non-government designated agency has not been able to locate a new placement
- A non-government designated agency is closing its OOHC program

In all the circumstances described above, the non-government designated agency should inform Community Services as soon as possible. This will enable Community Services and the non-government designated agency to work together to achieve the best outcomes for children or young people, including avoiding placement breakdown.

A decision to become re-involved in a case must be discussed with the non-government designated agency with case management and be approved by the relevant Director, Child and Family, Community Services.

### **Policy Review**

The Case Management Policy should be reviewed every 12 months. The date of the next review is July 2014.

## Attachment 1: Case Management - Roles and Responsibilities of Community Services and Non-Government Designated Agencies for a Child or Young Person in Statutory OOHC

NB: All references are to the *Children and Young Persons (Care and Protection) Act 1998* or the *Children and Young Persons (Care and Protection) Regulations 2000* unless otherwise noted. NGO refers to non-government designated agencies including those providing residential care placements.

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
<b>Intake, field response following a report to the Helpline or request for assistance and arrangements for OOHC placement</b>					
Respond to requests for assistance from a child or young person, parent or NGO	s 22		√		√
Receive reports of children and young people who are suspected of being at risk of significant harm	ss 24, 25, 120		√		√
Seek additional information from the reporter or other parties	s 30		√		√
Determine if a child or young person is at risk of significant harm using the SDM Screening and Response Priority tools	s 30		√		√
Seek information about the a child or young person's Aboriginal or Torres Strait Islander identity	s 32		√		√
Conduct Safety and Risk Assessments or a Secondary Risk of Harm to assess immediate safety and future risk	s 30		√		√
Approve a care plan for registration (by consent) with the Children's Court	s 38		√		√
Enter into a Parental Responsibility Contract (by consent) with the Children's Court	s 38		√		√
Refer to Joint Investigation Response Team (JIRT) where the allegations of serious abuse or neglect may constitute a criminal offence	s 34		√		√
Undertake a JIRT investigation, with Police and NSW Health, including where medical examinations are required	s 34		√		√
Remove a child or young person without a warrant if the child or young person is at immediate risk of serious harm	s 34, s 43		√		√
Assume care responsibility for a child or young person	s 44		√		√
Apply a search warrant for the removal of a child or young person	s 233		√		√
Apply the Child Assessment Tool (CAT) to match the needs of a child or young person and his or her placement type	s 49		√		√
Arrange the initial OOHC placement	s 49		√		√
Provide copies of items held on file of a child or young person transferring from CS to NGO or provide information available relating to a child or young person who is a new	s 140		√		√

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
entry to OOHC including the client information form and CAT assessment					
If a placement with a non-designated agency or residential placement is required and the child is under 12, seek variation to the condition of accreditation from Children's Guardian with authorisation by CS (CS undertakes for an initial placement)	s 81, reg 39	√		√	
For initial placement, ensure all placement options are identified and the Aboriginal and Torres Strait Islander Child and Young Persons Placement Principles are followed	s 13		√		√
Disclose information about a child or young person's placement to parents and significant others in accordance with the guidelines published by the Children's Guardian♣	ss 149C, 149D	√		√	
Disclose high level identification information concerning the placement of a child or young person to parents or significant others with consent of authorised carer or in absence of consent, after procedures have been followed as in s 149F♣	ss 149E, 149F	√		√	
<b>Screening and Assessment of Individual Needs</b>					
Continually assess the needs of the child or young person in OOHC	s 81	√		√	
Notify the Department of Education and Communities and ensure a child or young person has an Individual Education Plan by liaising with the child or young person's school	s 140	√		√	
For new entrants to OOHC, who are expected to remain in care longer than 90 days, make a referral to the local health district for entry onto the health pathway within 14 days of the child or young person entering OOHC	s81		√		√
Assess whether there is realistic possibility of restoration to parents (CS to make final decision relating to Court orders)	s 137(1A)	Joint	Joint	Joint	Joint
<b>Case Planning to determine Goals &amp; Objectives</b>					
Make an application to the Children's Court for an emergency care and protection order for a child or young person	ss 45, 46		√		√
Make an application to the Children's Court for a care order for a child or young person	ss 45, 61		√		√
Develop an initial care plan, including an assessment as to whether there is a realistic possibility of restoration of the child or young person to either parent and where restoration is not identified as the goal, then an assessment of alternative permanency options (CS will lead/facilitate the process)	ss 69, 78(A), 79(1)(b), 81	Joint	Joint	Joint	Joint
Approve the initial care plan, including the plan for permanency	ss 78, 78(A), 83(1)		√		√
Make a child or young person available to meet with his or her legal representative	ss 69,		√	√	

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
	79(1)(b), 81				
Arrange a case meeting	s 140	√		√	
Develop and document a case plan, with reference to the child or young person's care plan. The child or young person, their family and other relevant agencies should be involved in development of the case plan. CS should be involved in development of the case plan during interim orders but not involved in development of case plan after final orders. During interim orders the NGO should provide CS with a copy of the case plan. This is not required after final orders.	s 150	√		√	
Develop a case plan with Juvenile Justice for children or young people who are shared clients		√		√	
Develop a behaviour management plan, as appropriate, which may include a restricted practice if required. Use of psychotropic medication to manage, control or change behaviour is a restricted practice	Reg 30	√		√	
Approve a behaviour management plan which does not include a restricted practice	Reg 30	√		√	
Approve a behaviour management plan which includes the use of a restricted practice including the use of psychotropic medications for the purpose of controlling behaviour	Clause 15A of regs.		√	√	
If the Minister has parental responsibility for contact, approve contact arrangements not specified in the court order	ss 79(1)(b), 81		√	√	
Make decisions regarding placing a child with an authorised carer, including arranging new placements where required, ensuring the Aboriginal and Torres Strait islander Child and Young Person's Placement principles are followed and requesting a CAT review	ss 13, 157(3), 182	√		√	
Make decisions regarding change of a child or young person's placement and immediately notify CS of change of placement, including when a child or young person has restored to birth family ♪ ♣	s138(a)	√		√	
Authorise a carer ♣	reg 20	√		√	
Make decisions regarding: <ul style="list-style-type: none"> <li>• Allowance paid to authorised carer or care provider</li> <li>• The level of foster care allowance paid ◇</li> <li>• Major expenditure to support the care plan</li> </ul>	s161 (No legal authority for NGO)	√		√	
Make decisions regarding school enrolment, education and training #	s 157	√		√	
Provide advice on religious instruction for the child or young person to the authorised carer subject to any instructions on parental preference	s 157	√		√	



Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
Make an application for the rescission or variation of a care order in relation to a child or young person, based on information provided by the NGO	s 90		√		√
Provide a report to the court on suitability of arrangements concerning parental responsibility, based on information provided by the NGO	s 82		√		√
Make an application for an order for sole parental responsibility	s 149	Joint	Joint	Joint	Join
<b>Implementation</b>					
Implement the care plan and case plan including working with birth families to facilitate restoration and supervising contact with birth family whilst court proceedings are underway	s 140	√		√	
Implement the cultural support plans for Aboriginal and Torres Strait Islander and culturally and linguistically diverse children and young people in care		√		√	
Administer the Teenage Education Payment		√		√	
Ensure adequate provision of day to day care for child or young person by authorised carers	s 140	√		√	
Ensure day to day health needs of child or young person are met by authorised carer	s 140	√		√	
Ensure authorised carers manage the behaviour of the child or young person in accordance with any behaviour management plan	s 140	√		√	
Ensure authorised carers uphold the <i>Charter of Rights for Children and Young People in Care</i>	s 140 & 162	√		√	
Ensure authorised carers comply with the <i>Code of Conduct for Authorised Carers</i> ◇	reg s34(4)	√		√	
Ensure any specified court orders are adhered to and any undertakings complied with	s 140	√		√	
Provide day to day support and monitoring of the wellbeing of the child in care	s140	√		√	
Provide day to day support, advice, monitoring and training of authorised carer	ss 138, reg 20B	√		√	
Coordinate life story work	ss 9(2)(d), 140	√		√	
Approving care provided by persons other than the usual authorised carer <sup>1</sup>	ss 138, reg 20B	√		√	
Approving an absence from usual authorised carer for travel within NSW #	s140	√		√	
Consent for a child to pierce non-intimate parts of their body, including their ears and		√		√	

<sup>1</sup> Occasional arrangements, such as a sleep-over at a friend's house, play-dates and babysitting, do not require approval.

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
nose					
Consent to medical and dental treatment of a child or young person, not involving surgery (except for minor dental surgery), on the advice of a medical practitioner/dentist #	ss 140, 157	√		√	
Consent to medical and dental treatment involving surgery, if certified by a medical practitioner/dentist as urgent and in best interests of a child or young person #	ss140, 157	√		√	
Consent to medical and dental treatment involving surgery, other than urgent treatment	s 140		√	√	
Consent to publication or broadcasting of identifying information and public performances concerning a child or young person	s105 (3) (b) (iii)		√	√	
Approve payment of bail, surety and fines #	ss 79(1)(b), 81		√	√	
Seek consent from a court for the carrying out of a 'special medical procedure' for a child or young person as defined under the <i>Children and Young Persons (Care and Protection) Act 1998</i> section 175 (5).	ss 79(1)(b), 81		√		√
Provide a written exemption for a drug of addiction to be administered to a child or young person	reg 15		√		√
Approving travel arrangements outside of NSW, excluding day-only trips *	ss 79(1)(b), 81		√		√
Maintain records in relation to the development, history and identity of a child or young person	s 160	Joint	Joint	Joint	Joint
Provide access to personal information directly relating to a child or young person	s 160	Joint	Joint	Joint	Joint
Arrange alternative dispute resolution	s 37	Joint	Joint	Joint	Joint
<b>Coordination of Services &amp; Supports</b>					
Arrange and coordinate involvement of interagency partners and services e.g. related to health, education, vocation, disability or offending behaviour	s 81	√		√	
Notify CS if a breakdown in interagency negotiations has occurred particularly where CS has a MOU in place i.e. with NSW Health, Ageing, Disability and Home Care, Department of Education and Communities or Juvenile Justice		√		√	
Approve payment of an exception support or exception placement			√		√
Arrange for immunisation of child or young person #	s 81	√		√	
Provide initial support and appropriate referral to any child or young person who may be considered to be a victim of crime (CS will continue to review files of young people	ss 79(1)(b), 81	√		√	

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
aged 15 years and above who are preparing to leave care to ensure all claims for recognition payments are addressed) #					
Open a trust account on behalf of the child or young person # Apply for the making of a will for a child or young person under the age of 18 years if appropriate # Approval of an apprenticeship or enlistment in the Australian Defence Force #	ss 79(1)(b), 81		√	√	
Arranging for a child or young person's Medicare Card and Health Care Card #	s 81		√		√
Register a child's birth Obtain a birth certificate Naming or changing the name for a child or young person	s 81		√		√
Consent to: <ul style="list-style-type: none"> <li>• termination of pregnancy for a child or young person under the age of 14 years or who is otherwise unable to provide informed consent*</li> <li>• end of life medical intervention*</li> <li>• making an application for a passport *</li> <li>• marriage *</li> <li>• initiating an application to a court or tribunal or appearing in proceedings as a delegate of the Minister *</li> <li>• sub-delegating any function to an authorised carer *</li> </ul>	s 81		√		√
<b>Monitoring of care plan and case plan</b>					
Monitoring the child or young person and authorised carer to maintain a safe and secure environment		√		√	
Monitor any incidents in the care environment or any change in household membership		√		√	
Notify the NSW Ombudsman within 30 days of any reportable allegation or reportable conviction against an employee that the agency becomes aware of, conduct an investigation into the allegations and make findings and report on findings to the NSW Ombudsman in a timely manner	<i>Ombudsman Act 1974</i>	√		√	
Report any risk of harm concerns to the CS Helpline after applying the Mandatory Reporter Guide and investigate and respond to non-risk of significant harm reports that are returned from the Helpline. If investigation uncovers new risks, make new report to		√		√	

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
Helpline					
Advise NGO of risk of significant harm report assessment outcome including where case is closed and unallocated			√		√
While court proceedings are underway, provide to CS regular reports (and, when requested, affidavits with the reports attached) on the placement and other information relating to the child or young including but not limited to: <ul style="list-style-type: none"> <li>• contact with birth family reports</li> <li>• school reports</li> <li>• medical, psychological and psychiatric reports</li> <li>• incident reports</li> <li>• information about the placement required by the Court</li> </ul>	ss 140, 82, 90	√		√	
Once the court process is finalised, inform CS if there are any significant developments for the child or young person or their placement which the court should be made aware of. These may include involvement with Juvenile Justice, a change in placement, disclosures made by the child or young person, any detrimental impact that contact with birth family may be having on the child or young person and any significant health or educational issues that arise		√		√	
Making referral for specialist reports that may be required for court proceeding. Coordination with the NGO is required.			√		√
Arranging for the writer of a report to attend court and give evidence when required for care proceedings	s 140	√		√	
Monitor consent by authorised carer to minor and emergency medical and dental treatment, not involving surgery, or urgent treatment involving surgery, on advice of medical practitioner or dentist	s 140	√		√	
Monitor the giving of permission by authorised carer for child or young person to participate in activities, such as school excursions organised for the child or young person	s 140	√		√	
Monitor the provision of religious instruction and participation in religious activities, ensuring authorised carer has regard to any advice received from case manager	s 140	√		√	
Monitor the making of other decisions by the authorised carer that are required in the day-to-day care and control of the child or young person	s 140	√		√	
Communicate with interagency partners, e.g. NSW Health, Ageing, Disability and Home Care, Department of Education and Communities or Juvenile Justice, in		Joint	Joint	Joint	Joint

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
monitoring the achievement of the case plan (jointly during interim orders, NGO responsibility after final orders)					
<b>Review</b>					
Review the level of allowance paid to authorised carer ♣	s 161 (No legal requirement for NGO)	√		√	
Cancel or suspend the authorisation of an authorised carer ♣	s 137(b)	√		√	
Conduct placement reviews in accordance with periods set out in the Act ⚡	s 81 & 150	√		√	
Conduct a review of the case plan at appropriate intervals	s 150	√		√	
Review contact arrangements, which are not specified in court order ⚡	s 140	√		√	
Approve placement of child with birth parents, where restoration is the case plan goal			√		√
Review permanency plans involving restoration (within 12 months after it was last considered by the Children's Court)	s 85A	√		√	
<b>Transition</b>					
Develop a leaving care plan, informed by a needs assessment, in consultation with the child or young person at least 12 months before young person leaves OOHC ⚡	s166	√		√	
For young people with a disability, develop a leaving care plan, with Ageing, Disability and Home Care, at least two years prior a young person leaving OOHC for a transition period to independent living or a more supportive accommodation option if required, depending on the young person's needs	s166	√		√	
Offer support to access personal information and assistance in making contact with significant family/others	s166	√		√	
Identify eligibility for Advocacy Guardianship Order when child or young person turns 16 years old and meets the Guardianship Tribunal criteria. (CS makes the application to the Guardianship Tribunal on behalf of a child or young person for guardianship orders – advocacy on the basis of information provided by the NGO)		√		√	
<b>9. Case Closure</b>					
Close a case, including provision of advice on closure to CS, family and partner agencies ⚡	Not specified in Act	√		√	
Provide assistance based on assessment of need for a young person who has left care and is between 15 and 24 years which may include provision of information about available resources and services and counselling and support or based on assessment	s 165 & s166	Joint	Joint	Joint	Joint

Responsibility / Decision*	Authority	Scenario 1 NGO provides placement, casework and case management		Scenario 2 NGO provides placement, casework, case management and exercises PR except residual functions	
		CS exercises Minister's PR functions		CS exercises residual PR functions	
		NGO	CS	NGO	CS
of need financial assistance and assistance with: <ul style="list-style-type: none"> <li>• obtaining accommodation</li> <li>• setting up house</li> <li>• education and training</li> <li>• finding employment</li> <li>• legal advice</li> <li>• accessing health services <sup>R</sup></li> </ul>					

**Explanation:**

- \* Non-government designated agencies with primary responsibility for case management decision making or activities are expected to work collaboratively with their government or non-government partner.
- Joint** Indicates joint responsibility
- √ Indicates primary responsibility
- <sup>R</sup> 'Trigger points' indicate when a non-government designated agency with case management must provide CS with advice and information on a decision. Based on this information, CS may decide to become re-involved.
- \* Indicates residual powers of guardianship identified in s140 of the Act. These are only able to be exercised by the Minister for Family and Community Services or the Children's Guardian by delegation.
- # Indicates where a responsibility may be delegated to the authorised carer as per s157(2).
- ♣ Indicates where a decision/responsibility is a 'reviewable decision' for the purposes of the Administrative Decisions Tribunal Act 1997 and the CS (Complaints Reviews and Monitoring) Act 1993. These decisions may be the subject of applications to the Administrative Decisions Tribunal (ADT). Where an application is filed with the ADT about a decision taken by a non-government designated agency, it is the non-government designated agency that is the proper respondent.
- ◇ Task is not applicable when a child or young person is placed in a residential care placement

## **Guideline for implementation of the Case Management Policy in relation to development of Care Plans and Other Court Work**

### **1. Purpose**

This guideline is intended to support the collaborative processes between non-government designated agencies with case management responsibility for a child or young person in Out-of-Home Care (OOHC) and Family and Community Services, Community Services to implement the case management policy, particularly during interim orders.

This guideline is based on the key principal that a partnership approach and joint planning between government and non-government service providers is imperative to building collaborative practice. Any differences of opinion should be addressed in as short a time as possible so that the needs of the child or young person and their family remain the primary focus for Community Services and the non-government designated agency.

### **2. Scope**

This guideline applies to all children and young people in statutory OOHC where case management for that child or young person has been assigned to a non-government designated agency. Most children and young people in statutory OOHC will be case managed by a non-government designated agency.

### **3. Development of the Care Plan**

Good collaborative practices are required from the point that the child or young person enters statutory care and is placed with a non-government designated agency.

Where a placement is made and case management is assigned to a non-government designated agency, a Case Management Transfer meeting between the non-government designated agency and Community Services is to be held. For new entries to OOHC, this meeting is to occur within two weeks of the placement commencing. The purpose of the meeting is to discuss the case plan (if there is one), case management transfer, initial discussion and/or development of the care plan, day-to-day arrangements and any other relevant issues in relation to the child or young person's care.

Soon after the placement is made and case management has transferred, Community Services will provide information to the non-government designated agency including but not necessarily limited to:

- A copy of the draft care plan (if available)
- For existing placements, copies of items held on file of a child or young person transferring from Community Services to a non-government designated agency
- For new entries to OOHC, information available relating to a child or young person including the client information form and Child Assessment Tool (CAT) assessment
- All relevant information about the reasons a child or young person entered care (at least the information before the court)

The non-government designated agency should convene subsequent meetings at regular intervals. In the case of a child of less than two years, a subsequent meeting should be held within two months and every two months thereafter until final orders are made.

In the case of a child or young person two years and over, a subsequent meeting should be held within four months and every four months thereafter until final orders are made.

This process allows for an ongoing dialogue between Community Services and non-government designated agencies where placement and contact updates can be shared thus contributing to the care plan. This process will also provide an opportunity for Community Services and the non-government designated agency to discuss the appropriateness of the care plan goal.

Once the Children’s Court has ordered a care plan to be developed, a meeting will be convened between the non-government designated agency and Community Services. Once the care plan is prepared, if there is agreement between the non-government designated agency and Community Services, then Community Services should state this in the care plan and allow the non-government designated agency to see the care plan before it is submitted.

If agreement cannot be reached then the processes below should be followed.

**4. Dispute resolution process**

The needs of the child or young person should remain the primary focus for Community Services and the non-government designated agency with case management even while interagency issues are being resolved.

Step	Who	Timeframe
1	<p>Any disputes should be resolved, whenever possible, at the local level within two weeks by the Community Services child protection caseworker and the non-government designated agency caseworker.</p> <p>In situations where the dispute is unresolved by the caseworkers, the non-government designated agency caseworker and supervisor and the Community Services child protection caseworker and the Manager Client Services are to develop an action plan that addresses the issues of conflict and identifies strategies to resolve the conflict, timeframes and review dates.</p>	Within two weeks of dispute being raised by either party
2	When attempts to resolve the issues at the local level have been unsuccessful, a dispute matter may be referred to the relevant Community Services Director Child and Family and the equivalent staff member within the non-	Within two weeks of issue being raised to step 2



	<p>government designated agency. If this is unsuccessful the matter should be escalated to the Family and Community Services District Director and the equivalent staff member within the non-government designated agency.</p> <p>Any issues that cannot be resolved at the district level will be referred to the Deputy CEO of the non-government designated agency and the Community Services Deputy Chief Executive, Operations to work with the Regional Directors to facilitate a solution.</p>	
3	When agreement cannot be reached at that level, these issues will progress to the CEO of the non-government designated agency and the Chief Executive, Community Services.	Within 2 weeks of issue being raised to step 3

Where there is agreement over a care plan, this should be stated in the care plan. When agreement cannot be resolved through the processes above, then the care plan should state that there is a difference of view and the non-government designated agency be given the opportunity to present its views directly to the court via an affidavit prepared by the non-government designated agency. The affidavit should be submitted by Community Services to the court without alterations.

The dispute resolution process above will also apply to decisions to re-engage the Children’s Court for new or changed care orders including variation/rescission of orders (s90) and reports to the court (s82).

### **5. Requests for reports and affidavits**

The Case Management Policy states that while court proceedings are underway, the non-government designated agency with case management must provide to Community Services regular reports and, when requested, affidavits. During the regular meetings referred to above, Community Services should, whenever possible, identify and clearly communicate the reports or affidavits, including purpose and timeframe, that may be required.

### **6. Role of Community Services Legal Services**

Legal Services provides legal advice to, and representation of, Community Services. For these purposes, including where matters are before a court, the client of Legal Services is the Director-General of Family and Community Services and his or her delegated Community Services officers.

Only the Director-General can apply for care orders under section 61 of the *Children and Young Persons (Care & Protection) Act 1998* (the Act). In applications made under section

90 of the Act for the variation and rescission of care orders, parties other than the Director-General can be the applicant, but the Director-General will still be involved as a party.

Legal Services lawyers advising and appearing for the Director-General in these matters must take their instructions from their client, the Director-General. Any involvement they might have in the preparation and filing of material provided to Community Services by non-government designated agencies, or in the giving of evidence in court by non-government designated agency staff, must therefore be done in a way that maintains the clarity and integrity of that lawyer / client relationship.

This is to ensure that Legal Services lawyers act in accordance with their professional obligations and to protect the legal professional privilege attaching to the communications with their client.

For these reasons, any dealings between Legal Services and non-government designated agencies in relation to a matter before a court should, as a general rule, be conducted via the Community Services officer delegated to instruct Legal Services in that matter. This will be so regardless of whether Community Services and the non-government designated agency are in agreement about the position the Director-General is putting to the court in the proceedings.