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| Child protection law reform: what it means for carers and young people in care |
| Helping Carers Helping Kids podcast series for foster carers |

# Child protection law reform: what it means for carers and young people in care

*Child protection law reform: what it means for carers and young people in care* is one of 11 podcasts in the podcast series, Helping Carers Helping Kids This podcast series provides additional information and insights on a range of topics to help foster carers in their important role.

In this podcast you will hear from Helen Brain from the Department of Health and Human Services, who outlines the recent changes to the Child Youth and Families Act 2005 and how these changes impact carers.

The podcasts are hosted by writer, producer and comedian Brian Nankervis, who you might know from the SBS music trivia game show RocKwiz.

The podcast can be accessed at www.dhhs.vic.gov.au/foster care. Below is the transcript of this podcast.

## Brian Nankervis

We acknowledge the Aboriginal people of Victoria, the first nations, upon whose land this podcast was produced. We pay respect to elders across Victoria and across Australia, both past and present.

Hello, welcome to Helping Carers Helping Kids. I’m Brian Nankervis and today we will be hearing from the Victorian Department of Health and Human Services. This podcast is part of a series produced by the Victorian government to support foster carers in their important role.

## Helen Brain

Hello everyone,

I’m Helen Brain. I am a Principle Program Officer in Child Protection and have been working in child protection and out-of-home care for nearly 30 years.

Today I’m talking about recent changes that were made to the Children, Youth and Families Act. This is the legislation that underpins child protection practice in Victoria.

I am here to talk about the changes made to the Act which are known as the permanency reforms or permanency changes.

The first change to the legislation that came into effect in November 2014, was the new carer authorisations. Carers can be now authorised to make specific decisions about a child or young person in their care under a Children’s Court order. These decision are beyond the day-to-day decisions you already make. I will talk about carer authorisations at the end, as they are an important change.

The other changes to the legislation came into effect on the 1st March 2016 and they aim to do three things:

* First, they simplify Children’s Court orders
* Secondly, they align case plans with these orders to make the intent of protective intervention clear
  + And thirdly and most importantly, they address some of the barriers that exist in achieving timely permanency for children.

For children and young people in out-of-home care timely permanency can be one of two things.

Either:

* children return home safely to their parent’s care.
  + or children are provided with a timely ongoing placement, if their return to their parent’s care is not possible in a timeframe that meets with their developmental needs.

With these changes, case planning now starts at the time when the harm to the child or young person has been substantiated. The case plan must now include a permanency objective for that child or young person.

The permanency objectives are new and I will talk about these:

* The first objective is family preservation where a child or young person remains in their parent’s care while the protective concerns are being addressed,
* For those children who are in out-of-home care but the intention is for them to return home, the permanency objective is called family reunification.
* The third permanency objective is adoption although this is rare in Victoria and requires consent of the parents or for the court to dispense with that consent
  + Permanent care is the next objective which aims to find permanent carers for a child. In these cases the department is no longer involved once a permanent care order is made
    - * Where it is not possible for a permanent care order to be made there is the option of long term out of home care with a specified carer preferably home based or if that is not possible then another long term suitable care arrangement.

Changes have been made to the court orders to reflect these permanency objectives and are designed to help child protection and the Children’s Court make these decisions in a timely way.

The previous Supervision Order is now called a Family Preservation order. This is where the child or young person is in the care of parents with conditions from the court in regard to the child’s safety. The permanency objective for the child or young person on this order is for them to remain with their parents, that is, family preservation.

The new Family Reunification order is appropriate in some situations where a Custody to the Secretary order would have been previously made. Under this order the Secretary has parental responsibility for short term decisions for the child or young person but the parents’ agreement is needed in relation to long term decisions.

On this order, child protection can decide where the child or the young person will live.

The permanency objective on this order is for the child or the young person to return home when safe to do so

To ensure timely decisions are made, the order can only be made for a child who has been in out-of-home care for no more than 12 months since the first interim accommodation order was made.

The order may only be extended for up to a further 12 months when:

* there is ‘compelling evidence’ that reunification will occur in that period of the extension, and
  + the extension will not have the effect of the child being in court-ordered out-of-home care for more than 24 months or two years.

With this change, the parents’ opportunity to make the changes needed to ensure their children can return home safely is time limited. Additionally, the court must be satisfied that all reasonable steps have been taken by the Secretary to provide the services necessary to enable the child to remain in or return to the care of parents

The new care by Secretary order is similar to the previous Guardianship to the Secretary Order. Under this order, the Secretary has parental responsibility for the child to the exclusion of all others

The permanency objective under the care by Secretary order will usually be permanent care or long term out of home care. In exceptional circumstances family reunification may still be the objective or adoption although adoption is rare.

A care by Secretary order can be made at any point when the Court believes that the child will not be able to be reunified within a timeframe that is in the child’s best interests.

If a child has been in out-of-home care for more than 2 years, a care by Secretary order will be sought unless a long-term or permanent carer has been identified and a long-term or permanent care order can be made

The new long-term care order is similar to the previous Long term guardianship to the Secretary order

It is similar to a Care by Secretary order in that the Secretary has parental responsibility to the exclusion of all others.

It can be made for a child of any age where there is a specified long term carer and permanent care is not available.

A child or young person can remain on this order with a specified carer until they are 18 years of age, or until the care arrangement ends or they marry.

There have been some changes to Permanent care orders under the new legislation.

From March of this year the legislation requires all permanent carers to preserve the child or young person’s identity and cultural connections and their relationship with their birth family

There has been a change to the number of condition for contact with the child’s birth parents. When the order is first made the Court can only order up four contacts per year. However, parties are able arrange more contact by agreement. If contact is varied after 12months, this limit does not apply. And sibling are now able to apply to vary the contact conditions

As a carer, you can now be more confident about what is planned for the child in your care. Either they will be reunified with their parents from a Family Reunification Order or they will be remaining in out-of-home and child protection will be seeking either a long term or a permanent placement for them.

The changes to the legislation also affect Aboriginal children

Now cultural planning is required for all Aboriginal children in out of home care, not just those on guardianship orders.

The case plan is required to reflect and be consistent with the child’s cultural needs to both maintain and develop their identity and encourage their connection to their Aboriginal community and culture.

At the beginning, I touched on carer Authorisations

The Act was changed to authorise carers to make certain decisions to improve the experience of children and young people in care. It aims to help enable carers to respond to a child’s needs in a more timely and normal way.

Carers already make many decisions about a child’s day-to-day care such as what clothes the child will wear and their daily routines. However, you can now be authorised to make other decisions for a specific child in either the short or long term care.

Short-term decisions can include

* signing a consent form that would normally require the signature of a parent or a guardian so a child can go on a school excursion or camp in Victoria,
* they can attend a social or sporting activity or
* they can have their teeth seen to by the dentist.
  + carers can also be authorised to make decisions around routine medical care of a child or young person.

Where the Secretary has parental responsibly to the exclusion of all others you may be authorised to make long-term decisions for the child or the young person. This usually happens if you are their ongoing carer and could include thing like:

* their haircuts (more than just maintaining their current style)
* approving a young person’s Year 11 and 12 subject choices
* enrolling a child or a young person in a school
  + or changing the child or young person’s education provider

If you are authorised to make decisions you will receive an ‘instrument of authorisation’, signed by a child protection case planner, outlining the decisions you are authorised to make.

Carer authorisation should be considered as soon as a child or a young person first comes into your care.

The changes in the legislation that allow carers to be authorised to make many of these decisions genuinely contribute to better experiences for children in out-of-home care.

Thankyou for your time today.

## Brian Nankervis:

This podcast is part of a series produced by the Victorian Government to support foster carers in their important role.

Thankyou for listening.

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