



The Department for Child Protection (the Department) has strengthened the permanency planning options available to children in care through the introduction of protection orders (special guardianship) (SGO).

Benefits for Children

SGOs are intended to provide children in care with stable, long term placements whilst ensuring that the child is able to maintain links with their birth family and people important to them.

Benefits for Carers

SGOs will give the carer(s) all the duties, powers, responsibilities and authority which, by law, birth parents have in relation to their own children and will remain in place until the child turns 18.

Importantly the child is no longer in the Chief Executive Officer's (CEO) care, meaning the special guardian will be able to carry out all parental functions without having to consult the Department.

Making decisions about SGOs

The decision for the Department to apply for, or support a carer's application for a SGO will be made at a Care Plan meeting and will be informed by assessments of suitability.

Discussion will take place with the proposed special guardian, birth family and the child regarding the process, prior to a final decision being made by the Department to apply for, or support an application for a SGO.

If the child, or anyone involved in the child's care disagrees with a decision made at a Care Plan meeting, they can ask for the matter to be referred to the chairperson of the Care Plan meeting. Contact details of the chairperson will be on the copy of the Care Plan provided or contact can be made with the case manager for more details.

If a person feels the matter has not been resolved after referral to the chairperson, they can apply to the Case Review Panel to have the Care Plan decision reviewed. *Case Review Panel* brochures are available to help understand more about this process.

Applying for a SGO

There are two forms of application for SGOs:

1. The Department may apply for a SGO as part of the initial Protection Application or as an application to revoke an existing protection order and instead seek a SGO.
2. A carer/s can make a direct application to the Children's Court (the Court) for the protection order to be revoked and be replaced with a SGO provided:
 - the child is in the CEO's care via a protection order (time-limited or until 18) and
 - they have had the continuous care of the child for at least 2 years from the time the protection order (time limited or until 18) was granted.

Birth Family Involvement

Birth parents must always be involved, or invited to be involved in Care Plan decisions made about a SGO.

Where a Care Plan decision is made to make application for a SGO, copies of the Care Plan should be sent to the birth family as a matter of priority.

Cultural Considerations

It is important that the special guardian preserve the child's name, identity, language and cultural and religious ties as far as possible.

The Court must in assessing the suitability of the proposed special guardian, have regard to the Aboriginal Child Placement Principle and to the Cultural and Linguistically Diverse Placement Guidelines.

Legal Advice

Each party will be responsible for meeting their own legal costs associated with SGOs. Birth family and carers can seek support through Legal Aid.

Contact

When a SGO is being considered as the overall Care Plan goal, the Care Planning process will consider and make recommendations regarding contact for the child.



These recommendations will be documented in a report the Department submits to the Court.

The special guardian will be responsible for implementing contact arrangements with birth parents, siblings and significant others to the child, which may be ordered by the Court.

Where a special guardian requires support to implement contact arrangements ordered by the Court, the special guardian is encouraged to access a children's contact service. Case managers are able to assist this to occur.

Varying a Condition of the SGO

Any party to the initial proceedings is able to apply to the Court for a variation, addition to or substitution of the conditions of contact that are included in the SGO.

An application for a variation of a SGO will not be granted by the Court unless new facts or circumstances have arisen or each party to the initial proceedings consents.

Financial Support under SGOs

The Court may order the CEO to pay a carer a subsidy in accordance with the prescribed rate as set out in the *Children and Community Services Regulations 2006*. This rate is in line with the general foster carer rates.

The Department will make a recommendation regarding the provision of ongoing financial support as part of its carer assessment process and will detail this information in its report to the Court.

Special Needs Loading Payments

The provision of additional funding to support children with high needs will be considered by the Department on a case-by-case basis, where Special Needs Loading payments are being received at the time of application for a SGO.

What is the role of the Department once a SGO is made?

Once a SGO is granted there is no longer any case management provided by the Department or non-government agencies. Special guardians will be encouraged to access community based services that support families in their

parenting role and if required, special guardians will be able to approach the Department's permanency support team.

Are SGOs the same as Adoption?

No – adoption permanently changes the legal status of a child, and birth parents are no longer recognised by law as the child's parents.

Under SGOs, the biological parents remain the "parents" of the child – with the special guardians vested with full parental responsibility. Emphasis is placed on a child knowing his/her parentage, and more often than not will include contact arrangements with parents/family as a condition of the order.

Placement disruption or breakdown

If SGOs experience ongoing difficulties that could result in a breakdown of the placement over time, the special guardian may seek assistance from the Department's permanency support team. In this event, the Department will assist by assessing the needs of the special guardian and child to consider whether additional support services could stabilise the placement. The aim is to prevent the child coming back into the Department's care.

Revoking a SGO

Any party to the initial proceedings will be able to apply to the Court for the revocation of a SGO. However, these orders are considered to be permanent and revocations are expected to be rare.

Obtaining a passport for a child under Special Guardianship

Special guardians will be able to obtain passports for a child in their care. An *Australian Passport Child Application* form must be accompanied by a *Form B-10* which relates to children under guardianship orders.