



Enacting palliative and/or end of life decisions for a child or young person under Guardianship of the Chief Executive

1. Purpose

This procedure describes the Department for Child Protection (DCP) requirements in relation to enacting palliative and/or end of life decision-making for a child or young person under guardianship of the Chief Executive.

This procedure must be read in conjunction with the [Death of a child or young person in care Procedure](#), [Coronial investigations and inquest Procedure](#) and the [Significant incident reporting Procedure](#).

2. Scope

This procedure applies to children and young people under the following orders:

Custody or guardianship of the Chief Executive pursuant to the [Children and Young People \(Safety\) Act 2017](#) (CYPS) or guardianship of the Chief Executive pursuant to the [Adoption Act 1988](#). End of life decisions/palliative care decisions relating to children in the **custody** of the Chief Executive remain the decision of the child's legal guardian, which is the parent. DCP will assist the family by providing support and access to services and assist with discussions with health care staff.

- Children or young people placed under long-term guardianship to a specified person where DCP has provided ongoing case support to the care arrangement or the guardian or family request assistance in resolving disputes, noting that any decisions remain with the guardian of the child.
- Unaccompanied Humanitarian Minors for whom the Commonwealth Minister for Immigration and Border Protection has delegated the guardianship responsibilities according to the [Immigration \(Guardianship of Children\) Act 1946](#).

3. Authority

3.1 Legislative context

DCP has responsibilities and functions under a range of legislation when enacting palliative and end of life decision-making for a child or young person in care.

Key legislative responsibilities include:

- [Children and Young People \(Safety\) Act 2017](#)
- [Children and Young People \(Safety\) Regulations 2017](#)
- [Children and Young People \(Oversight and Advocacy Bodies\) Act 2016](#)
- [Independent Commissioner Against Corruption Act 2012](#)
- [Consent to Medical Treatment and Palliative Care Act 1995](#)
- [Immigration \(Guardianship of Children\) Act 1946 \(Commonwealth\)](#)
- [Transplantation and Anatomy Act 1983](#)



4. Procedure requirements

4.1 Expected death – palliative care and end of life decisions

When a child or young person is admitted to hospital with a life-threatening medical condition or medical staff advise a child or young person's medical condition has deteriorated to the point that the child or young person is likely to pass away, the DCP case worker must share the following information with the hospital and medical staff:

- the nature of the child or young person's court order or placement
- the requirement for the DCP Chief Executive or Deputy Chief Executive to give consent for high-risk medical procedures, and decisions about end of life medical treatment for children or young people who are under the guardianship of Chief Executive. (This is not applicable to children under custody of the Chief Executive.)
- the names and contact details for all persons relevant to the child or young person, including the child or young person's family, carer(s) and significant others
- the names and contact details of all relevant DCP staff (for example, DCP case worker, supervisor, manager, regional director, Principal Aboriginal Consultant (PAC) and practice leader)
- the role and contact details for the DCP After Hours Call Centre should the hospital require an after-hours decision or consent.

In consultation with the direct line manager, the DCP case worker must complete a [Significant Incident Referral](#) in accordance with the [Significant incident reporting Procedure](#).

The DCP case worker should also:

- contact DCP Legal Services requesting legal advice regarding end of life decisions
- ensure cultural protocols and family structures are known and observed in communicating the child or young person's circumstances to family. Consult with Principal Aboriginal Consultant if the child or young person identifies as Aboriginal or Torres Strait Islander. Consult with DCP Multicultural Services if the child or young person is of a culturally and linguistically diverse background
- consult with a practice leader, and Principal Aboriginal Consultant if relevant, for case advice, particularly regarding the involvement of family members and carers
- notify family, carers, support agencies and other services involved in the child or young person's life (for example, school) if they are not aware of the child or young person's diagnosis and prognosis
- ensure the Significant Incident Reporting Unit, manager and regional director are provided with regular updates regarding the child or young person's health
- ensure all information, reports and plans are uploaded into C3MS in a prompt manner to ensure the DCP Call Centre can respond after hours in accordance with the case plan.

4.1.1 Convene a Medical Case Conference

A Medical Case Conference is undertaken by the relevant hospital. The DCP case worker will need to participate to develop a medical treatment plan and update the case plan, and identify roles and responsibilities (see information on [case planning](#) below). This is facilitated by a health professional, Aboriginal health worker and/or Aboriginal liaison officer, especially if they are known to the child or young person or their family.



All relevant parties should attend the conference, including:

- the child or young person, as appropriate
- relevant DCP staff
- the treating medical practitioners
- the family – to be determined in consultation with the practice leader, Principal Aboriginal Consultant or DCP Multicultural Services
- the carer (for example, foster, kinship, specific child only or residential care carers) to be determined in consultation with the practice leader, Principal Aboriginal Consultant or DCP Multicultural Services
- the hospital social worker, Aboriginal health worker or Aboriginal liaison officer
- other relevant agencies.

The DCP case worker is to assist the child or young person and the family to communicate their wishes to ensure cultural and religious protocols and practices are taken into consideration (see [Cultural Considerations](#)) and arrange an interpreter if required.

The purpose of the case conference is to fully explore treatment options, including end of life medical treatment (palliative care), Advanced Care Directives, or the child or young person's end of life wishes, withholding of treatment and 'Do Not Resuscitate' options. Seek consent from the Chief Executive or the Deputy Chief Executive for end of life medical treatment (palliative care), withholding of treatment or 'Do Not Resuscitate' order.

4.1.2 Consent of the Chief Executive

Under the delegations for section 84 of the *CYPS Act*, only the Chief Executive and Deputy Chief Executive may make decisions about:

- medical procedures that are high risk in situations when a child or young person's life is threatened due to illness, trauma or injury
- end of life care for a child or young person, including decisions about withdrawal of treatment, palliative care plans, Advanced Care Directives and Do Not Resuscitate orders.

The decision maker must be briefed to allow an informed decision to be made. Where consent is required for end of life medical treatment (palliative care), withholding of treatment or Do Not Resuscitate decisions, the DCP case worker is to prepare a briefing for the Chief Executive seeking a decision regarding the proposed treatment plan. The briefing needs to include:

- the views of all parties, especially the child or young person and their family, as expressed (or represented) at the case conference, including cultural considerations
- a letter from the treating medical practitioner outlining:
 - proposed treatment, its effect, benefits, side effects or risks
 - any alternative treatments and their effect, benefits, side effects or risks
 - effect of not proceeding with the treatment
 - rationale for the proposed treatment or recommendations
- advice from DCP Legal Services.

Following the Chief Executive's decision regarding end of life medical treatment (palliative care), withholding of treatment or a Do Not Resuscitate Order, the family and carer must be notified in writing by the Chief



Executive of the decision. The DCP case worker should meet with the family and the carer prior to the letter, or at the time of delivering the letter, to provide face-to-face support.

If the situation is an emergency and there is not time to follow the above briefing process, refer to **Emergency Medical Treatment** section below.

4.1.3 Consent of a young person

Section 6 of the [Consent to Medical Treatment and Palliative Care Act 1995](#) allows a young person aged 16 years and over to make decisions about their own medical treatment including consent to or refusal of medical treatment.

If a young person 16 years or over refuses treatment, the DCP case worker must consult with the practice leader and/or Principal Aboriginal Consultant on how to engage with the family in a culturally appropriate manner. Advice and assistance from the hospital social worker, Aboriginal health worker, Aboriginal liaison officer or medical practitioner is advised.

Section 12 of the same Act allows a medical practitioner to administer medical treatment to a child or young person (under the age of 16) if the following criteria are met:

- a. the parent or guardian consents; or
- b. the child consents and—
 - i. the medical practitioner who is to administer the treatment is of the opinion that the child is capable of understanding the nature, consequences and risks of the treatment and that the treatment is in the best interest of the child's health and well-being; and
 - ii. that opinion is supported by the written opinion of at least one other medical practitioner who personally examines the child before the treatment is commenced.

4.1.4 Review the child or young person's case plan

Section 13(5) of the [Consent to Medical Treatment and Palliative Care Act 1995](#) requires that if a guardian of the child or young person is available to decide whether medical treatment should be administered, consent to treatment must be sought. The child or young person's health and wellbeing are paramount and if consent is refused, the treatment may be administered despite the refusal if it is in the best interests of the child or young person's health and wellbeing.

The child or young person's case plan needs to be amended to incorporate the details, roles and responsibilities regarding the pre and post death arrangements. This is to be developed through a process of collaborative decision making with all relevant parties, including the child or young person (if appropriate), family, carers, health professionals (treating doctor, hospital social work staff, Aboriginal health workers, Aboriginal liaison officers), disability staff, and cultural advisors.

The child or young person's case plan should include, but not be limited to:

- the child or young person's end of life wishes, if known
- the medical treatment plan – inclusive of end of life medical treatment (palliative care), withholding of treatment or Do Not Resuscitate decisions
- cultural considerations
- psychosocial support for the child or young person
- family contact arrangements that meet the child or young person's needs
- reporting arrangements upon the death of the child or young person, including identifying a family member to be the first to be notified.



4.2 Emergency medical treatment

Section 13(1) of the [Consent to Medical Treatment and Palliative Care Act 1995](#) allows a medical practitioner to lawfully administer medical treatment to a person if:

- the patient is incapable of consenting; and
- the medical practitioner is of the opinion that the treatment is necessary to meet an imminent risk to life or health and that opinion is supported by the written opinion of another medical practitioner; and
- the patient (if 16 years of age or over) has not refused consent to the treatment; and
- the medical practitioner has made reasonable inquiries to ascertain whether the patient (if the patient is 18 or more years of age) has an advanced care directive.

The DCP case worker must:

- Report the serious injury, harm or illness in accordance with the [Significant incident reporting Procedure](#).

4.3 Aboriginal and Torres Strait Islander communities

Considerations for end of life care decisions may include:

- the child or young person's end of life wishes
- end of life care goals (for example, place of care, treatments, therapies and clinical requirements for quality care at end of life, utilising an Aboriginal health practitioner or Aboriginal liaison officer)
- family obligations or responsibilities to conduct any cultural business
- decision-makers involved in the end of life journey
- cultural or traditional healing care or therapies (for example, bush medicines)
- visiting or returning to Country
- sibling and family contact
- women's or men's business (consider having a male or female staff member available to discuss these topics on a one-to-one basis)

A family meeting may be convened for discussions about Sorry Business, including arrangements for:

- viewing of the body
- cremation or burial
- place of burial
- ceremonial practices to take place
- cultural duties to be conducted by family members
- support and bereavement care for family.

DCP staff attending the family meeting should be clear on the required next steps and timing in anticipation of answering any questions the family may have.

[Interpreters](#) may need to be coordinated to support culturally appropriate and safe communication styles for family members.



Refer also to the [Death of a child or young person in care Procedure](#).

4.4 Culturally and linguistically diverse communities

Families from a culturally and linguistically diverse background may have customs, traditions, cultural and religious beliefs with respect to end of life care decisions. This may include:

- the child or young person's end of life wishes
- family obligations or responsibilities to conduct any cultural business
- decision-makers involved in the end of life journey
- cultural or traditional healing care or therapies or restrictions on medical options
- sibling and family contact

A family meeting may be convened for discussions regarding arrangements for:

- viewing of the body
- cremation or burial
- place of burial
- ceremonial practices to take place
- cultural duties to be conducted by family members
- support and bereavement care for family.

DCP staff attending the family meeting should be clear on the required next steps and timing in anticipation of answering any questions the family may have.

[Interpreters](#) may need to be coordinated to support culturally appropriate and safe communication styles for family members.

Refer also to the [Death of a child or young person in care Procedure](#).

5. Compliance, monitoring and evaluation

This procedure will be reviewed in accordance with the [Policy Governance Framework](#).

6. Related documents

Related documents, forms and templates
Adverse Event Procedure
Adverse Event referral
C3MS Guide: Recording the death of a child or young person or adult
Significant Incident Reporting Procedure
Significant Incident Management Requirements for Service Providers
Residential Care: Incident Management Procedure
Coronial Investigations and Inquest Procedure
Suicide and self-harm: residential care



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