

Changes from parental responsibility orders to guardianship orders – information for carers

This information sheet is for relative and kinship carers who have all aspects of parental responsibility for children or young people in their care by an order of the Children's Court under Section 79 (1)(a)(iii) of the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act).

What is changing?

On 29 October 2014 changes to the Care Act will come into effect. A part of these changes is that all existing orders of the Children's Court to relatives and kin under Section 79 (1)(a)(iii) of the Care Act will change to guardianship orders. This means that relative and kinship carers who currently have parental responsibility for a child in their care will become guardians.

Why is the change happening?

This change will provide greater stability for children and young people who are not able to live with their parents. During consultation about changes to the Care Act, many relative and kinship carers said they wanted less involvement from Family and Community Services (FACS) with their families. Many of these carers are grandparents, aunts and uncles who wanted to raise their family without the need for a caseworker. The introduction of guardianship orders acknowledges this feedback.

What does this mean for you?

From 29 October 2014, you will be known as the guardian of the child or young person currently in your care under an order of the Children's Court, which allocates all aspects of parental responsibility to you. The child or young person will continue to remain in your care under the guardianship order until they turn 18.

You will continue to have responsibility for all decisions related to meeting the needs and ensuring the wellbeing of the child or young person in your care, without having to gain approval from FACS.

However, if there are any additional conditions in the current parental responsibility order, such as contact arrangements, supervision by FACS, or where you have given undertakings to the Children's Court, these conditions will continue as outlined in the final court order.

Will you continue to receive financial support?

Yes, you will continue to receive an allowance for looking after the child or young person in your care. We recognise the need to provide ongoing financial and non-financial support. This payment will be called a guardianship allowance and will be at the same rate as the allowance for carers.

Any approved, additional financial support you receive for this child or young person will continue and be known as a guardianship support payment. You will need to keep receipts where applicable.

You will need to provide a report to FACS once a year to confirm that you are still caring for the child or young person. You will also need to tell FACS if the child or young person leaves your care before they turn 18. More information on how to report will be provided soon.

Will you still be supported by FACS?

FACS will not provide ongoing casework support or supervision unless there are other Children's Court orders in place that require FACS to remain involved, for instance a contact order or a supervision order.

If you need support, you can seek help and advice from services in your local community such as child and family support, family counselling, health services, youth programs and child care services. Your local Community Services Centre may be able to help you locate or contact these services.

What does this mean for the child or young person in your care?

The child or young person will remain in your care until 18 years of age (unless another order is made) and will no longer be considered a child or young person in out-of-home care or foster care.

The child or young person will still have contact with their family and important people in their life, as outlined in the care or case plan or court orders.

If the child or young person in your care is Aboriginal or Torres Strait Islander, or from a different cultural background, they have the right to have their cultural needs properly met, to maintain connections with their culture and to have a cultural support plan. It will be your responsibility as their guardian to ensure their cultural needs are met and to encourage them to participate in cultural activities and events. If the child or young person does not have a formal cultural support plan, you should consult with relevant community members or culturally appropriate services to ensure their cultural identity is maintained.

It is important to take the time to talk to the child or young person in your care about this change in a way that is appropriate for their age. They need to understand that you are now their guardian but day-to-day things will remain the same.

What does this mean for the parents of the child or young person in your care?

By law, the parents will still be recognised as the child or young person's parents. Current contact arrangements outlined in the care or case plan should not change unless it is in the child's best interest to do so. Unless it is part of an existing court order, FACS will no longer have a role in organising contact arrangements.

As the guardian, you will be responsible for arranging, coordinating and (where agreed) supervising contact visits between the child or young person in your care and their family members. If there is a current court order outlining contact arrangements, you must follow this court order unless you apply to the Children's Court to change it.

Can you go back to the Children's Court to have the guardianship order changed?

If there are aspects of the order (or the entire order) that you would like changed, you have the right to go back to the Children's Court to request the order to be changed under section 90 of the Care Act. You are advised to seek legal advice if this is an option you would like to consider.

Can you be a carer and a guardian?

The legislation as of 29 October 2014 means your order under section 79(1)(a)(iii) of the Care Act changes to a guardianship order. Your role as an authorised carer will not continue for any children named in the order that changes to a guardianship order.

However, if you are providing care for other children under a different care order (e.g. the Minister has parental responsibility and you currently provide care for those children or you have been authorised as a carer to provide out-of-home care generally), then you will continue to be a carer for those children.

Further information

Visit the FACS website: www.facs.nsw.gov.au/safehomeforlife

Alternatively contact:

NSW Connecting Carers

1300 794 653

Aboriginal Child, Family & Community Care State Secretariat (NSW) Inc. (AbSec) Foster Care Support Line

1800 888 698

CREATE (supporting children and young people in care)

1800 655 105