

Permanent Care Orders Information for Parents and Carers

What is a Permanent Care Order?

The Local Court may make a Permanent Care Order (*the Order*) for a child who is in the care of the CEO under a Protection Order that includes a long term parental responsibility direction to the CEO or another specified person (or both) until 18 years of age.

The Order gives parental responsibility for the child to an adult who has been assessed by Territory Families as suitable to have that responsibility. The Order is in force until the child reaches 18 years of age, unless it has been revoked by the Court following an application by the CEO.

Is a Permanent Care Order the same as Adoption?

A Permanent Care Order is different to Adoption in a number of ways—for example the child maintains their birth rights, their inheritance rights, and keeps the name shown on their birth certificate. A Permanent Care Order ceases when the child turns 18, whereas Adoption is permanent and cannot be revoked.

Who can apply for a Permanent Care Order?

Only the Chief Executive Officer of Territory Families can apply to the Court for a Permanent Care Order. Individuals interested in becoming a Permanent Carer can express an interest and be assessed for suitability.

What does 'parental responsibility' mean?

A Permanent Carer has the same rights and responsibilities as a parent has in relation to the child in their care. The Permanent Carer makes all the decisions needed to raise and care for the child, including where they will live, health care, religion, education and providing for their day to day needs.

What must the Court consider before making a Permanent Care Order?

- The wishes of the child and their parents, the proposed Permanent Carer, and any other person considered by the Court to have a direct and significant interest in the wellbeing of the child;
- The Court must be satisfied that the child would be in need of care and protection if not for the fact that the child is in the care of the CEO;
- A Permanent Care Order must be considered the best way to safeguard the wellbeing of the child; and
- The Permanent Carer has been assessed as suitable to be given parental responsibility and consents to the Court making the Permanent Care Order.

If the child is Aboriginal it is essential to provide evidence that the child's family and community have been consulted and engaged in the decisions about the child's permanent care.

Can a Permanent Care Order be made without the parent's consent?

The Court can make a Permanent Care Order without the parent's consent if satisfied that a Permanent Care Order is the best means of safeguarding the child's wellbeing—although it is preferred that parents provide their consent.

Territory Families are required to make reasonable efforts to inform the parents when we considering a Permanent Care Order with them before making an application. If a parent cannot be located their consent is not required. A parent who does not consent may contest the application for a Permanent Care Order in court as a party to the proceedings. The Court can exclude a parent (or anyone else) from the proceedings.

Can an order be appealed?

Yes, any party to the proceedings can appeal against the Order by filing a notice of appeal to the Supreme Court within 28 days of the original decision. The Supreme Court may stay the original decision until the outcome of the appeal has been decided.

Can a Permanent Care Order be revoked?

Only the Chief Executive Officer of Territory Families can apply to the Court to revoke the Order, or to have the order revoked and replaced by a protection order. The Court must be satisfied that this is the best way to safeguard the wellbeing of the child.

Does Territory Families remain involved after a Permanent Care Order is made?

No. When a Permanent Care Order is made the child is no longer in care. Territory Families will have no further involvement with regard to the child. The child's case is closed at the expiration of the appeal period.

Will the Permanent Carer receive financial support?

Yes. From 1 July 2019, Permanent Carers will receive a Permanent Care Order Financial Support payment from Territory Families unless they choose decide that they don't want this support. The payment is at the same rate as was received by the Carer when the child was in Kinship Care or Foster Care—inclusive of remote area loading and complex needs allowance. The rate of payment is reviewed annually by Territory Families so it remains equivalent to the current Kinship Care or Foster Care payment. Payments are deposited fortnightly into the Carer's bank account.

To receive financial support the Permanent Carer will sign the Permanent Care Financial Support agreement. The agreement acknowledges that Territory Families does not provide ongoing case management and that the Carer must immediately inform Territory Families if the child is no longer living with them (for example at age 16 the child may leave home). An annual Statutory Declaration must be provided by the Carer to confirm that the child is still living with them.

Like any parent, Permanent Carers are also eligible to receive a range of Australian Government parenting allowances, benefits and subsidies.

Will the child continue to see their birth family?

A Permanent Carer is expected to ensure that the child maintains a connection with their family and culture. A demonstrated commitment to maintaining these connections is an important part of the planning for a Permanent Care Order application, and the assessment of a person's suitability to be a Permanent Carer.

What about travel interstate or overseas?

After the Court has made the Permanent Care Order the child can travel interstate with the Permanent Carer and their family. There is no need to obtain permission from anyone.

To facilitate overseas travel the Permanent Care Order can include a direction authorising the child to travel outside of Australia without the parent's consent. The CEO will apply for this direction. If this direction has not been included in the Order the parent's consent will be required. To travel overseas the child must also have their own current passport.

Can the Permanent Carer move interstate or overseas with the child?

A Permanent Care Order **is not** recognised outside the Northern Territory. When considering a relocation interstate or overseas the Permanent Carer is advised to either register the child's Permanent Care Order with the Federal Circuit Court of Australia, or—if the interstate jurisdiction has a similar type of order—make an application to transfer the Permanent Care Order to the new jurisdiction (the Permanent Carer will incur legal costs with this option).

Do you have more questions?

If you are a Kinship Carer or Foster Carer enquiring about becoming a Permanent Carer for a child who is currently placed with you, it is best to discuss your interest with the child's Case Manager.

If you would like additional information about becoming a Permanent Carer, but you are not currently an Authorised Kinship Carer or Foster Carer, please contact the Territory Families Policy Unit by sending an email to tf.policy@nt.gov.au.

If you have questions about the Permanent Carer assessment process you can contact the Territory Families' Adoptions Unit by sending an email to tf.PCO@nt.gov.au or call (08) 8922 7443.

Do you have any worries?

The child's parent, Kinship Carer, Foster Carer, proposed Permanent Carer, the child or any other person with a significant interest in the child, can make a complaint if they are concerned about the assessment process or planning for a Permanent Care Order.

If you feel that your questions or concerns are not being addressed by the Case Manager or the Regional Office you should escalate your concerns to the Territory Families Complaints team or to the Children's Commissioner.

Territory Families Complaints

tf.complaints@nt.gov.au

Territory Families Complaints
PO Box 37037
Winnellie NT 0820

Phone: 1800 750 167

Office of the NT Children's Commissioner

childrenscommissioner@nt.gov.au

Phone: 1800 559 256