

Understanding Guardianship: The Basics

What is guardianship?

Guardianship is an order made by the Children's Court for a child or young person who cannot return to their family. Guardianship orders aim to provide stability for children and young people who are in out-of-home care (OOHC).

A Guardianship Order lasts until the child is 18 or the Children's Court changes the order. The guardian takes on full parental responsibility of the child or young person, making all decisions about their care until she or he reaches 18 years and can legally make decisions for themselves. Under Guardianship Orders, a child or young person is not in (OOHC) anymore.

Who can be a guardian?

A guardian can be a relative, kinship carer or a 'suitable person'.

A 'suitable person' could be:

- a family friend
- a person known to the child
- an authorised carer who has had care of the child.

For Aboriginal children and young people, an Aboriginal guardian is preferred if no suitable relatives or kin can be identified.

A guardian must be willing and able to care for the child or young person without agency support. This includes independently managing family time (contact).

When is guardianship suitable?

- a child or young person is in need of care and protection.
- there is no realistic possibility of the child or young person being restored to their parents.
- if the child or young person is Aboriginal, the child has come to live with the prospective guardian in line with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles.
- the prospective guardian will provide a safe, nurturing, stable and secure home for the child or young person.
- the prospective guardian is willing to take care of the child or young person until at least 18.
- the prospective guardian has completed background checks (Working with Children Check, National Police Check, agency checks).
- the prospective guardian has medical evidence to show that he/she can care for the child or young person until they are at least 18.
- the prospective guardian can care for the child or young person without case management support.
- if the prospective guardian is from a different cultural background to the child, the guardian has demonstrated they will maintain connections with their culture.

Family time (contact) and cultural connection

A guardian is responsible for managing family time between the child or young person and their family members.

It is important that every child and young person is able to learn about their family and culture, most often through some sort of regular family time (contact). Even if it is not possible to have contact with their family, learning about them is still important. This helps children and young people have a strong and healthy identity.

When planning for guardianship for an Aboriginal child, caseworkers make sure that the child's Aboriginal family and community is involved in decision-making and actions. An Aboriginal child's cultural plan will respect, value and strengthen connection to family, community, Country and culture. These relationships are critical for the wellbeing of Aboriginal and Torres Strait Islander children and young people.

Family time arrangements may need to change as a child's needs change. Guardians will use their own support networks and partner with the child's family to talk about, plan and support changed arrangements.

Family members may need more reassurance about time with their child after an order is made. In these cases, the Children's Court may make a contact order.

What financial support do guardians receive?

Guardians receive a guardianship allowance to help them meet the needs of the child or young person. The guardianship allowance is the same rate as the DCJ statutory care allowance. Once the guardianship order is made, DCJ is responsible for managing the guardianship allowance.

As part of the guardianship assessment, a financial plan will be developed for the child or young person. This plan considers any additional services that a child or young person is likely to need as they grow. For example, a financial plan might cover counselling costs for an adolescent. These types of payments are not automatic entitlements – they are 'extras' that must be justified and approved. The financial plan will be different for every child. No additional funds are available for contact support services.

What other supports do guardians receive?

Although agency support is not provided, guardians can still seek help and advice from local services including child and family support services, family counselling, health services, youth programs, disability and childcare services.

My Forever Family NSW also provides telephone support, training and advocacy for guardians.