

Permanency Planning Overview

The priority of the NSW Government is to support children who are at risk because their family struggles with issues such as drug and alcohol dependence, mental health and family violence, and keep them safely together (preservation).

However, there are times when this is not possible, and a child or young person (child) is removed from their parents and placed in the care of the Minister or another person.

Children who enter care are removed, not only from their parents, but often from their culture, siblings, kin, schools, pets and friends. This can damage a child's sense of self and belonging. The children who 'drift' in the system, experiencing multiple changes of 'home' and carer, have the poorest outcomes.

Research tells us we can improve outcomes for a child who is removed, by ensuring they have a permanent home as soon as possible, with strong connections to their culture and to the people that know and love them. In most cases, this should be about all casework efforts focusing on returning the child safely to their parents following their entry to care. Where this is not possible, it is about finding another permanent home through guardianship or, for non-Aboriginal children, open adoption. Wherever possible, this should be with relative and kin.

This gives a child the opportunity to lay down 'roots' of safety and connection which will promote their sense of identity and wellbeing. The younger the child at the time of removal, the more quickly permanency must be achieved.

Permanency planning is not only about placement. Most importantly, permanency planning is about relationships, identity and a sense of belonging. (Brydon 2004; Fein & Maluccio 1992; Lahti 1982; Sanchez 2004. Cited in Tilbury 2006)

What is Permanency?

Permanency is not only about where a child lives and with whom (placement), it is also about feeling safe, connected and loved. It's about feeling, like you belong, have lifelong relationships, are connected to your culture and have a legal right to be part of a family.

There are four dimensions of permanency: relational permanency, physical permanency, cultural permanency and legal permanency.

Relational permanency is feeling like you belong. This includes positive, loving, trusting and nurturing relationships with significant others (parents, siblings, friends, family and carers). Children who cannot be stay safely with family or restored safely, should be supported to have relational permanency with their carers / guardians / adoptive parents and with their parents, other family, kin and community.

Physical permanency is having a stable living arrangement, consistent care givers and continuity of relationships. Physical permanency gives a child a place to call home where they feel safe and protected.

Cultural permanency is about maintaining an ongoing connection to culture through taking part in cultural practices, being connected to your family, remaining in community and valuing connection to Country. For culturally and linguistically diverse children it is about maintaining an ongoing connection to family and community, cultural practices, language, religion, ancestry and migration stories.

Legal permanency is the legal allocation of parental responsibility.

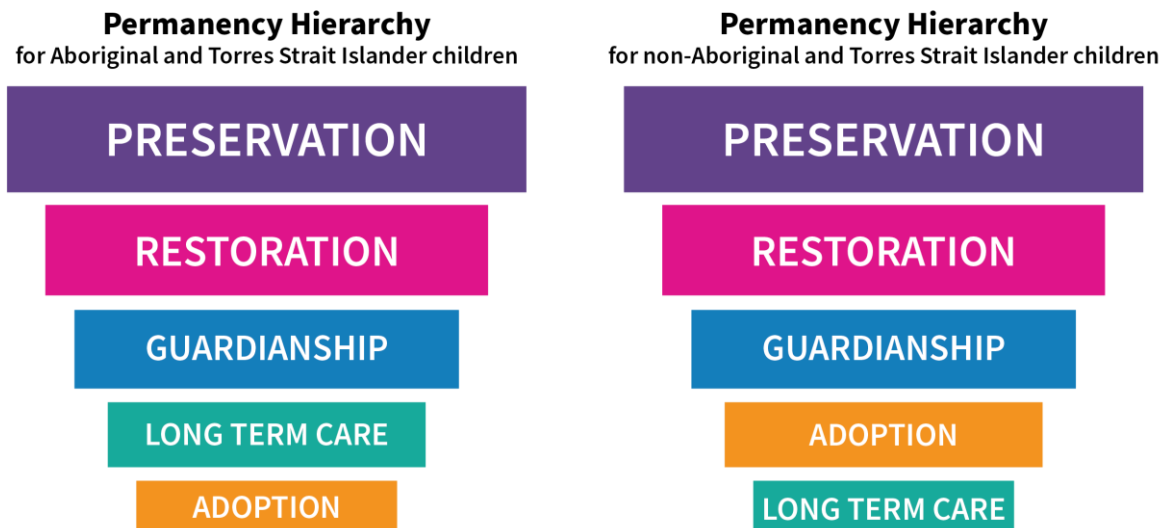
Permanency Case Planning

Permanency planning is the process of the Department of Communities and Justice (DCJ) and Permanency Support Program (PSP) service providers working with children, families and carers to ensure every child has a pathway to a permanent home within two years of entering care. The most preferred permanency option is always family preservation, but when this is not possible, a permanent home can be achieved through four permanency pathways:

- **Restoration**
- **Guardianship**
- **Open Adoption (not preferred for Aboriginal children)**
- **Long-term care.**

Permanent Placement Principles

The legislation that governs NSW child protection, the *Children and Young Persons (Care and Protection) Act 1998* (known as the *Care Act*) sets out a clear hierarchy in permanency goals that guides permanency decision-making. These are called the Permanent Placement Principles and are set out in section 10A of the *Care Act*:



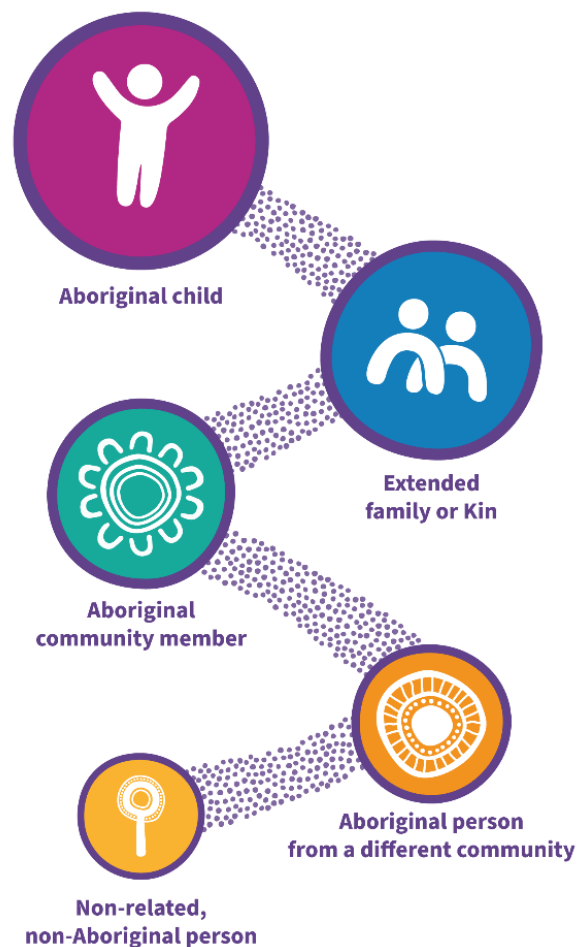
Aboriginal and Torres Strait Islander Child Placement Principles

Section 13 of the *Care Act* sets out the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles (the Aboriginal Placement Principles).

The Aboriginal placement principles define the order in which placements for an Aboriginal or Torres Strait Islander (Aboriginal) child, unable to live at home with their parents, must be sought. The order is a hierarchy, so you must exhaust an option before moving to the next.

The Aboriginal placement hierarchy is, if an Aboriginal child cannot live safely at home and a placement is sought, it must be with:

1. A member of the child's **extended family or kinship group**
2. If that is not possible, then a **member of the Aboriginal community to which the child belongs**
3. If 1 and 2 are not possible, then a **member of some other Aboriginal family** who live near the child's usual home, or
4. only if 1, 2 and 3 are not practicable or it would be detrimental to the child's safety, welfare and well-being, then a **suitable person approved by the Secretary** after consultation with:
 - (i) members of the child's extended family or kinship group, as recognised by the Aboriginal community to which the child belongs, and
 - (ii) such Aboriginal organisations.



The Aboriginal Placement Principles require DCJ, PSP service providers and the Court to consider the following:

- **Relevance of self-identification and expressed wishes of child.** In determining where a child is to be placed, take into account whether they identify as Aboriginal and their expressed wishes. s 13(2)
- **Child with parents from different Aboriginal communities.** If a child the order in (1) applies, but the choice is made so that the best interests of the child will be served having regard to the principles of this Act. s 13(3)
- **Child with one Aboriginal parent and one non-Aboriginal parent** If a child has one Aboriginal parent and one non-Aboriginal parent, the child **may be placed with the person with whom the best interests of the child will be served** having regard to the principles of this Act. s 13(4)
- **Exceptions:** Emergency placement and placements of less than 2 weeks durations can be exceptions to the Aboriginal Placement Principles can be made, but the Secretary (DCJ) must consult the appropriate Aboriginal and Torres Strait Islander community as soon as possible after the child's immediate safety has been secured. s 13(7)

It is important to note that the Aboriginal Placement Principles also apply when the Court considers a Guardianship order for an Aboriginal child as outlined in section 79A(3)(c) of the Care Act.

Legal Framework for Permanency Planning

Section **78A** of the Care Act relates to permanency planning:

The Care Act defines Permanency planning as the making of a plan that aims to provide a child with a stable placement that offers long-term security and:

- makes decisions about a safe, stable and nurturing environment earlier for younger children in care and that permanent placement decisions should guide all actions for a child in care
- meets the needs of the child, and
- avoids the uncertainty of placement changes.

Section 78A also details that:

- Permanency plans do not need to provide details of the exact long-term placement but must be sufficiently clear and particular so the Court has a reasonably clear picture as to the way the child's needs, welfare and well-being will be met in the foreseeable future.
- Permanency plans comply with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles of section 13 (detailed in the section above).
- Defines the exceptional circumstances when an Aboriginal child can be adopted by a non-Aboriginal person.

Changing Permanency Goals

If you believe that the child's permanency goal is not the most appropriate and needs to be changed, you must consult with your DCJ Permanency Coordinator. DCJ will decide whether to approve the change to the child's permanency goal, taking into account the information you supply that demonstrates why the change is in the child's best interests. This may include information about the work you and others have done to work towards the current goal. In some instances, a meeting (group supervision) may be organised between DCJ and your agency to discuss the child's goal. For more information on group supervision see [Group Reflective Practice](#).

A child's case plan goal can be changed from parental responsibility to the minister (long term care) to guardianship or adoption without the approval of the Court, but it does need the approval of DCJ. Once approved, a PSP service provider can begin work to assess guardianship or adoption. A further application to the Court will be made by DCJ once you (or a person you contract) completes the guardianship or adoption assessment.

A child's case plan goal can be changed from long term care to Assess Restoration, when DCJ and the PSP service provider believe restoration is achievable and, in the child's, best interests. However, because the Court has previously found that it was not realistic for a child to return to live with their parents, no steps can be taken to implement a restoration (by DCJ or you) until it has been approved by the Court.

To obtain the courts approval to commence restoration, DCJ must make a section 90 application seeking to rescind or vary the original order that brought the child into care. DCJ will need evidence gathered by you to support their case, including an assessment/s and a restoration care plan that you will support DCJ to write. Only once the Court has approved the restoration care plan and/or made a final order supporting a child's return home, can steps be taken for the child to go home. Changing a goal from long-term care to Assess Restoration is a delicate balancing act, you must have enough evidence to demonstrate that restoration is in the best interests of the child (including hearing their voice), is realistically achievable and is consistent with s90 requirements all while not having taken steps towards restoration without the Court's approval.

For more information see [Restoration: Legal Process from Long-Term Care \(PRM-18\)](#)

If you have concerns about achieving the child's permanency case plan goal within the designated timeframe, you must discuss your concerns with a DCJ Permanency Coordinator as early as possible.

Permanency Goal Reviews (previously case plan goal reviews)

PSP service providers are required to regularly review progress towards the child's permanency goal together with DCJ. Permanency goal reviews are separate to a case plan review. But the child's OOHC Case Plan and/or FAP is critical in reviewing the progress towards permanency. A permanency goal review is usually held between the PSP service provider and the DCJ Permanency Coordinator. The timeframes for a permanency goal review depend on the child's permanency goal.

For more information see the factsheet [Who are Permanency Coordinators](#)

Resources:

Paxman, M. Tully, L. Burke, S. Watson, J. (2014). 'Pathways of Care: Longitudinal study on children and young people in out-of-home care in New South Wales'. *Family Matters* 2014 No. 94.

Tilbury, C, Osmond, J, 2006. 'Permanency Planning in Foster Care: A Research Review and Guidelines for Practitioners'. *Australian Social Work Journal*.
<https://taylorandfrancis.com/>

Harden, B.J. (2004). Safety and stability for foster children: A developmental perspective. *The Future of Children*, 14(1), 31-47.