Decision making – Type 1 decisions

Decisions made by CYPS only

Direction to staff

This document provides instructional information for Child and Youth Protection Services (CYPS) to conduct its business. All staff must comply with it.

Note: Unless otherwise indicated, the term 'child' or 'children' also refers to 'young person' or 'young people'. The term 'children in care' refers to 'children in out of home care'.

Summary of main points

This document outlines how to:

- Decide if a decision is a Type 1 decision
- Plan and make a Type 1 decision
- Gather information through information requests, interviews, and meetings
- Conduct a risk assessment and consider best interests of the child
- Consider submissions from Aboriginal and Torres Strait Islander people and organisations
- Analyse the information gathered
- Record the decision and any disagreeing views
- Communicate the decision to all of those affected by the decision

Purpose of this document

This procedure outlines the process by which CYPS staff with case management responsibility should make type 1 decisions for children and young people.

Scope

This procedure applies to all staff with child protection and youth justice case management responsibility within CYPS who are exercising a function under the *Children and Young People Act 2008* (the Act) or consistent with a Childrens Court Order.

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Relevant policy

This procedure upholds the principles of the Decision Making policy and is to be read in conjunction with the documents listed in the below section 'Related materials'.

When to perform this procedure

This procedure is to be conducted when a decision is to be made pursuant to the *Children and Young People Act 2008*.

Procedures

There are 11 key steps in the Type 1 Decision Making process. Depending on the circumstances of the case, the order and completion of the steps can vary:

1. Determine what type of decision is being made
2. Consider relevant procedures
3. Gather information

4. Complete a risk assessment
5. Guiding principles that must be considered
    a. Best Interests
    b. Care and Protection Principles
    c. Aboriginal and Torres Strait Islander children and young people principle
6. Consider personal bias
7. Who needs to be consulted?
    a. The child
    b. Submissions from Aboriginal and Torres Strait Islander people or organisations
    c. Panel or Forum
8. Analyse the information and finalise the decision
9. Record the decision
10. Communicate the decision
11. If someone disagrees with a decision

Step 1 – Determine the type of decision

When you are making a decision, you need to determine the type of decision it is in order to understand who is delegated to make the decision and how it is recorded. To determine the type of decision, see the Decision Making Table.

This is not an exhaustive list of decisions. If you can't find the decision, refer to the decision types and consider which type your decision would fall within.

If the decision is a Type 2 decision, do not follow this procedure. Refer to the "Decision Making - Type 2 decisions" procedure.

If the decision is a Type 1 decision, follow the steps below.

Step 2 – Consider relevant procedures

If the decision has its own procedure, for example, the Intake procedure or Appraisal procedure, you should follow that as well as considering the below.

Step 3 – Gather information

To inform your decision, relevant, historical and current information should be gathered from the sources of information who know the child best.

1. Read relevant, historical and current information in the child and family member's files including Child Concern and Child Protection Reports, assessments, appraisal forms, case notes and Decision or Significant Action (DOSA) records.
2. Request and review current information and input from involved professionals or organisations, who are, or have been, involved with the child or family (including ACT Together, school staff, medical professionals)
3. Identify any gaps and seek more information if required.

Step 4 - Complete risk assessment

You should complete the relevant risk assessment in line with the Risk Assessment Framework.

The analysis of risk should consider:

- What (if any) are the risks for this child?
- What (if any) environmental factors might either increase or decrease the child and sibling/s vulnerability to this risk?
- What might increase or decrease the probability of abuse or neglect occurring, recurring or continuing in the future?

Risk assessment is an ongoing process and risk should be reassessed throughout the decision making process.

Step 5 – Consider Best Interests

All decisions made by CYPS must be underpinned by a clear analysis of the child or young person's best interests. When making a decision in respect of an Aboriginal and/or Torres Strait Islander child, remember that section 10 (Aboriginal and Torres Strait Islander children and young people principle), as well as section 8 (best interests) and sections 349-352 (care and protection principles) are also applicable.

Best Interests

In deciding what is in the best interests of a child or young person, you **must** consider each of the following matters that are relevant to the child or young person:

- the need to ensure that the child or young person is not at risk of abuse or neglect
- any views or wishes expressed by the child or young person
- the nature of the child's or young person's relationship with each parent and anyone else
- the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child has been living
- the practicalities of the child or young person maintaining contact with each parent and anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact
- the capacity of the child's or young person's parents, or anyone else, to provide for the child's or young person's needs including emotional and intellectual needs
- for an Aboriginal or Torres Strait Islander child or young person—that it is a high priority to protect and promote the child's or young person's cultural and spiritual identity and development by, wherever possible, maintaining and building the child's or young person's connections to family, community and culture
- that it is important for the child or young person to have settled, stable and permanent living arrangements
- for decisions about placement of a child or young person—the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement
- the attitude to the child or young person, and to parental responsibilities, demonstrated by each of the child's or young person's parents or anyone else
- any abuse or neglect of the child or young person, or a family member of the child or young person
- any court order that applies to the child or young person, or a family member of the child or young person.

Care and Protection Principles

You must also consider the care and protection principles (s350) including that:

- A child or young person's parents or family members have the primary responsibility for the child or young person's care and protection
- Priority must be given to supporting a child or young person's parents and family members to provide for the wellbeing, care and protection of a child or young person
- If the child or young people does not live with their family encouraging contact with their family and significant people (if practicable and appropriate)
- If the parent is unwilling or unable to provide for the child or young person's care and protection, CYPS or ACT Together will share or take over this responsibility
- For a child or young person in Out of Home Care, their safety and wellbeing is more important than the interest of their parents
- A Court should make an order for a child or young person only if the court considers that making an order is better than making no order at all.

Aboriginal and/or Torres Strait Islander Children and Young People

If the child identifies as Aboriginal and/or Torres Strait Islander, then you must consider the additional factors outlined in the Aboriginal and Torres Strait Islander children and young people principle (s10):

- The need for the child to maintain a connection with the lifestyle, culture and traditions of their community;
- Submissions made by Aboriginal and Torres Strait Islander people or organisations who provide support services to the child or their family; and
- The traditions and cultural values of the Aboriginal and Torres Strait Islander people in that child's family and community.

As well as the 5 elements of the Aboriginal and Torres Strait Islander Child Placement Principle:

Prevention, Partnership, Placement, Participation, Connection

Step 6 - Consider personal bias

Staff must consider the impact of any biases throughout the decision making process. You should be aware of and challenge any biases at each step of this procedure. Ways of reflecting on these biases are through peer supervision and supervision with your supervisor.

There are several common biases that may impact on decision making. These include but are not limited to:

- *anxiety and uncertainty* – much of the initial work of CYPS involves working with uncertainty. If staff do not feel comfortable with this uncertainty this can lead to premature, delayed or pressured decision making.
- *primacy and recent effects* – information initially received or recently received is more easily remembered.
- *confirmation bias and selective perception* – people tend to look for evidence that supports particular conclusions at the expense of considering information that may support different conclusions.
- *cognitive inertia* – an unwillingness to change a decision or case direction despite new information arising that challenges a previous decision.

Step 7 – Who must you consult with?

For some Type 1 decisions, you should seek information and consult with relevant people as part of the gathering information stage. This may include the child, parents, carers, extended family members, professionals such as doctors, school staff, a care team, and ACT Together staff.

For some Type 1 decisions, you will **not** need to consult with the child or family. For example, proceed to Child Protection Report, proceed to appraisal, and substantiate are not decisions that require consultation.

The child

If a Type 1 decision should be informed by a child's views and wishes, you are responsible for seeking and recording the child's views and wishes about a decision, in a way that is age and developmentally appropriate.

Remind the child or young person that they have a right:

- to participate in decisions impacting them
- to be supported to express their views (including by having a support person).

Explain to the child, in an accessible manner and in a way they understand, what decision needs to be made, the implications of the decision (who else might be affected) and ask how they want to express their views and inform the decision themselves.

If you seek the views of the child, you should consider:

- the child's age, maturity and capacity
- how a child's views will be sought
- who the best person to speak to the child is.

The case manager with case management responsibility should be the one to seek and record the views of the child.

Submissions

If the child or young person is Aboriginal and/or Torres Strait Islander, you **must** actively seek and take into account any submissions about the child made by or on behalf of any Aboriginal and/or Torres Strait Islander people or organisations identified as providing ongoing support services to the child person or the child's family.

If the child is Aboriginal and/or Torres Strait Islander, you **must**:

1. Provide the family with the 'Supporting our kids and families involved with child protection' information sheet.
2. Check with the child, parents, family members if they would like the involvement the Cultural Services Team.
3. Ask the child or family who their greatest support options are in the community. Collect all names and contact details and record them clearly in the client management system.
4. Actively seek Submissions about the child made by their identified Aboriginal and/or Torres Strait Islander support people and organisations.
5. Take into account all Submissions received.

A Submission may be a meeting, a phone call, an email, a letter, or a teleconference or video conference. For more information about seeking and receiving submissions, see Practice Guide: Advocacy and support for Aboriginal and Torres Strait Islander children involved with child protection.

Panel or Forum

Some decisions require presentation at a panel or forum. If so, the relevant procedures should be followed.

Panels and forums are consultation processes, and the final decision remains the responsibility of the delegated staff member. See the Decision-Making Table.

Step 8 – Analyse the information and finalise your decision

Once you have completed steps 1 to 7, you should

1. Analyse the information gathered.
2. Make an informed decision.
3. Seek endorsement from the appropriate staff member through the client management system.

Step 9 – Record the Decision

Once you have made the decision and informed the relevant people, you must:

1. Document the decision-making process and final decision in the appropriate record on the client management system as per the Decision Making Table or the procedure for that decision, for example, the Intake form or Appraisal form. The Decision Making Table will guide you about what Decision or Significant Action (DoSA) type to use to accurately record the decision.
    - If the decision is not internally reviewable, the record (e.g., Intake form or DoSA) should include a thorough rationale of the decision and all information and consultation (including differing views) informing that decision.
    - If the decision is **internally reviewable** and should be recorded in a Decision or Significant Action (**DoSA)** on the client management system. The DoSA record should include:
        a. Description of the final decision
        b. Supporting information and rationale
            - Factors impacting the decision (for example, current Orders, Case Plan, Cultural Plan)
            - Information that was gathered and considered as part of the decision making process
            - If a child is Aboriginal or Torres Strait Islander,
                - how the decision upholds the Aboriginal and Torres Strait Islander children and young people principle (s10)
                - what information from community submissions have been received and how it has been considered
                - how the decision upholds the Aboriginal and Torres Strait Islander Child Placement Principle
            - How the decision applies the best interest principle (s8, s349)?
            - How the decision applies the relevant care and protection principles (s350)?
            - Analysis of all the information used to make the decision
        c. Who was consulted?
            - Who provided information or was consulted including any differing views or opinions
            - If the child was consulted, the views of the child

2. Upload any decision making templates and/or supporting documentation to the DoSA record on the client management system.

3. Add the record to the child's chronology on the client management system.

Step 10 - Communicate the Decision

Once this decision has been endorsed by the appropriate staff member, as per the Decision Making Table, you must:

1. Communicate the decision to relevant people in a timely and appropriate way. This may be a Phone call, an Appraisal Outcome Advice Letter, a copy of an updated Case Plan or DoSA.
2. Record that they have been informed on the client management system.

Step 11 – If someone disagrees with a decision

All decisions made by CYPS staff will be made in accordance with the Decision Making Policy.

When a decision is disputed, all reasonable efforts must be made by the case management team (inclusive of case manager, team leader and operations manager) to resolve the dispute through conciliatory and restorative processes at the operational level.

CYPS staff must ensure that:

1. The affected person is provided with a Decision Making Statement. This statement must clearly outline the decision that has been made and the information that has been taken into consideration. This should include the consultation held with care team members (either separately or as a group) and whether they support (or not) the decision. If there is information within the Decision Making Statement that cannot be shared with an affected person, that information must be **redacted** before a copy of the Statement is provided to them.

2. The affected person is provided the opportunity to meet with the CYPS Case Manager, a Team Leader, Operations Manager or Senior Director to:

    - hear firsthand the reasons why a decision was made; and
    - allow the affected person the opportunity to provide new information, challenge or clarify the information.

Consistent with good practice, staff should hold a meeting at a location and time that suits the affected person, with any reasonable adjustments provided. The affected person should be encouraged to have an advocate or support person present. If the affected person prefers, the advice can be provided in writing, rather than an in-person meeting.

If an affected person is an Aboriginal or Torres Strait Islander person, CYPS staff should encourage the person to consider seeking a Submission about the decision by an Aboriginal and/or Torres Strait Islander service or individual.

Advocates and support people or organisations can make Submissions to CYPS in a variety of ways. A Submission may be a meeting, a phone call, an email, a letter, or a teleconference or video conference. See Advocacy and support for Aboriginal and Torres Strait Islander families involved with child protection.

Where the decision has caused distress to an affected person, information about services and supports available to the affected person should be provided. The CYPS decision maker is responsible for enquiring about the impact of the decision on any affected person who does not agree with the decision, and to make appropriate referrals.

If, following the meeting and the provision of written information about the decision, the affected person is satisfied with the outcome, this is to be documented clearly by the CYPS case manager on CYRIS.

If the affected person is not satisfied with the outcome, provide them with the contact details for Complaints and Client Services. If the decision is eligible for internal review, provide them with the Factsheet - Decision review information for Aboriginal and Torres Strait Islander parents and carers or Factsheet - Decision review information for parents and carers.

Roles and responsibilities

The following table outlines the roles and responsibilities under this procedure.

Role	Responsibility
Case Manager	• Determine the type of decision to be made. • Gather information from multiple sources and perspectives. • Complete a risk assessment, this should be an ongoing process while a decision is being made. • Consider the child's best interests. • If the child identifies as Aboriginal and/or Torres Strait Islander, consider the factors outlined in s10 of the Act. • Consider how personal bias may impact the decision making process. • Seek the views of the child if appropriate (case manager with case management responsibility). • Actively seek and take into account any submissions about the child made by or on behalf of any Aboriginal and/or Torres Strait Islander people or organisations. • Attend any relevant panel or forum. • Analyse the information gathered and make an informed decision. • Seek endorsement from the appropriate staff member. • Record the decision on the client management system. • Communicate the decision and record communication on the client management system. • Make reasonable efforts to resolve disagreements at the operation level.
Team Leader	• Endorse decision if the appropriate delegation is held. • Make reasonable efforts to resolve disagreements at the operation level.
Operations Manager	• Endorse decision if the appropriate delegation is held. • Make reasonable efforts to resolve disagreements at the operation level.

Record keeping

All information gathered during the decision making process is to be recorded in the CYPS client management system as progress notes, minutes, service events and other attached documents.

The decision and supporting documents are to be recorded in the Decision or Significant Action record in the CYPS client management system.

Related materials

The following materials directly relate to this procedure.

Legislation

- *Children and Young People Act 2008*
- *Human Rights Act 2004*
- *Information Privacy Act 2014*
- *Territory Records Act 2002*

Policies, procedures and practice guides

- Policy: Decision Making
- Policy: Internal Review and Decision Review Panel
- Procedure: Decision making - Type 2 decisions
- Procedure: Internal Review
- Procedure: Decision Review Panel
- Procedure: Annual Review
- Procedure: Appraisal
- Procedure: Cultural plans for Aboriginal and Torres Strait Islander children and young people
- Procedure: Emergency Action
- Procedure: Family Group Conferencing for Aboriginal and Torres Strait Islander Children and Young People
- Procedure: Information sharing in child protection
- Procedure: Placing a child in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle
- Procedure: Recording child protection matters
- Practice Guide: Case conferences
- Practice Guide: Case Conferencing team - referral
- Practice Guide: Case management overview
- Practice Guide: Case management – analyse and plan
- Practice Guide: Case management – care plan, case plan and cultural plan
- Practice Guide: Case management – gather and review information
- Practice Guide: Case management – implement and monitor
- Practice Guide: Engaging with Aboriginal or Torres Strait Islander children and young people
- Practice Guide: Engaging with children and young people
- Practice Guide: Involving children and young people in decision making
- Practice Guide: Specific Parental Authority (SPA)
- Practice Guide: Transferring case management to ACT Together
- Practice Guide: Transferring case management to ACT Together – roles and responsibilities
- Practice Guide: Working with Aboriginal and Torres Strait Islander Families: Providing Culturally Responsive Practice
- Practice Guide: Working with the Aboriginal and Torres Strait Islander Cultural Services Team

Other documentation

- Decision Making Table
- Factsheet: Decision review information for Aboriginal and Torres Strait Islander parents and carers
- Factsheet: Decision review information for parents and carers

Document information

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Version history

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Date	Amendment details
14/12/2022	First publication of this procedure.

Definitions

For definitions of terms used in this document, access the CYPS glossary.