

D-28 Removal and Assumption of Care

National Quality Standards (NQS)

2.2	Each child is protected.
2.2.1	At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard
2.2.2	Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practised and implemented
7.1.2	Systems are in place to manage risk and enable the effective management and operation of a quality service.
7.1.3	Roles and responsibilities are clearly defined, and understood, and support effective decision making and operation of the service.

Education and Care Services National Regulations

Reg. 168	Education and care service must have policies and procedures
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My Time, Our Place

1.1	Children feel safe, secure, and supported
3.1	Children become strong in their social and emotional wellbeing

Policy Statement

The purpose of this Policy is to provide guidance for OOSH Services when responding to a Department of Communities and Justice (DCJ) request for removing a child or young person at immediate risk of significant harm, with or without a search warrant or Children’s Court order.

Related Policies

- Emergency Procedures Policy
- Facility Management and Security Policy
- Determining the Responsible Person Policy
- Indoor and Outdoor Environment Policy
- Maintenance of Records Policy
- Management of Incident, Injury and Trauma
- Relief Staff Policy
- Role of Management Committee Policy
- Staff Orientation and Induction Policy

- Volunteers / Students / Visitors Policy

Overview

Community Services (an agency within the DCJ) and NSW Police have the legal authority to remove children from their parents' or usual carer's responsibility where:

- there are reasonable grounds to believe that the child or young person is at risk of significant harm AND
- the risk is immediate, and less intrusive actions insufficiently reduce the risk of harm.

Community Services also has authority to assume the care of a child while they are in attendance at a children's Service (that is, where it is not in the best interests of the child to be removed from the premises where they are currently living/located), if the child is assessed as being in need of care and protection on returning to the care of parents or carers.

Section 34 of the Children and Young Persons (Care and Protection) Act 1998 (NSW) (the Act) authorises Community Services to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of a child or young person who is in need of care or protection.

Community Services must ensure that the child's parents/carers are kept informed of the whereabouts of the child:

- by disclosing the whereabouts of the child where the disclosure would not prejudice the child's safety, welfare, well-being or interests, or
- by not disclosing high level identification information (including the name and address of the carer, information that may identify the placement, or contact information) where the disclosure would prejudice the child's safety, welfare, well-being or interests.

Section 234(1) of the Act requires the person conducting the removal to provide the following information to the child (where over 10 years old):

- the person's name and authority to conduct the removal
- the reasons why the child or young person is being removed
- that the law authorises the person to conduct the removal
- what is likely to happen to the child or young person after they have been removed.

This information may be provided verbally at the time of removal, however it must also be provided in writing as soon as practicable in a language and manner the child or young person can understand. The child (if over 10 years old) must also be informed that they may contact any person and be assisted to contact that person.

Community Services is responsible for arranging a placement for the child, where required. Community Services will not ordinarily return the child(ren) to their parents or carers until it assesses that it is safe to do so or the Children's Court orders it.

Procedure

If Community Services intend to remove and assume the care or responsibility of a child while he/she is in the care of the Service, the following procedures are to be followed:

1. Community Services will contact the Service to seek the approval of the Nominated Supervisor (or responsible person present) to collect the child, and advise of the need to remove and assume care of the child, including the names of the representatives and the proposed arrival time (Community Services may be assisted by Police).
2. In preparation for the attendance of Community Services, educators at the Service should sit with the child in a comfortable area (this will reduce distress to other children), while ensuring that the other children remain adequately supervised.
3. The child's parent/s must not be contacted or advised about the impending removal of the child. Only once Community Services have arrived should the parents be contacted.
4. The Nominated Supervisor (if not in attendance) and Approved Provider of the Service (the Parent Management Committee) should be contacted immediately and advised that the Service will have a child removed from care by Community Services representatives and the approximate time.
5. If there has not been a prior call from Community Services, or the representatives do not advise their names upon arrival, the Nominated Supervisor (or responsible person present) should:
 - a. confirm the identification of the representatives (formal ID)
 - b. record the names and contact details of the representatives and the names of any Police in attendance
 - c. request that they sign the visitor in/out book.
6. If there is any doubt about the identity of the Community Services representatives the Nominated Supervisor (or responsible person present) should contact the relevant Community Services Centre for verification or, if the removal is taking place outside office hours, contact the Child Protection Helpline on 133 627 (the mandatory reporting number).
7. Where a Children's Court order or a search warrant has been issued, Community Services representatives will serve the order or warrant on the person at the Service who appears to have the care and protection of the child and provide them with an information booklet about the removal (a child or young person may be removed with or without a search warrant or Children's Court order depending on the circumstances).
8. The Nominated Supervisor (or responsible person present) should ensure a Community Services representative signs the child out and informs the parents. A Community Services representative must remain at the Service until it is confirmed that the parent has been informed of the child's removal from the Service's premises.

Staff safety

If the parent or carer contacts and/or arrives at the Service during the removal of their child, they should be directed to contact the relevant Community Services Centre, or to call the Child Protection Helpline on 132 111. Where possible, a Community Services representative should remain at the Service after the child has been removed to liaise with the parent or carer.

Sources

- Education and Care Services National Regulations 2011
- Framework for School Age Care in Australia – My Time, Our Place
- National Quality Standard – Australian Children’s Education and Care Quality Authority
- Network of Community Activities – Work Health and Safety Sample Policy
- Work Health and Safety Act 2011

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Version Control			
Version	Changes Made	Initiated By	Director Sign-off
v.2.202308	- Updated government department name	Staff	
v.2.202206	- Updated MTOP - Updated Related Policies - Updated Sources	Staff	
v.1.202206	- Update some wording		
v.1.201906	- Policy updated for new template	Staff	