

# Temporary Care Arrangements

## Fact sheet

### What is a Temporary Care Arrangement?

A *Temporary Care Arrangement* is an arrangement made by the Department of Community Services (DoCS) that provides a temporary place for a child or young person to live other than with his or her parents. This might be with another member of the child's family, in foster care, or in other accommodation.

A Temporary Care Arrangement with DoCS is different from a short-term voluntary placement organised by you directly with an agency like Barnardos.

A *Temporary Care Arrangement* gives DoCS the right to decide where the child or young person should live and to make decisions about the day to day care of the child, including:

- consenting to medical and dental treatment (except for surgery or medical treatment that might have long-term effects),
- consenting to emergency surgery if a doctor or dentist certifies that the child really needs it,
- correcting and managing the child's behaviour, giving permission to participate in activities, such as school excursions and sports
- DoCS usually allows the person with whom the child is actually placed to make these decisions on behalf of DoCS.

### When can DoCS make a Temporary Care Arrangement?

Before DoCS can make a *Temporary Care Arrangement* for a child DoCS must believe that the child is in need of "care and protection" (in other words, DoCS must think that action is required to protect the child from a risk of harm if s/he lives at home) AND;

- EITHER a parent must agree to the arrangement;
- OR DoCS must be unable to locate a parent

Examples of situations that might cause DoCS to want to make a *Temporary Care Arrangement* could include:

- A parent asking DoCS to put their child in temporary care because the parent has to go into hospital and there is no one else to take care of the child

### What is a Temporary Care Arrangement?

### When can DoCS make a Temporary Care Arrangement?

### How does DoCS make a Temporary Care Arrangement?

### How long does a Temporary Care Arrangement last?

### What are my rights?

### What will happen if I don't agree to a Temporary Care Arrangement?



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- A parent asking DoCS to put their child in temporary care because the parent is having trouble managing the child's behaviour
- DoCS asking a parent to put their child in temporary care because it has received a report that the child is at risk of harm and DoCS wants to make sure the child is safe either while DoCS investigates the report or while the parent tries to fix the problems that led to the report
- DoCS finding a child abandoned in a park and not knowing who or where the child's parents are.

## How does DoCS make a Temporary Care Arrangement?

If DoCS wants to make a *Temporary Care Arrangement* for a child and DoCS knows where the child's parents are, DoCS MUST get the consent of one of the parents. This usually happens by a parent signing the *Temporary Care Arrangement*.

If DoCS wants to make a *Temporary Care Arrangement* for a child and DoCS doesn't know where the child's parents are, DoCS can make the arrangement without anyone signing anything, but then DoCS must try to find a parent

## How long does a Temporary Care Arrangement last?

A *Temporary Care Arrangement* lasts for up to 3 months. This can be extended for an additional 3 months if:

- DoCS thinks the child is still in need of care and protection when the first *Temporary Care Arrangement* ends; and EITHER:
- a parent consents to the extension;

OR

- DoCS cannot locate a parent.

A *Temporary Care Arrangement* can be ended before the 3 months are up by EITHER

- the parent who consented to the arrangement asking that the arrangement; and/or
- by DoCS deciding to end it.

## I have signed a Temporary Care Arrangement with DoCS – what are my rights?

When DoCS makes a *Temporary Care Arrangement* with you, it MUST also set up a "permanency plan involving restoration" for you and your child. This is a written plan setting out how and when your child will return to live with you. You have a right to have a copy of this plan and to know what you are required to do to get your child back.

While your child is under a *Temporary Care Arrangement*, you have a right to know where your child is living, UNLESS DoCS thinks that telling you would affect your child's safety, welfare or wellbeing. If DoCS does not tell you where your child is living, you can apply to the Children's Court for a review of the *Temporary Care Arrangement* and for an order that DoCS tell you where your child is.

- While your child is under a *Temporary Care Arrangement*, you have a right to be told what is happening with your child (for example how s/he is doing at school, what activities s/he is doing and what medical treatment s/he might need). You also have a right to have your views about what should happen with your child taken into account. If this does not happen, you can apply to the Children's Court for a review of

the *Temporary Care Arrangement* and for an order that DoCS take your views into account.

- You have a right to continue to make decisions about the long term care of your child, such as what religion s/he should be brought up in and whether s/he should have medical treatment or surgery that might have long term effects.
- You have a right to end the *Temporary Care Arrangement*. You can do this by telling DoCS that you want your child back. As proof that you have ended the arrangement, you should give DoCS a letter with the date on it, saying when you want the arrangement to end, and you should keep a copy of the letter for your records.
- If you end the arrangement but DoCS is worried that your child's safety, welfare or wellbeing might be harmed if your child is returned to you, DoCS will have to find another way of trying to protect your child.
- DoCS might do this by refusing to return your child to you, even though the *Temporary Care Arrangement* has ended. If this happens, DoCS must go to Court the very next weekday after you end the arrangement and apply for a Care Order or an Emergency Care Order to keep your child in DoCS care. To get the Order, DoCS must prove to the Court that there is a good reason for your child to live away from you. You will have a chance to tell the Court your side and a solicitor will be appointed to represent the child.

### **What will happen if I don't agree to a Temporary Care Arrangement?**

- If you do not agree to a *Temporary Care Arrangement*, DoCS cannot make the arrangement. If DoCS is worried about your child's safety, welfare or wellbeing while the

child is living with you, DoCS will have to find another way of trying to protect your child.

- DoCS might do this by removing your child from you without your consent. If this happens, DoCS must go to Court the very next weekday and apply for a Care Order or an Emergency Care Order to keep your child in DoCS care. To get the Order, DoCS must prove to the Court that there is a good reason for your child to live away from you. You will have a chance to tell the Court your side and a solicitor will be appointed to represent the child.

By making a *Temporary Care Arrangement* you are temporarily giving up the day-to-day care of your child. Only you can decide whether you should do this. To help you decide, you might want to get advice from a lawyer BEFORE you sign the *Temporary Care Arrangement*.

Places where you might be able to get legal advice include:

- Any private solicitor (you may have to pay a fee for this)
- The Legal Aid Commission of NSW
- Community Legal Centres
- Aboriginal Legal Centres

Make sure that the person you get advice from knows about and understands the *Children and Young Persons (Care and Protection) Act 1998*