

# Factsheet: Guidance for Permanency Support Program providers and independent assessors accessing DCJ records

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## Overview

When primary case responsibility of a child in out-of-home care (OOHC) is transferred from the Department of Communities and Justice (DCJ) to a Permanency Support Program (PSP) provider, or between PSP providers, the Case Transfer process is followed, and the documents and information listed in the Case Transfer Checklist (CTC) are provided to the receiving PSP provider.

It is important that all the documents and information listed in the CTC are provided to the receiving PSP provider as early as possible, ideally from the start of placement and Case Transfer date, or at the transfer meeting at the latest (see Permanency Case Management Policy (PCMP) Transfer of case responsibility). This is so the receiving provider can support the child in their placement and make the best decisions for the child without having to come back to DCJ for additional information.

Following Case Transfer, the PSP provider manages their own records for the child, placement and ongoing casework. These records support the PSP provider's casework decision making, and must meet legislated recordkeeping<sup>1</sup> and reporting requirements. It is expected that the provider's ongoing casework records information about the child's family time, identity, culture and life story during their placement. These records

are crucial to supporting permanency assessments undertaken for the child.

This factsheet provides guidance to DCJ, PSP providers and Independent Assessors (IAs) in the following scenarios:

- 1 a) When the complete set of documents on the CTC wasn't provided to the PSP provider at time of transfer, and the provider requires the remaining documents to support the child in placement or assess their permanency goal, or  
b) When case responsibility was transferred to a PSP provider prior to the implementation of the CTC, and the PSP provider requires the documents to continue to support the child in placement or assess their permanency goal.
2. When an IA has been commissioned by DCJ to complete a permanency assessment for a child case managed by DCJ.

## Providing DCJ records to PSP providers

A PSP provider may need to request documents and information that weren't provided during Case Transfer.

In some cases where Case Transfer occurred prior to the implementation of the PCMP, the PSP provider can make a request to the Child

person for whom the Minister has parental responsibility and for whom it has supervisory responsibility are maintained and are accessible to the child or young person."

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<sup>1</sup> Section 160 of the Children and Young Persons (Care and Protection) Act 1998 (Care Act) provides the legislative foundation for maintaining records, stating that: "Each designated agency must ensure that written, photographic and other records relating to the development, history and identity of a child and young

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and Family District Unit (CFDU) for all missing documents and information listed in the CTC.

If a PSP provider (including an Accredited Adoption Service Provider (AASP) is engaging an IA to complete an assessment, the PSP provider is responsible for ensuring that the IA has access to the child's records. This may include making a request to the CFDU for any missing information from the CTC, collating all the PSP provider's records, and arranging for the IA to view the documents.

To make a request for DCJ records, PSP providers will need to submit a written request to their CFDU. The request should list the specific documents and information from the [CTC](#) that they require.

### Providing DCJ records to Independent Assessors (IAs)

IAs are contractors<sup>2</sup> who have been approved by DCJ to conduct permanency assessments on behalf of DCJ caseworkers.

It is important to note that because the list of approved IAs is publicly available, PSP providers are also able to engage IAs from the approved panel under their own contractual arrangements, to complete permanency assessments on their behalf. In these cases, the PSP provider is responsible for ensuring that the IA has access to the child's records, including the provider's internal records as well as DCJ records.

IAs are subject to the same management of information and records guidelines as DCJ staff, and must be familiar with and comply with the DCJ policy and guidelines on the management of information and records.

Records can be provided to the IA in the following ways:

1. Hard copy records may be viewed in a CSC/CFDU closest to where the IA resides or works. The IA may copy documents and

securely store them at their place of work for an agreed period of time, or

2. Records may be saved on a USB and taken to the IA's place of work and securely stored for an agreed period of time, or
3. Records may be forwarded to the IA via Microsoft 365– a secure electronic platform approved by DCJ.

**Note:** Original DCJ hardcopy records are not to be taken outside of a CSC/CFDU office and DCJ records are not to be emailed to an unsecured email address outside of DCJ.

IAs must store photocopies of documents and USBs in a lockable cabinet or drawer. Computers must be password protected.

Alternatively, all photocopied records and USBs can be returned to the caseworker who prepared them to secure in a lockable cabinet so they can be accessed for additional viewing. At an agreed time, the USB or photocopy records are to be returned to the owning CSC or CFDU for shredding or deleting.

### Providing access to DCJ records through Microsoft 365, SharePoint & OneDrive

Microsoft 365, SharePoint and OneDrive are DCJ's go-to solutions for external file sharing.

SharePoint and OneDrive are powerful tools for document management, collaboration and for sharing sensitive information or large amounts of data. Users can set/change the type of access available to recipients depending on whether they need to read or edit the files. Changes made to shared files on one device are automatically synced for all other users with access to the file.

PSP providers and IAs who receive access to records via Microsoft 365 will receive a link via their email address. Files can be shared with non-Microsoft users by creating a

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<sup>2</sup> *DCJ Independent Assessors Panel Deed*

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sharing link, so that they can access the files without signing in.

Before sharing any files, ensure that files are correctly labelled according to their sensitivity and compliance requirements. Only provide the minimum level of access required; don't allow recipients access to edit files unless necessary. DCJ staff should regularly review what files are shared and remove access if needed.

### Reviewing and redacting DCJ records

Whether DCJ records are being provided to PSP providers as part of Case Transfer or to IAs for completing assessments, they must all be reviewed and redacted first. There are significant risks with providing DCJ records in their entirety, as there are some records and information which DCJ has no lawful<sup>3</sup> basis to disclose.

PSP providers are required to abide by the restrictions regarding disclosing of information under s.254 of the *Children and Young Persons (Care and Protection) Act 1998 (Care Act)* in the same way as DCJ. If documents subject to legal professional privilege (which will include legal advice and most court outcomes from care proceedings) are inadvertently provided to a PSP provider or IA, DCJ will be deemed to have waived that privilege.

Records can be redacted in the following ways:

1. Manually, by blacking out information with a marker on a paper copy of the document then scanning.

**Note:** Never black out information on an original hard copy record.

2. Manually, by using redacting tape to cover information on original hard copy records and then making a copy of the document. Redacting tape should be removed from each document after copies are made.
3. Electronically, by gaining access to Kofax Power PDF or a similar program. Electronic documents can be highlighted, allowing a manager to review and approve the information proposed to be redacted.

DCJ staff can access the Kofax Power PDF application through IDS.

### DCJ records and information that CANNOT be released

When DCJ records are being provided to PSP providers or IAs, there are some documents and information to which PSP providers and IAs do not have automatic entitlement.

Listed below are details of documents and information which can't be automatically shared with PSP providers and IAs. However, some of these documents may be lawfully provided in the following circumstances:

- with leave of the court (if proceedings are on foot) or
- if permissible under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (Care Act)* or
- if legal professional privilege has been waived (for documents subject to privilege).
- DCJ may seek legal advice in relation to the application of these circumstances to specific documents.

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<sup>3</sup> Section 254 of the *Care Act* provides the basis on which information can be lawfully disclosed by DCJ to PSP providers, however, this provision needs to be considered in light of other legislative restrictions on disclosing information such as s.29 of the *Care*

*Act (regarding identifying a reporter) and s21E of the Child Protection (Offenders Registration) Act 2000 (regarding disclosing that someone is on the child sex offender register).*

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### Documents that CANNOT be provided to PSP providers and IAs include:

- Risk of significant harm (ROSH) reports that led to the child coming into care should not be provided. The Initiating Care Application which is provided at Case Transfer already contains historic and detailed information from these ROSH reports.
- The Children's Court Clinic Assessment report, unless the Court has granted leave for it to be provided to the PSP provider. Leave must also be sought if the Assessment has been annexed to the child's Care Plan filed in proceedings.
- Submissions or any documents obtained under a subpoena in any Court proceedings relating to the child.
- Sealed affidavits deposed and filed by DCJ or deposed and filed by other parties in proceedings relating to the child, unless the Court has granted leave for it to be provided to the PSP provider, or disclosure has been permitted through compliance with Practice Note 17.
- Criminal histories provided by the NSW Police Force or any other jurisdiction. This includes National Criminal History Checks (NCHCs), Computerised Operational Policing Systems (COPS) events, bail reports etc. for carers).

**Note:** DCJ can provide COPS events to IAs who are completing assessments on behalf of DCJ. COPS events are not provided to PSP providers as PSP providers obtain this information themselves.

- Documents subject to legal professional privilege (privileged communication between a client and their legal representative) including legal advice and court outcome reports prepared by a solicitor for DCJ.

**Note:** If documents subject to legal professional privilege are relevant and needed by the PSP provider, DCJ can waive

privilege. DCJ policy is to always seek legal advice first, before waiving privilege.

### Information that CANNOT be provided to PSP providers and IAs include:

- Information that identifies the name of, or that could lead to identifying the name of a reporter. Any reference to being a mandatory reporter must also be removed.

**Note:** All documents provided are redacted by deleting any information identifying a person who has made a risk of significant harm report (s.29 of the *Care Act*).

- Third party personal and health information, for example medical history of birth family not immediately relevant to care of a child.
- Information that identifies a person as a "registerable person" or is on the Child Protection Register.

**Note:** DCJ is only able to disclose general information about the nature of a person's offending behaviour if it is necessary for the safety, welfare and well-being of a child and a carer requires this to provide appropriate care for a child (s.21E of the *Child Protection (Offenders Registration) Act 2000*).

- Information that a child, parent or some other relevant person is in witness protection.

**Note:** While it is unlikely such detail is on a child's file, it is an offence to provide information about a person connected to the witness protection program (s.32 of the *Witness Protection Act 1995*).

## Roles and responsibilities

### DCJ Child and Family District Units (CFDUs)

CFDUs are responsible for responding to requests for information received by PSP providers. The CFDU Manager is responsible for approving the release of the DCJ records and information to the PSP provider.

The CFDU Caseworker is responsible for:

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- receiving requests from PSP providers to access documents and information
- processing the requests by gathering, redacting and copying records
- seeking their manager's approval before providing records to the PSP provider
- applying to the Children's Court for access to the Children's Court Clinician Assessment Report (where needed)
- applying to the NSW Police Force to release iASK and COPS events.

### DCJ Community Services Centres (CSCs)

CSCs are responsible for responding to information requests received from the DCJ Open Adoption and Records Access team (OARA) or IAs who are contracted by DCJ (where DCJ holds case management). The CSC Manager Casework is responsible for approving the release of DCJ records and information to the IA.

The CSC Caseworker is responsible for:

- receiving requests from IAs to access documents and information
- processing the requests by gathering, redacting and copying records
- seeking their manager's approval before providing records to the IA
- arranging for IAs to access the hard copy or electronic records
- recording and tracking the movement of hard copy and electronic records
- receiving confirmation in writing that the records saved on the IAs computer via Microsoft 365 have been deleted
- applying to the Children's Court for access to the Children's Court Clinician Assessment Report (where needed)
- applying to the Police to release iASK and COPS events.

### DCJ Open Adoption and Records Access (OARA)

OARA plays a role when progressing open adoption for children in OOHC. When working with an IA to complete the open adoption assessment, OARA is responsible for:

- supporting the IA to submit information requests to the DCJ caseworker when an IA is completing an assessment for a child in OOHC case managed by DCJ
- arranging for the IA to access the hard copy or electronic records
- assisting the DCJ caseworker to record and track the movement of DCJ documents provided to the IA
- assisting the DCJ caseworker to shred hard copy photocopy records and delete records off USBs
- assisting the DCJ caseworker to receive confirmation in writing that the records saved on the IA's computer via Microsoft 365 have been deleted.

### Independent Assessors (IA)

IAs are contractors who have been approved by DCJ to undertake a range of assessment for children in OOHC. IAs are responsible for:

- ensuring that all DCJ and PSP provider hard copy or electronic records are protected from unauthorised access or use and from misuse, damage and destruction
- not storing any DCJ or PSP provider hard copy or electronic records outside of NSW without DCJ's or the PSP provider's prior written consent
- understanding their obligations to comply with legislative requirements relating to unauthorised disclosure of information
- ensuring that the records are used solely for the purposes they were provided
- ensuring the return of all records created or used as part of the assessment when

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required, as all records provided remain the property of DCJ or the PSP provider

- confirming in writing that any records saved on their computer via Microsoft 365 have been deleted
- notifying the relevant DCJ business units of any inadvertent disclosure or loss of information held by the assessor.

### Notifying DCJ of information security incidents

PSP providers and IAs must comply with the requirements of relevant Commonwealth and NSW legislation and policy, as well as the provisions of their contract with DCJ, in relation to privacy, information management and their information and communications technology (ICT) systems.

The obligations and requirements for PSP providers and IAs to maintain secure information and notify DCJ when an actual or suspected information security incident is detected can be found at [DCJ's Information Security webpage](#).