

Guardianship to Secretary Order – information for parents



The magistrate at the Children's Court has made the Secretary of the Department of Human Services (the department) your child's guardian. This means that most of your legal rights and responsibilities as a parent have been transferred for the length of the order to the department. The department is now responsible for looking after your child and making important decisions for them.

While the Secretary of the department is the guardian of your child, the Child Protection worker (the worker) will:

- talk to you and your child about future plans and what your child wants and needs
- talk to you about what you want to happen to your child.

The worker may also talk to other people interested in your child's situation.

How long does a guardianship to Secretary order last?

A guardianship to Secretary order (a guardianship order) may be made for up to two years in the first instance. Look at your copy of the order to see how long it will last.

If your child was placed on an order for up to two years, then close to the end of the first 12 months, the department will review the operation of the order. If it is considered that the order should be continued to ensure your child's safety and development, the worker must notify the court, your child, and you of this decision. If you do not agree with this decision, you may apply to the Children's Court for the order to be revoked (cancelled).

Where will my child live?

If your child has been living away from home while the court has made its decision, they will usually stay there until a long-term place to live can be arranged. This may be with another family member or friend (this would require some assessment and checks), foster care or some other suitable accommodation. When two or more children from the same family are admitted to the guardianship of the department, every effort will be made

to keep them together. If the problems that led to the making of the order are successfully dealt with, your child may return to live with you before the order ends.

Can I see my child?

It is very important for you to keep in touch with your child. Immediate and longer-term arrangements for contact with your child can be made with the worker. If you have any difficulties keeping the arrangements made for you to see your child, talk to the worker so that new arrangements can be made.

What does the Child Protection worker do?

The worker will work with you and your child to make important decisions such as:

- where your child will live
- what contact your child will have with you and other family members
- what kind of support would help your family to be able to care for your child.

The worker will work with you and your child to bring about the changes necessary to ensure your child's longer-term safety and development and, if possible, return to your care.

Smaller decisions, like what time your child will go to bed, will be made by the people looking after them.

What is the best interests planning process?

You are very important in your child's life and should be actively involved in planning for their future.

A best interests planning meeting will be held within six weeks of an order being made by the court. This meeting will talk about the things that need to happen



to ensure your child's long-term safety and development. It will also make sure that everyone involved knows what needs to be done and who is to do it.

You and your child can attend this meeting and may bring someone for support if you wish. This may be a friend or family member, or a lawyer, or a worker from a community agency or group with whom you are involved.

If you have difficulty understanding English, you can ask to have an interpreter at the meeting to help you make your views known and to understand what is being decided.

If you do not want to attend the meeting, you can still be involved by telling the worker what you think would be best for your child. The aim of the meeting is for everyone to reach an agreement on what needs to be done to help your child. If agreement is not reached, the person running the meeting, a senior departmental worker, will make the decisions. You will be given a written copy of your child's best interests plan.

What if I disagree with the best interests plan?

If you disagree with the decisions made about your child, you should talk with the worker. If, after speaking to the worker, you still do not agree, you can ask for the decisions to be reviewed by the senior regional officer with responsibility to hear reviews. To do this you must write, or get someone to help you write, to the senior regional officer. Where you have exhausted all avenues of appeal within the department and are still dissatisfied with the decision, you can apply to the Victorian Civil and Administrative Tribunal (VCAT) for a further and final review. Contact your Child Protection worker or VCAT for an application form. VCAT's telephone number is (03) 9628 9755.

Can a guardianship order be revoked (cancelled)?

The worker can apply to the Children's Court to revoke (cancel) the order if the circumstances have changed.

You can also apply for the order to be revoked if:

- the circumstances have changed since the order was made and you have asked the department to review the best interests plan and it has refused to do so or you disagree with the outcome of this review
- or
- the order was initially for longer than 12 months and the department has determined at the end of the

first 12 months of the order that it will continue for the full duration.

Ask the worker how to do this. Your child's guardianship to Secretary order will not be revoked (cancelled) unless the Children's Court is convinced that the order is not in your child's best interests.

Can I appeal against a guardianship to Secretary order being made?

If you think it is unfair, you have the right to appeal to a higher court, called the County Court, against the order made by the magistrate. You have to do this within one month of the order being made.

Can I appeal against a decision to extend the order?

You may apply to the Children's Court for the order to be revoked (cancelled).

Appeal forms are available from your nearest Children's Court, any Magistrate's Court, or the County Court. It is best to seek the help of a lawyer if you appeal to the County Court.

Where can I get legal advice?

Enquiries about legal assistance may be made to:

- the lawyer who represented you at court
- a local lawyer (listed under 'Solicitors' in the *Yellow Pages*)
- Victoria Legal Aid, Melbourne, telephone (03) 9269 0234
- The Law Institute of Victoria, telephone (03) 9607 9311
- The Aboriginal Legal Services Co-op, telephone (03) 9419 3888
- a local community legal service.

For further information, contact your regional Department of Human Services office.

Contact information

The Child Protection worker's name is:

Their Department of Human Services office is:

Their contact number is: