

**2016**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**CHILDREN AND YOUNG PEOPLE  
LEGISLATION AMENDMENT BILL 2016**

**EXPLANATORY STATEMENT**

**Presented by  
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## Introduction

This Explanatory Statement relates to the *Children and Young People Legislation Amendment Bill 2016* as presented in the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. The Explanatory Statement does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## Overview of out-of-home care reforms

The purpose of this Bill is to give effect to a number of important elements of *A Step Up for Our Kids* (Out-of-home care Strategy 2015-2020) (the Strategy) that was released by the ACT Government in January 2015. The Strategy places out-of-home care on a sustainable funding path for the future by:

- supporting parents to retain care of their children safely;
- reducing the rate of children coming into out-of-home care;
- improving outcomes for children and young people in care; and
- avoiding significant costs to government over the medium to long-term.

The Strategy recognises that the rights and best interests of the child or young person are paramount. In doing so, an aim of the Strategy is to strengthen decision making around the child or young person and embed a culture of listening to the voices of children and young people. This will include a renewed focus on achieving permanent family placements as quickly as possible. There will also be a focus on gathering and provision of information by people who have a close relationship with a child or young person.

The Strategy seeks to ensure that high-risk families receive support to parent their children successfully and that the needs of children and young people who come to the attention of child protection services are identified and addressed as early as possible. Services and supports include placement prevention services, reunification services, a mother and baby unit, supported contact services and parent-child programs. This is a placement prevention response focused on keeping children and young people at home with their birth families when it is safe to do so.

A fundamental plank of the Strategy will be implementing a therapeutic trauma-informed care system. This will include the provision of therapeutic assessments and plans for every child and young person in care. This service will also be available for a period of time to children and young people in placement prevention services. A trauma recovery service has also commenced to provide high quality, trauma-informed therapeutic services to children from birth to age 12 who have experienced abuse and neglect or who are in contact with the child protection system.

The Strategy seeks to strengthen accountability and ensure a high functioning care system through the implementation of improved regulation and oversight, joint governance arrangements, strengthened contract management, performance based contracting and establishment of independent advocacy and engagement services. As implementation of the Strategy builds, government will work with community, statutory office holders and approved kinship and foster care organisations to establish a mature accountability environment.

To give effect to a number of important elements of the Strategy, the Bill enhances decision making in the best interests of the child or young person by enabling decisions to be made by those closest to the child. The amendments distance government from people's lives, allowing children and young people in care to have an authentic experience of family life.

### **Overview of the Bill**

The Bill gives effect to elements of the Strategy to improve the life outcomes for children and young people in care. In particular, the amendments will strengthen decision making around children and young people in care by increasing the autonomy of out of home care providers in managing care arrangements for children and young people on long term orders, through the delegation of decision making to those who know the child best.

The amendments will enable the Director-General to delegate two powers; the placement of children and young people with an out-of-home carer and parental responsibility. The amendments will allow the Director-General to delegate these powers to the responsible person for an approved kinship and foster care organisation (responsible person). The amendments then allow the responsible person to sub-delegate these responsibilities to specific kinship and foster carers. In addition the Director-General will be able to delegate the preparation, consultation and review of transition plans for young people.

There is also a focus on streamlining a young person/adult's access to protected information about themselves and personal items directly through the people who have a close relationship with the young person/adult.

There are four main components of the amendment Bill.

#### **Decision Making Closer to the Child - Parental Responsibility**

Under the *Children and Young People Act 2008* (the Act) parental responsibility, for a child or young person, means all the responsibilities and authorities parents have in relation to their child. Parental responsibility can be shared with or given to the Director-General through a number of mechanisms, for instance through a voluntary agreement or court order, when a child or young person comes into care.

There are two aspects of parental responsibility daily care responsibility and long term care responsibility. Daily care responsibility includes decisions made on a day to day basis about the life of a child or young person, decisions which do not have

long term consequence, for example, the time a child will go to bed, permission to attend school camps or excursions and routine visits and treatments by health professionals. Long term care responsibility includes decisions which would have longer or long term consequences for a child or young person and are of a more serious nature. This includes decisions about education, immunisation, religious observances and non routine medication procedures.

Where a child or young person on interim or short term care order is placed with a carer the carer is generally authorised by the Director-General to make daily care responsibility decisions and the long term care responsibilities remain with the Director-General. In cases where orders to 18 years are in place the Director-General may delegate daily care responsibility and aspects of long term care responsibility to the carer.

Currently the delegation is made by the Director-General directly to the carer. The legislative amendments proposed will allow the Director-General to delegate parental responsibility to the responsible person. The amendments would also enable the responsible person to sub-delegate daily care responsibilities and long term care responsibilities to an approved kinship or foster carer (approved carer) for a given child. This allows carers to consider decisions about the children and young people in their care without reference to government processes, thereby allowing the child to experience more normal family life.

In practice, parental responsibility will only be delegated to a responsible person where orders up to 18 years are in place. This will be specified in the Instrument of Delegation.

The Director-General will not delegate parental responsibility for children and young people with interim or short term orders where reunification and permanency decisions are being considered.

#### Decision Making Closer to the Child - Placement with out-of-home carer

The Act states that if the Director-General has daily care responsibility for a child or young person then they must place them with an out-of-home carer. Out-of-home carer includes a carer or residential care service.

A Specific Parental Authority (SPA) is the instrument used to authorise an approved kinship or foster carer. The SPA is currently issued by the Director-General to the approved carer and outlines the conditions of the placement and delegates the aspects of parental responsibility to the carer whenever the child or young person is in their care.

The proposed legislative amendments will enable the Director-General to delegate decision making about the placement of a child or young person with an out-of-home carer to a responsible person. This means the responsible person would be able to make placement decision for children and young people for whom they have parental responsibility. The delegation would enable the responsible person to issue, amend and revoke SPAs.

Delegating this power to a responsible person for children and young people on long term orders will enable greater responsiveness to changes in care needs.

These amendments build on the additional responsibilities delegated to the responsible person from Children and Young People Amendment Bill 2015 (3). An approved kinship and foster care organisation will have case management responsibility for children and young people on long term orders and the responsible person will have authority to approve carers, make placement decisions about placements for children and young people in their best interests and sub delegate parental authority.

#### Transition Plans for Young People

The Bill allows the Director-General to delegate the preparation of transition plans to a responsible person. This is in addition to the amendments in the *Children and Young People Act Amendment Bill 2015 (3)* to allow delegation of Annual Review Reports to a responsible person.

This amendment builds on the additional responsibilities delegated to a responsible person from the *Children and Young People Amendment Bill 2015 (3)*. An approved kinship and foster care organisation will have case management responsibility for children and young people on long term orders and responsibility to prepare and submit Annual Review Reports.

There will be no changes to the criteria applied in delegating parental responsibilities to carers or the responsibilities types of daily care and long term care responsibilities that are delegated. That is; the decisions that approved carers are able to make about children and young people in their care will not change.

There are a number of long term care responsibility decisions which the Director-General does not currently delegate to approved kinship and foster carers. These responsibilities will not be delegated to a responsible person. These are decisions which would have or have the potential to have a life changing impact on the child or young person and include decisions such as gender reassignment and major surgery. The responsibilities that are to remain with the Director-General will be specified in the Instrument of Delegation.

#### Benefits of the amendments

The Bill supports decision making for children and young people in care by allowing those who know them and are closest to them to exercise greater autonomy in making parenting decisions. This will result in less government involvement and more timely decision making in the lives of children and young people in care by removing the three way relationship that currently exists between the Director-General, carers and approved kinship and foster care organisation.

The amendments will facilitate clearer lines of responsibility for carers and a responsible person and more intensive case management.

## Safeguards

Safeguards will be in place to promote the best interests of the child or young person and ensure the integrity of the out of home care system. A strengthened regulatory framework has been implemented to provide the structure for monitoring the ongoing suitability of approved kinship and foster care organisations and gives a range of powers to the Territory to intervene when there are instances of non-compliance with an organisation's performance against the suitability criteria.

The Children and Young People Commissioner, Public Advocate and the Human Rights Commission will continue their role in monitoring and supporting good outcomes for children and young people for whom parental responsibility has been delegated to the responsible person.

At a legislative and policy level, decision making is supported by the *Children and Young People Act 2008*, the Charter of Rights for Children and Child and Youth Protection Services policies and procedures. In addition there are a number of key documents that will support the decision making process for individual children and young people such as the care and protection orders, child or young person's care plan and SPA.

## Enabling Young People to Access Protected Information and Personal Information

Minor policy amendments are proposed to allow the Director-General to delegate to a responsible person ability to provide protected information about a young person to the young person/adult.

This will enable a responsible person to support and assist a young person or young adult who has left care to access protected information about themselves which is held by the Director-General, approved kinship and foster care organisation and/or previous out-of-home carer.

A further minor policy amendment will enable a young person/adult who has left care to access personal items held by an approved kinship and foster care organisation. Currently the legislation enables a young person/adult to access personal items held by the Director-General or previous out-of-home carer but does not include the approved kinship or foster care organisation.

This amendment recognises organisations who provide support to children and young people in care will hold records containing protected information that a young person/adult has the right to access should they wish to do so. This amendment strengthens and supports the intent of information sharing provisions to protect vulnerable children and young people. In addition it streamlines the process by eliminating the need for children and young people to make this request via the Director-General.

## Technical Amendments – Streamlining Processes

A number of the amendments are minor and technical in nature and do not alter the policy of the Act. For instance, to clarify and simplify the section outlining the timeframes for preparing and submitting Annual Review Reports and change the reporting period for the ACT Children and Young People Death Review Committee Annual Reporting from financial year to calendar year.

## Adoption Act Amendments

Minor policy amendments are proposed to the *Adoption Act 1993* to clarify the interpretation of the Act; clarify the intent to allow a couple, where one party to the adoption is a relative, to be able to adopt a child; and no longer require the principal officer of a private adoption agency to be an ACT resident.

### **Overview of human rights considerations**

The amendments in this Bill have been carefully considered in the context of the objects of the *Children and Young People Act 2008* (Children and Young People Act). Specific attention has been given to the overarching objective to protect the safety and wellbeing of children and young people in the ACT and also balancing their rights and interests within the Territory's human rights scheme.

The main objects of the Children and Young People Act are described in section 7 of the Act. The purposes are:

- (a) providing for, and promoting, the wellbeing, care and protection of children and young people in a way that—
  - (i) recognises their right to grow in a safe and stable environment; and
  - (ii) takes into account the responsibilities of parents, families, the community and the whole of government for them; and
- (b) ensuring that children and young people are provided with a safe and nurturing environment by organisations and people who, directly or indirectly, provide for their wellbeing, care and protection; and
- (c) preventing abuse and neglect of children and young people by providing whole of government assistance to children and young people, their parents and families, the community, and others who have responsibility for them; and
- (d) ensuring that Aboriginal and Torres Strait Islander people are included and participate in—
  - (i) providing for, and promoting, the wellbeing, care and protection of Aboriginal and Torres Strait Islander children and young people; and
  - (ii) preventing the abuse and neglect of Aboriginal and Torres Strait Islander children and young people; and
  - (iii) rehabilitating and reintegrating Aboriginal and Torres Strait Islander young offenders; and
- (e) ensuring that services provided by, or for, government for the wellbeing, care and protection of children and young people—
  - (i) are centred on the needs of children and young people; and
  - (ii) are informed by processes which engage children and young people, wherever possible, and take their views and wishes into account; and
  - (iii) foster and promote the health, education, developmental needs, spirituality, self-respect, self-reliance and dignity of children and young people; and

- (iv) respect the individual race, ethnicity, religion, disability, sexuality and culture of children and young people; and
- (f) ensuring that young offenders—
  - (i) receive positive support and opportunities to become rehabilitated and reintegrated community members; and
  - (ii) share responsibility for rehabilitation and reintegration with their parents and families, the community and the government in partnership; and
- (g) imposing standards that must be complied with for the delivery of services to children and young people; and
- (h) ensuring the protection of children and young people in employment.

The Bill engages, supports and places limitations on section 12 (Privacy and reputation) in the *Human Rights Act 2004* (Human Rights Act).

Engagement with these rights needs to be carefully considered with section 28 of the Human Rights Act (Human rights may be limited) to determine whether the engagement is proportionate and can be demonstrably justified and the least restrictive means available to achieve the purposes of protecting the human rights of children, young people and their families.

The amendments in this Bill have been developed in line with the notion that governments not only have responsibility to ensure that human rights are free from violation, but that governments are required to provide for the full enjoyment of rights, subject to any reasonable and justifiable limitations. Consideration of this responsibility supports the positive protection of the rights of children, young people and their families, consistent with section 11 of the Human Rights Act.<sup>1</sup>

The Bill also seeks to embody and express relevant international human rights standards for children and young people such as the *Convention on the Rights of the Child*. For instance, the Convention requires states to act in the best interests of the child (article 3).

### **Limitation on human rights – section 28(2) of the Human Rights Act**

The preamble to the Human Rights Act notes that although human rights are necessary for individuals to live lives of dignity and value, few rights are absolute. However, they may be subject only to the reasonable limits in law that can be demonstrably justified in a free and democratic society.

Section 28(2) of the Human Rights Act provides the framework that is used to determine the acceptable limitations that may be placed on human rights in the Territory. The section requires that any limitation on a fundamental right must be authorised by a Territory law, be based on evidence and be reasonable to achieve a legitimate aim. Whether a limitation is reasonable depends on whether it is proportionate. Proportionality requires that a limitation is necessary and rationally

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<sup>1</sup> Colvin, M & Cooper, J, 2009, 'Human Rights in the Investigation and Prosecution of Crime' Oxford University Press, p.424-425.

connected to the objective; the least restrictive in order to accomplish the object, and not have a disproportionately severe effect on the person to whom it applies.

The ACT Government acknowledges that the amendments in the Bill engage and limit the human rights of a section of the ACT community – children and young people.

Human rights are therefore only subject to reasonable limits which are demonstrably justifiable. In determining if a limit is reasonable and demonstrably justifiable the following relevant factors are considered:

- the nature of the right affected;
- the importance of the purpose of the limitation;
- the nature and extent of the limitation;
- the relationship between the limitation and its purpose; and
- the least restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

## **Section 12 Privacy and reputation**

Under section 12 of the Human Rights Act

Everyone has the right—

- (a) not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and
- (b) not to have his or her reputation unlawfully attacked.

### *The nature of the right affected (section 28(2)(a))*

Under the Human Rights Act, ACT residents have the right to privacy and the right to be protected from unlawful attacks on their reputation. This means that when transition plans are prepared about children and young people, there should be no risk of the information contained within the document being used in such a way as to compromise their privacy and reputation. However, to the extent that it is necessary for information to be shared about children and young people in care in their best interests, the right to privacy is limited as a consequence.

The proposed amendments in clause 18 will allow the director-general to delegate her or his power to prepare, consult on and review transition plans for young people, to responsible person from an approved kinship and foster care organisation and therefore have a relatively intimate knowledge of their circumstances.

Clauses 22 to 25 will allow the approved kinship and foster care organisation to provide access to protected information about a young adult to the young adult free of charge and to provide support to a young adult in accessing protected information about the young adult. These amendments recognise approved kinship and foster care organisation hold protected information on young adults and the responsible person may have a relatively intimate knowledge of their circumstances and therefore understanding of the support and assistance the young adult may need to access the protected information.

### *The importance of the purpose of the limitation (section 28(2)(b))*

A key reform in the Strategy is for approved kinship and foster care organisations to exercise greater autonomy in making parenting decisions about children and young people on long-term orders in their care. To give effect to this reform, it is necessary to amend provisions of the Children and Young People Act to enable approved kinship and foster care organisations to prepare, consult on and review transition plans for young people and allow the director general to delegate functions under Division 15.5.4 Entitlement to personal items and access to protected information.

Information sharing provisions are governed by the principle that information about children and young people will be exchanged only in their best interests. It is therefore critical that appropriate information is made available to people who have responsibility for the safety and wellbeing of children and young people, even in circumstances where the information is of a personal nature. The personal experiences of children and young people will largely govern decisions made about their future care arrangements.

Approved kinship and foster care organisations already hold records and information about children and young people in care and are required to comply with a range of privacy and information sharing requirements contained in ACT and Commonwealth legislation such as the Children and Young People Act, *Territory Records Act 2002*, the Commonwealth *Privacy Act 1988* and the *Freedom of Information Act 1989*. It is also proposed that approved care and protection organisations will be subject to the ACT *Information Privacy Act 2014*.

In implementing the reforms contained in the Strategy, the regulatory oversight of approved care and protection organisations will provide a strong regulatory framework with which approved care and protection organisations will need to comply. This will include the handling and exchange of information. Furthermore, the implementation of the Strategy will include training approved care and protection organisations about their responsibilities and obligations.

### *The nature and extent of the limitation (section 28(2)(c))*

The limitation is defined in terms of information obtained and shared about children and young people, which is disseminated to those who have responsibility for safeguarding and protecting the wellbeing of children and young people. While the proposed amendments enhance information sharing arrangements, they do not significantly limit the human rights of children and young people because the information can only be provided to the children and young people themselves, their legal representatives, the Children's Court, the director-general and her or his delegates and people with direct care and protection responsibilities.

As outlined above, individuals or organisations holding confidential information about children and young people are required to comply with a range of privacy and information sharing requirements under ACT and Commonwealth laws.

*The relationship between the limitation and its purpose (section 28(2)(d))*

The purpose of the limitation is to protect the best interests of children and young people, notwithstanding their right to privacy and the protection of their reputation. This will be achieved by ensuring that information can be obtained and disseminated in the interests of their safety and wellbeing.

*The least restrictive means reasonably available to achieve the purpose the limitation seeks to achieve (section 28(2)(e))*

The ACT Government has concluded that, in balancing the respective rights of children and young people, these amendments do not unreasonably or unnecessarily limit the human rights of children, young people or young adults. This is because people and organisations responsible for children and young people in care have a duty to ensure their safety and wellbeing. Consequently, there is a rational connection between the proposed amendments and the issues they aim to address.

As noted earlier, approved care and protection organisations are required to comply with a range of privacy and information sharing requirements contained in ACT and Commonwealth legislation before information about a child or young person can be exchanged.

The strengthened regulatory oversight, contract and relationship management system will ensure approved kinship and foster care organisations meet legislative requirements and standards.

## **Notes on Clauses**

### **Clause 1 Name of Act**

This is a technical clause and sets out the name of the Act as the *Children and Young People Legislation Amendment Act 2016*.

### **Clause 2 Commencement**

This clause enables the Act to commence on the day after its notification day.

### **Clause 3 Legislation Amended**

This Act amends the *Adoption Act 1993* and the *Children and Young People Act 2008*.

### **Clause 4 Section 14 to 17**

This technical amendment clarifies the interpretation of the *Adoption Act 1993* in relation to the requirements for adoption of a child or young person, and clarifies the intent to allow a couple, step-parent, or relative, to be able to adopt a child. The clause assembles previous sections 14 to 17 into one revised section (s14).

### **Clause 5 Guardianship before adoption Section 36 (2) (a)**

This minor technical amendment revises Section 36 (2) (a) as a consequence of new Section 14 (Clause 4).

**Clause 6 Application for approval Section 81 (2)**

This minor amendment no longer requires the principal officer of a private adoption agency to be an ACT resident.

**Clause 7 Aspects of parental responsible may be transferred Section 17 (1), new note**

A new note is inserted in section 17 (1) as a consequence of new section 503A *Parental responsibility – director-general delegations* being added (see Clause 10). The purpose of the note is to outline that the director-general may delegate parental responsibility to the responsible person making reference to Section 503A (Clause 10).

**Clause 8 Aspects of parental responsibility may be shared Section 18 (1), new note**

A new note is inserted in section 18 (1) as a consequence of new section 503A *Parental responsibility – director-general delegations* being added (see Clause 10).

The purpose of the note is to outline that the director-general may delegate parental responsibility to the responsible person making reference to Section 503A (Clause 10).

**Clause 9 Director-general must give identity cards New section 26 (1A)**

This amendment distinguishes the role of Children Youth and Family Support workers from the responsible person for an approved kinship and foster care organisation and/or approved kinship or foster carer. This section will not apply to the responsibilities in the identified sections delegated to the responsible person for the approved kinship and foster care organisation and/or approved kinship and foster carers.

Children Youth and Family Support (CYPS) workers are required to identify themselves as ‘authorised persons’ whilst undertaking functions such as taking Emergency Action or undertaking an assessment of a child or young person (in instances where no orders exist).

**Clause 10 Care plans – director-general delegations Section 457A, notes 2 and 3**

The omission of note 2 is a consequential amendment arising from clause 26 (1).

The omission of note 3 is a technical amendment as clause 457A already gives the director-general power to delegate functions under division 14.3.4 (clause 455 – 457) to the responsible person for an approved kinship and foster care organisation or a residential care service.

**Clause 11 Section 495**

The amendment clarifies the timeframe for annual review reports for children and young people in care. This is a technical amendment and not a change in policy. The requirement to conduct an annual review report every 12 months has been maintained.

**Clause 12 Section 501 heading**

The heading for this provision has been amended to *Annual review report – director-general delegations* to reflect the scope of the provision.

**Clause 13 Section 501A, notes 2 and 3**

The omission of note 2 is a consequential amendment arising from clause 26 (1).

The omission of note 3 is a technical amendment as clause 457A already gives the director-general power to delegate functions under division 14.3.4 (clause 455 – 457) to the responsible person for an approved kinship and foster care organisation or a residential care service.

**Clause 14 New section 503A**

This new section allows the director-general to delegate parental responsibility for a child or young person for whom the director-general has or shares parental responsibility to a responsible person of an approved out-of-home care agency and the sub delegation to an approved kinship or foster carer.

This amendment supports elements of *A Step Up For Our Kids* Out of Home Care Strategy by enabling the responsible person for an approved kinship and foster care organisation to exercise greater autonomy in making decisions about children in their care. This will result in less government involvement in the lives of children and young people in care, a reduction in the three way relationship between the director-general, carers and approved kinship and foster care organisation and more timely decision making.

**Clause 15 New section 513A**

This amendment will enable the Director-General to delegate decision making about the placement of a child or young person with an out-of-home carer to the responsible person. This means the responsible person would be able to make placement decision for children and young people for whom they have parental responsibility. The delegation would enable the responsible person to issue, amend and revoke Specific Parental Authorities.

Delegating this power to the responsible person for children and young people on long term orders will enable greater responsiveness to changes in care needs and allow those with the most intimate knowledge and closest to the child to make placement decisions.

**Clause 16 Section 514G**

This section is substituted. This is a technical amendment which amends the name of the section to better reflect the scope of the provision, corrects the error that refers to part and should refer to division, removes note 2 as a consequential amendment arising from clause 26 (1) and removes note 3 as clause 457A already gives the director-general power to delegate functions under division 14.3.4 (clause 455 – 457) to the responsible person for an approved kinship and foster care organisation or a residential care service.

**Clause 17 New section 529BA**

A definition for *previous out-of-home carer* has been added as this term is now used outside of section 529J. (also see Clause 25.)

**Clause 18 New section 529HA**

In division 15.5.2 *Transition plans* a new section (529HA *Transition plans- director-general delegations*) is inserted to allow the director-general to delegate functions under the division to a responsible person for an approved kinship and foster care organisation or a responsible person for a residential care service.

In the Children and Young People Amendment Bill 2015 (No 3) amendments were made to allow delegation of the preparation of care plans and annual review reports from the director-general to an approved kinship and foster care organisation or a residential care service. This amendment builds on those responsibilities previously delegated.

**Clause 19 Financial assistance – previous out-of-home carer Section 529JA (1) (b) to (d)**

This amendment is a technical amendment. The same criteria for financial assistance have been maintained. The amendment is consequential to the added definition for *previous out-of-home carer* (see clause 14 section 529BA).

**Clause 20 Section 529JA (2)**

This amendment is a technical amendment and a consequence of clause 14 New section 529BA.

**Clause 21 Section 529JA (3)**

This amendment is a technical amendment and a consequence of clause 14 New section 529BA.

**Clause 22 Section 529JA (5)**

This amendment is a technical amendment and a consequence of clause 14 New section 529BA.

**Clause 23 Entitlement to personal items section 529K (b) and note**

The amendment to paragraph (b) clarifies the intent of the section in that young people or young adults who have left care are entitled to their personal belongings which are being held by the director-general, previous out-of-home carer or approved kinship and foster care organisation.

The amendment to paragraph (c) is technical and adds clarification, as there is technically no out-of-home carer for a young adult.

**Clause 24 Access to protected information – young person section 529L (1) (b) and notes**

This amendment requires the approved kinship and foster care organisation to provide access to protected information to young people who have left out of home care, strengthening the intent of the information sharing provisions to protect vulnerable children and young people. In addition it streamlines the process by eliminating the need for children and young people to make this request via the

director-general. The same privacy provisions as documented under the Human Rights apply.

**Clause 25 Section 529L (2) to (5)**

This amendment allows the director-general to direct an organisation to provide access to protected information rather than just the out-of-home carer. This amendment recognises organisations who provide support to children and young people in care will hold records containing protected information that a child or young person has the right to access should they wish to do so. This amendment clarifies the intent of information sharing provisions to protect vulnerable children and young people.

**Clause 26 Access to protected information – young adult section 529M (b) and notes**

Section 529M (b) *an out-of-home carer* has been replaced with *a previous out-of-home carer* as there is technically no out-of-home career for a young adult. This is a technical amendment.

This amendment requires an approved kinship and foster care organisation to provide access to protected information to young adults who have left out of home care. This amendment recognises organisations that provided support to children and young people in care hold records containing protected information that a young adult has the right to access should they wish to do so. This amendment clarifies the intent of the information sharing provisions to protect vulnerable children and young people

In addition it streamlines the process by eliminating the need for children and young people to make this request via the director-general.

**Clause 27 New section 529NA**

This section enables the director-general to delegate decision making regarding access to information in the best interests of the child to the responsible person thereby streamlining access to information held by the organisation (in recognition that organisations hold this information).

**Clause 28 Annual report Section 727S**

This amendment changes the reporting period for ACT Children and Young People Death Review Committee Annual Reports from being financial year to calendar year; and makes a requirement to give the Minister each Annual Report within 4 months after the end of the calendar year.

This amendment will mean annual reports will provide an analysis of data held for a full calendar year, rather than across two partial calendar years, and will allow for greater comparison with other jurisdiction by matching reporting periods.

**Clause 29 Care teams – sharing safety and wellbeing information Section 863, (5), notes 2 and 3**

The omission of note 2 is a consequential amendment arising from clause 26 (1).

The omission of note 3 is a technical amendment as clause 457A already gives the director-general power to delegate functions under division 14.3.4 (clause 455 – 457) to the responsible person for an approved kinship and foster care organisation or a residential care service.

**Clause 30 New chapter 30**

This amendment outlines the transitional arrangements for the change over in reporting period from financial year to calendar year for the Children and Youth People Death Review Committee to ensure reporting covers all deaths.

**Clause 31 Dictionary, new definition of *previous out-of-home carer***

This amendment adds a definition for *previous out-of-home carer* as this term has been used in part 15.5. The Act currently refers to *out-of-home carer for a young adult* and technically this role does exist. Adding *previous* clarifies meaning.