

## Australian Capital Territory

### Children and Young People (Responsible Person) Delegation 2016 (No 3)\*

#### Instrument of Delegation NI2016-696

made under the

***Children and Young People Act 2008 – ss 457A, 501A, 514G, 529HA and 863(5)***

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#### **Name of Instrument**

*Children and Young People (Responsible Person) Delegation 2016 (No 3)*

#### **Commencement**

This Instrument of Delegation commences on the day approved by the Director-General.

#### **Authority**

Pursuant to the following sections of the *Children and Young People Act 2008*:

- 457A (Care plans – Director-General delegations);
- 501A (Director-General delegations);
- 514G (Director-General delegations);
- 529HA (Director-General delegations);
- 863(5) (Care team – sharing safety and well being information);

I delegate to the approved responsible person exercising the Territory functions as specified in column 1 of the Table of Delegations, my powers under the provisions of the *Children and Young People Act 2008* specified in Column 2 of the Schedule.

#### **Revocation**

Nil.

Mr Michael De’Ath  
Director-General  
Community Services Directorate  
16 December 2016

\*Name amended under Legislation Act, s 60

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### TABLE OF DELEGATIONS

Column 1	
In accordance with the <i>Children and Young People Act 2008</i> , Column 1 refers solely to an approved responsible person pursuant to section 63 of the <i>Children and Young People Act 2008</i>	Ms Kate Buckmaster, Barnardos Australia , ABN 18 068 557 906. Care and Protection Organisation for a care and protection purpose: kinship and foster care service. Ms Kate Buckmaster, Barnardos Australia , ABN 18 068 557 906. Care and Protection Organisation for a care and protection purpose: residential care service

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#### SCHEDULE

Column 1		Column 2
Ms Kate Buckmaster, Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Subject:  Power and/or function:  Reference:	<b>Care Plans – stability proposals</b>  The Director-General must prepare a proposal (a <i>stability proposal</i> ) that outlines how the Director-General proposes to ensure long-term placement in a safe, nurturing and secure environment. <i>Note: the Act describes what a stability proposal may include at s456(3).</i>  section 456 (2)
Ms Kate Buckmaster, Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care services	Subject:  Power and/or function:  Reference:	<b>Care Plans – who must be consulted</b>  1) If the Director-General is preparing a care plan for a child or young person, the Director-General must— (a) tell the following people about the proposals the director-General intends to include in the care plan: (i) the child or young person; (ii) each person who has daily care responsibility for the child or young person; (iii) anyone else who would be involved in implementing a proposal; (iv) for a proposal prepared under section 455 (b) (ii)— (A) Aboriginal or Torres Strait Islander people who have an interest in the wellbeing of the child or young person through family, kinship and cultural ties; and (B) any Aboriginal or Torres Strait Islander people organisation identified by the Director-General as providing ongoing support services to the child or young person or the child’s or young person’s family; and (b) give the people opportunity to make submissions to the Director-General about the proposals. 2) If a person makes a submission to the Director-General about a proposal, the Director-General must consider the submission. <i>(Note: the Act describes what is a Care Plan at s455)</i>  section 457

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<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care services</p>	<p>Subject:  Power and/or function:  Reference:</p>	<p><b>Annual review report – prepared at least annually</b></p> <p>The Director-General must prepare an annual review report for a reviewable care and protection order for a child or young person –</p> <ul style="list-style-type: none"> <li>(a) If the order is in force for 1 year or more – by, but not earlier than 1 month before, the anniversary of the day the order was made, in each year the order was in force;</li> <li>(b) If the order is in force for less than 1 year – at least one month, but not earlier than 2 months, before the order expires.</li> </ul> <p>section 495</p>
<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care services</p>	<p>Subject:  Power and/or function:  Reference:</p>	<p><b>Annual review report—consultation</b></p> <p>If the Director-General is preparing an annual review report for a child or young person, before the Director-General finalises the report, the Director-General must, as far as is practicable and if the Director-General considers it in the child’s or young person’s best interests, arrange a meeting with the following people to discuss the matters that the Director-General proposes to include in the report:</p> <ul style="list-style-type: none"> <li>(a) if it is considered that the child or young person can understand and take part in the meeting—the child or young person;</li> <li>(b) each person who has daily care responsibility or long term care responsibility for the child or young person;</li> <li>(c) if the child or young person is placed with an out-of- home carer who is— <ul style="list-style-type: none"> <li>(i) a kinship carer—the kinship carer and the kinship carer’s approved kinship and foster care organisation; or</li> <li>(ii) for a foster carer—the foster carer and the foster carer’s approved kinship and foster care organisation; or</li> <li>(iii) for a residential care service—the residential care service;</li> </ul> </li> <li>(d) anyone else the Director-General considers appropriate.</li> </ul> <p>section 496</p>
<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service</p>	<p>Subject:  Power and/or function:  Reference:</p>	<p><b>Approved carers – individual may apply</b></p> <p>An individual may apply to the Director-General for approval as an approved carer.</p> <p>section 514A</p>

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<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service</p>	<p>Subject:  Power and/or function:          Reference:</p>	<p><b>Approved carers - Director-General may approve</b></p> <p>1) The Director-General may, in writing, approve a person as a carer (an <i>approved carer</i>) if satisfied that the person is an appropriate person to care for children or young people.</p> <p>2) The Director-General may approve a person as an approved carer only if –</p> <p>(a) the person is registered under the <i>Working with Vulnerable People (Background Checking) Act 2011</i>; or</p> <p>(c) the person –</p> <p>(i) is to be authorised as a kinship carer under section 516; and</p> <p>(ii) may engage in a regulated activity as a kinship carer under the <i>Working with Vulnerable People (Background Checking) Act 2011</i>, section 16 (When unregistered person may be engaged in regulated activity – kinship carer).</p> <p><i>Note: Subsection 2 referring to oral approval of carers is not delegated.</i></p> <p>sections 514B (1) and(3)</p>
<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service</p>	<p>Subject:  Power and/or function:          Reference:</p>	<p><b>Approved carers – criteria for approval</b></p> <p>In deciding whether a person is an appropriate person to care for children and young people, the Director-General must consider each of the following:</p> <p>(a) the matters listed in section 65(1), definition of suitability information, except paragraph (d) about the person and each other adult member of the person’s household;</p> <p>(b) if the Director-General requires the person to provide a reference or report under s514D(2)(b) – the reference or the report;</p> <p>(c) if the Director-General requires the person to undergo a test or medical examination under s514D(2)(c) – the result of the test or medical examination.</p> <p>section 514C</p>

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<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service</p>	<p>Subject:  Power and/or function:          Reference</p>	<p><b>Approved carers - further information, references etc</b></p> <ol style="list-style-type: none"> <li>1) This section applies if the Director-General is deciding whether a person is an appropriate person to care for children and young people.</li> <li>2) The Director-General may, by written notice given to the person, require the person to-               <ol style="list-style-type: none"> <li>(a) Provided stated information about the person not later than a stated reasonable time; or</li> <li>(b) Provide a stated reference or report not later than a stated reasonable time; or</li> <li>(c) Undergo a stated test or medical examination not later than a stated reasonable time.</li> </ol> </li> <li>3) A notice must also tell the person that giving false or misleading information is an offence against the Criminal Code, part 3.4.</li> <li>4) If the Director-General has given a person a notice under this section and the person does not comply with the notice, the Director-General need not decide whether the person is an appropriate person to care for children or young people.</li> </ol> <p>section 514D</p>
<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service</p>	<p>Subject:  Power and/or function:          Reference</p>	<p><b>Approved carers—expiry and renewal of approvals</b></p> <ol style="list-style-type: none"> <li>1) The Director-General must not issue an approved carer approval for longer than 3 years.</li> <li>2) A person may apply to the Director-General to renew the approval for a period not longer than 3 years.</li> <li>3) The application ,must be –               <ol style="list-style-type: none"> <li>(a) in writing; and</li> <li>(b) received by the Director-General at least 30 days before the approval expires.</li> </ol> </li> <li>4) However, the Director-General may extend the time for making an application.</li> <li>5) If a person applies to renew an approval under this section, the approval remains in force until the application is decided.</li> <li>6) If a person’s approval expires, any of the following authorisations held by the person also end:               <ol style="list-style-type: none"> <li>(a) Authorisation as a kinship carer under s 516;</li> <li>(b) Authorisation as a foster carer under s518.</li> </ol> </li> </ol> <p>section 514E</p>

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Ms Kate Buckmaster, Barnardos Australia ,Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Subject:  Power and/or function:  Reference:	<b>Transition plans – when prepared</b>  1) The Director-General must prepare a transition plan for a young person who is in out of home care and at least 15 years old. 2) The Director-General must take reasonable steps to ensure that the transition plan is implemented.  section 529D
Ms Kate Buckmaster, Barnardos Australia ,Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Subject:  Power and/or function:  Reference:	<b>Transition Plans – consultation</b>  1) This section applies if the Director-General is preparing a transition plan for a young person. 2) The Director-General must develop the plan in consultation with the young person. 3) The Director-General may consult 1 or more of the following people about the proposals the Director-General intends to include in the transition plan: for a young person in out of home care, the out of home carer; anyone else who would be involved in implementing a proposal in the plan or anyone else the Director-General considers would be able to provide information and guidance about the plan. 4) The Director-General must give the following people an opportunity to make submissions to the Director-general about the proposals: the young person; and each person consulted about the proposals outlined above. 5) If a person makes a submission to the Director-General about a proposal, the Director-General must consider the submission.  section 529E
Ms Kate Buckmaster, Barnardos Australia ,Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Subject:  Power and/or function:  Reference:	<b>Transition Plans – review – young person for whom the Director-General has parental responsibility</b>  1) This section applies if a transition plan is in force for a young person and the Director-General has an aspect of parental responsibility for the young person. 2) The Director-General must review the transition plan at least once each year and in consultation with the young person. 3) The Director-General may also consult 1 or more of the following people about the review: for a young person in out of home care, the out of home carer; anyone else who would be involved in implementing a proposal in the plan; anyone else the Director-general considers would be able to provide information or guidance about the plan.  section 529F

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<p>Ms Kate Buckmaster, Barnardos Australia ,Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service</p>	<p>Subject:</p> <p>Power and/or function:</p> <p>Reference:</p>	<p><b>Transitions plans – review – young adult</b></p> <ol style="list-style-type: none"> <li>1) This section applies if a transition plan is in force for a young adult.</li> <li>2) The Director-General must take reasonable steps to ask the young adult, at least once each year, whether the young adult agrees to the Director-General reviewing the plan.</li> <li>3) If the young adult agrees to the Director-General reviewing the plan, the Director-General must review the plan in consultation with the young adult and if the young adult agrees – anyone who would be involved in implementing a proposal in the plan and anyone else the Director-General considers would be able to provide information and guidance about the plan.</li> </ol> <p>section 529H</p>

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<p>Ms Kate Buckmaster, Barnardos Australia ,Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service</p>	<p>Subject:  Power and/or function:          Reference:</p>	<p><b>Financial Assistance – previous out of home carer</b></p> <ol style="list-style-type: none"> <li>1) This section applies if a young adult is younger than 21 years of age; and was previously placed in out of home care (the previous carer); and a transition plan is in force for the young adult which provides for the young adult to live with the previous carer; and the young adult is in fact living with the previous carer.</li> <li>2) The Director-General may provide financial assistance to the previous carer,</li> <li>3) The Director-General may provide financial assistance only if satisfied on reasonable grounds that the assistance is reasonably necessary considering the previous carer’s circumstances.</li> <li>4) The Director-General may provide financial assistance on the conditions that the Director-General considers appropriate.</li> <li>5) The director-general may provide financial assistance—               <ol style="list-style-type: none"> <li>(a) to the previous carer directly; or</li> <li>(b) if the previous carer was a foster carer—to the foster carer’s approved kinship and foster care organisation, for the organisation to provide to the carer.</li> </ol> </li> </ol> <p>section 529JA</p>
<p>Ms Kate Buckmaster, Barnardos Australia , Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service</p>	<p>Subject:  Power and/or function:          Reference</p>	<p><b>Care teams—sharing safety and wellbeing information</b></p> <ol style="list-style-type: none"> <li>1) The Director-General may declare that the Director-General and a group of other people and entities are a care team for a child or young person.</li> <li>2) The Director-General may include a person or entity as a member of a care team for a child or young person only if satisfied that the person or entity is responsible for coordinating or delivering a service or care to the child or young person, or his or her family members – under this Act; or for a criminal proceeding under another Territory law; or for the administration of a sentence or order under another Territory law.</li> <li>3) A member of the care team may ask another member of the care team for safety and well being information about the child or young person; and may give safety and well being information to another member of the care team.</li> <li>4) The giving of safety and well being information under this section is subject to any instruction made by the Director-General under section 23 of the Act.</li> </ol> <p><i>(Note: safety and well being information is at s858)</i></p> <p>section 863</p>

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