## **Australian Capital Territory**

Children and Young People (Responsible Person) Delegation 2017 (No 4)\*

Instrument of Delegation - N12017-520

made under the

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

### Name of Instrument

Children and Young People (Responsible Person) Delegation 2017 (No 4)

#### 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 (Annual Review Reports Director-General delegations);
- 514G (Approved Carers Director-General delegations);
- 529HA (Transition Plans Director-General delegations);
- 863(5) (Care teams sharing safety and well being information Director-General delegations);

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

I revoke Instrument of Delegation – NI2017 - 468.

Mr Michael De'Ath Director-General Community Services Directorate 14 September 2017

### **TABLE OF DELEGATIONS**

### Column 1

In accordance with the *Children and Young People Act 2008*, Column 1 refers solely to an approved responsible person pursuant to section 63 of the *Children and Young People Act 2008* 

Ms Melissa Bell, Barnardos Australia, ABN 18 068 557 906. Care and Protection Organisation for a care and protection purpose: kinship and foster care service.

# **SCHEDULE**

Column 1		Column 2
Ms Melissa Bell, 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:	Care Plans – stability proposals  The Director-General must prepare a proposal (a stability proposal) that outlines how the Director-General proposes to ensure long-term placement in a safe, nurturing and secure environment.  Note: the Act describes what a stability proposal may include at s456(3).  section 456 (2)
Ms Melissa Bell, 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:	Care Plans – who must be consulted  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. (Note: the Act describes what is a Care Plan at s455)
	Reference:	section 457

Column 1		Column 2
Ms Melissa Bell, 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:	Annual review report – prepared at least annually  The Director-General must prepare an annual review report for a reviewable care and protection order for a child or young person –  (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;  (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.
	Reference:	section 495
Ms Melissa Bell, 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:	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:  (a) if it is considered that the child or young person can understand and take part in the meeting—the child or young person;  (b) each person who has daily care responsibility or long term care responsibility for the child or young person;  (c) if the child or young person is placed with an out-of- home carer who is—  (i) a kinship carer—the kinship carer and the kinship carer's approved kinship and foster care organisation; or  (ii) for a foster carer—the foster carer and the foster carer's approved kinship and foster care organisation; or  (iii) for a residential care service—the residential care service;
		(d) anyone else the Director-General considers appropriate.
	Reference:	section 496
Ms Melissa Bell, Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service	Subject:  Power and/or function:	Approved carers – individual may apply  An individual may apply to the Director-General for approval as an approved carer.
	Reference:	section 514A

Column 1		Column 2
Ms Melissa Bell,	Subject:	Approved carers - Director-General may approve
Barnardos Australia,		
Care and Protection	Power	1) The Director-General may, in writing, approve a person as a
Organisation for a care	and/or	carer (an <i>approved carer</i> ) if satisfied that the person is an
and protection purpose: kinship and foster care service	function:	<ul> <li>appropriate person to care for children or young people.</li> <li>The Director-General may approve a person as an approved carer only if –</li> </ul>
Toster care service		(a) the person is registered under the Working with Vulnerable People (Background Checking) Act 2011; or
		(c) the person –  (i) is to be authorised as a kinship carer under section 516;  and
		(ii) may engage in a regulated activity as a kinship carer under the Working with Vulnerable People (Background Checking) Act 2011, section 16 (When unregistered person may be engaged in regulated activity – kinship carer).
		Note: Subsection 2 referring to oral approval of carers is not
		delegated.
	Reference:	sections 514B (1) and(3)
Ms Melissa Bell, Barnardos Australia,	Subject:	Approved carers – criteria for approval
Care and Protection Organisation for a care and protection	Power and/or function:	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:
purpose: kinship and foster care service		<ul> <li>(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;</li> <li>(b) if the Director-General requires the person to provide a reference or report under s514D(2)(b) – the reference or the</li> </ul>
		report;
		(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.
	Reference:	section 514C

Column 1		Column 2
Ms Melissa Bell,	Subject:	Approved carers - further information, references etc
Barnardos Australia,		
Care and Protection	Power	1) This section applies if the Director-General is deciding
Organisation for a care	and/or	whether a person is an appropriate person to care for
and protection	function:	children and young people.
purpose: kinship and foster care service		The Director-General may, by written notice given to the person, require the person to-
Toster care service		(a) Provided stated information about the person not later
		than a stated reasonable time; or
		(b) Provide a stated reference or report not later than a
		stated reasonable time; or
		(c) Undergo a stated test or medical examination not later
		than a stated reasonable time.
		3) A notice must also tell the person that giving false or
		misleading information is an offence against the Criminal Code, part 3.4.
		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.
	Reference	section 514D
Ms Melissa Bell,	Subject:	Approved carers—expiry and renewal of approvals
Barnardos Australia,	Judject.	Approved carers expiry and renewar or approvais
Care and Protection	Power	1) The Director-General must not issue an approved carer
Organisation for a care	and/or	approval for longer than 3 years.
and protection	function:	2) A person may apply to the Director-General to renew the
purpose: kinship and		approval for a period not longer than 3 years.
foster care service		3) The application ,must be –
		(a) in writing; and
		(b) received by the Director-General at least 30 days before the approval expires.
		4) However, the Director-General may extend the time for
		making an application.
		5) If a person applies to renew an approval under this section,
		the approval remains in force until the application is decided.
		6) If a person's approval expires, any of the following
		authorisations held by the person also end:  (a) Authorisation as a kinship carer under s 516;
		(a) Authorisation as a kinship carer under s 516; (b) Authorisation as a foster carer under s518.
		(a) Additionation as a roster curer under 3510.
	Reference	section 514E

Column 1		Column 2
Ms Melissa Bell, Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service  Ms Melissa Bell, 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: Subject:  Power and/or function:	Transition plans – when prepared  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  Transition Plans – consultation  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.
Ms Melissa Bell,	Reference: Subject:	section 529E  Transition Plans – review – young person for whom the
Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Power and/or function:	<ol> <li>Director-General has parental responsibility</li> <li>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.</li> <li>The Director-General must review the transition plan at least once each year and in consultation with the young person.</li> <li>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.</li> </ol>
	Reference:	section 529F

Column 1		Column 2
Ms Melissa Bell, Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service and	Subject:  Power and/or function:	<ol> <li>Transition plans – review – young person for whom the Director-General does not have parental responsibility</li> <li>This section applies if a transition plan is in force for a young person but the Director- General does not have any aspect of parental responsibility for the young person.</li> <li>The Director-General must take reasonable steps to ask the</li> </ol>
residential care service		young person, at least once each year, whether the young person agrees to the Director-General reviewing the plan.  3) If the young person agrees to the Director-General reviewing the plan, the Director-General must review the plan in consultation with the young person and if the young person 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 or guidance about the plan.
	Reference:	section 529G
Ms Melissa Bell, Barnardos Australia,	Subject:	Transitions plans – review – young adult
Care and Protection Organisation for a care	Power and/or	1) This section applies if a transition plan is in force for a young adult.
and protection purpose: kinship and foster care service and residential care service	function:	<ol> <li>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>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>
	Reference:	section 529H

Column 1		Column 2
Ms Melissa Bell,	Subject:	Financial Assistance – previous out of home carer
Barnardos Australia,		
Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Power and/or function:	<ol> <li>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>The Director-General may provide financial assistance to the previous carer,</li> <li>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>The Director-General may provide financial assistance on the conditions that the Director-General considers appropriate.</li> <li>The director-general may provide financial assistance—         <ul> <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> </ul> </li> </ol>
	Reference:	section 529JA
Ms Melissa Bell,	Subject:	Care teams—sharing safety and wellbeing information
Barnardos Australia, Care and Protection Organisation for a care and protection purpose: kinship and foster care service and residential care service	Power and/or function:	<ol> <li>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>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>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>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> <li>(Note: safety and well being information is at s858)</li> </ol>
	Reference	section 863