

CARE DISCUSSION SHEET:

Securing Permanency



Overview

The amendments to the Children, Young Persons, and Their Families Act, July 2016, aim to simplify the securing of guardianship rights when caregivers decide they want to provide a permanent living arrangement for a mokopuna in their care.

These new legal changes allow caregivers to choose which legal orders best suits their own and the mokopuna's needs in becoming a permanent caregiver and what support is available to permanent caregivers including, financial and other assistance (s388A).



Note

A discussion sheet aims to encourage caregivers to seek opportunities for networking and sharing experiences and knowledge to enhance consistent and safe care practice. The content can be used as a focus point for small groups of caregivers, at a caregiver review with the Caregiver Social Worker or individually accessed online.

Learner Outcomes

By the end of this facilitated discussion caregivers will:

- Proceed with the most appropriate Permanency Orders for your situation
- Access the appropriate s388A support resources to meet your mokopuna's needs.



Suggestions for Discussion Starters

- Discuss what you consider the most important things to discuss with your lawyer before taking permanency orders
- Discuss the criteria for seeking s388a financial and other supports and how will you access this support?
- Share three resources available in a Permanent Caregiver Support Package
- What might be some needs of the mokopuna in your care and what sort of financial and other supports would be required in an Individual Support Plan, to meet these identified needs for the next 12 months?
- Which order allows the caregiver to hold some guardianship rights exclusively in relation to matters specified in the order and what are some areas that you may find difficult to make decisions about with the mokopuna's whānau and why might you want exclusive rights?
- Which orders require caregivers to advise Oranga Tamariki–Ministry for Children if the mokopuna in their care begins to live with anyone else on more than a temporary basis and what will the social worker do?

Permanent caregiver means

A) You have obtained **section 113A** Special Guardianship (July 2016) under the Children, Young Persons, and Their Families Act which allows the Court to make an order appointing a person referred to as a special guardian of a child or young person only if:

- The appointment is made for the purpose of providing the child or young person with a long term, safe, nurturing, stable and secure environment that enhances his or her interests.
- The special guardian either replaces, or is additional to, an existing guardian of the child or young person

Unless dismissed the special guardianship orders and custody, shall remain in effect until the young person reaches the age of 18 years or sooner if they marry/enter a civil union. This can be applied for by an, Oranga Tamariki–Ministry for Children lawyer or your own lawyer.

or

B) You have been **appointed as a guardian** of the child or young person under **section 27** of the Care Of Children Act (COCA), (until 20 years of age) where that appointment was made in substitution for an order under section 78,101, or 110 or for a s140 agreement and you have the day-to-day care of the child or young person pursuant to a parenting order made under **section 48** of the COCA Act or because there is no other guardian who has the day-to-day care of the child or young person. This can only be applied for by an independent lawyer.

Please seek independent legal advice if applying for either of the above orders



S388A Support and Assistance for Permanent Caregivers

Most existing arrangements for permanent caregivers under s86 and s91 services and support orders will not be available after July 2016. You should meet with your mokopuna's social worker to discuss and confirm needs of the mokopuna and what support is required to meet these identified needs, in the following 12 months. This should then be reflected in a new Permanent Care Support Plan.

All permanent caregivers can access s388A (July 2016).

What does s388A financial and other assistance mean? – The Act states:

- That the chief executive may from time to time provide financial and other assistance to a permanent caregiver of a child or young person.
- That financial assistance is provided for the purpose of assisting the permanent caregiver to care for the child or young person.
- That the assistance must be provided if certain criteria are met.

Criteria:

Under section 388A, financial assistance must be provided to a permanent caregiver of a child or young person by the chief executive if:

- a) The need for assistance arises from the care and protection needs or the extraordinary health, education or developmental needs of a child or young person;
- b) Those needs are greater than it is reasonable to expect the permanent caregiver to meet
- c) Those needs cannot be met by existing sources of support under this Act or any other enactment, and are unlikely to be provided otherwise; and
- d) It is reasonable in the circumstances for the chief executive to provide the assistance
- e) The provision of assistance is consistent with any general or special directions (not inconsistent with this section) given to the chief executive in writing by the Minister.

What's included in the s388A financial and other assistance?

The provisions of s388a will be included in a Permanent Caregiver Support Package, available until the young person reaches 18 years of age, including:

- Reasonable legal costs to secure permanent orders
- A \$2,500 up front payment to contribute to mokopuna individual needs
- Individual support plan for up to 12 months
- Access to the [National Caregiver Training Programme](#) (NCTP)
- A referral to the Permanent Caregiver Support Service
- Linking the caregiver to WINZ to discuss their financial entitlements
- The ability to access financial and other assistance from the PCSS now or in the future.



The Permanent Caregiver Support Service (PCSS)

A new centralised service means that caregivers will be able to access support through one door. The decisions will be streamlined, efficient, and consistent to support the stability and security of mokopuna with their permanent caregivers. The PCSS is responsible for coordinating and administering post permanency support to caregivers .by:

1. Participating in initial planning and co-signing the final plan with the Oranga Tamariki–Ministry for Children
2. Deciding whether the requests for financial and other assistance meet the s388A criteria
3. Assessing and agreeing on the level and nature of support to be provided
4. Co-ordinating and sourcing some supports from more appropriate agencies E.g. Iwi
5. Reviewing plans and planning for continuing needs where appropriate
6. Responding directly to permanent caregiver requests for s388A assistance which arise in the future

How to access s388A support (provided by an independent NGO)

- a) contact your Caregiver Social Worker for a referral or
- b) contact the PCSS service at <http://www.pcass.org.nz/> or phone 0800 3677277

S113B (4)- Special Guardianship – Change in living circumstances

Special guardians are required to advise the Oranga Tamariki–Ministry for Children if the mokopuna begins to live with anyone else on more than a temporary basis.

A social worker will then undertake an assessment to ensure the new living arrangement is safe, stable and continues to achieve enduring wellbeing for the mokopuna, and to determine what should be done about the current Special Guardianship order.

s389A&B -Review and appeal process

This process enables permanent caregivers, who are dissatisfied with a decision, to ask for a review, regarding a request for financial or other assistance (s388A).

The review must confirm, modify, or reverse the original decision. If carer has not received a review decision within 3 months, or is not satisfied with the final outcome, they are able to appeal that decision to the Family Court.



For further information:

Please attend the National Caregiver Training Programme Legal Issues Workshop

<https://www.orangatamariki.govt.nz/caring-for-someone/support-and-training/caregiver-resources/>

Visit the following websites for more useful information:

- For information about current social work practice and policies eg: Noho ake Oranga Policy: Permanency and enhancing wellbeing for mokopuna in care:
<https://practice.orangatamariki.govt.nz/>
- To find current legislation such as Children Young Persons and Their Families Act, visit:
<http://www.legislation.govt.nz/act/public/1989/0024/latest/DLM147088.html?src=qs>
- Citizens Advice Bureau are able to link you with other free legal services available in your area such as the local community law centre or lawyers in the community who offer some pro bono legal advice:
<http://www.cab.org.nz/vat/gl/ls/Pages/Lawyers.aspx>
- YouthLaw Tino Rangatiratanga Taitamariki is a free community law centre for children and young people nationwide. We provide free legal services to anyone aged under 25 who are unable to access legal help elsewhere, or those acting on their behalf:
<http://youthlaw.co.nz/>
- Children Matters provides some helpful information:
<http://www.childmatters.org.nz/>

Other avenues of support:

- Your local caregiver social worker / child's social worker
- Your local Fostering Kids Association
- Permanent Caregiver Support Service (PCSS)