



**STATUTORY GUIDELINES FOR DESIGNATED AGENCIES
IN RELATION TO THE DISCLOSURE OF PLACEMENT
INFORMATION TO PARENTS AND OTHER SIGNIFICANT
PEOPLE**

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1. Purpose

The Office of the Children's Guardian has developed these Guidelines under section 149D of *The Children and Young Persons (Care and Protection) Act 1998* (the *Act*) to assist designated agencies to manage the disclosure of placement information to parents and other significant people. Section 149D of the *Act* provides that designated agencies must have regard to these Guidelines when considering the type and amount of placement information to be disclosed under sections 149B to 149K of the *Act*.

The *Act* establishes a clear process for designated agencies to disclose information about the placement of a child or young person in out-of-home care to parents and other people who are significant to the child or young person (who request this in writing). It also provides safeguards for children and young people in care, authorised carers and their families and households.

The designated agency responsible for the placement of a child or young person must disclose information concerning the placement of a child or young person as soon as practicable after the placement commences. In most cases, this will be the agency that holds case management for a child or young person. Where an agency does not hold case management, there is still a responsibility to ensure this information is obtained and is guiding casework practice. This may mean liaising with FaCS to obtain this information or, where this does not occur, conducting an agency assessment to ensure legislative requirements are met and the safety of the child or young person and others within the household is maintained.

The amount of information to be provided depends on a number of factors including; the wishes of the child or young person, the wishes of their carer/s, as well as consideration of any risk to the safety of the child or young person, their carer/s or other members of the household. Where a child or young person is in residential care this should include consideration of any risks to other children or young people within the placement. There are different types of information which may be released. This can vary between general non-identifying information to high-level identifying information about the placement.

All disclosures of placement information must be approved by an appropriately authorised senior officer within the designated agency. All other staff must be instructed that they are not to disclose placement information without the approval of the authorised officer. Designated agencies must clarify this delegation in their policies and procedures.

2. Legislation

Sections 149B-K of the *Act* specifically outline the requirements in regard to the disclosure of information concerning the placement of a child or young person in out-of-home care, to parents and significant people (who request this in writing).

In making decisions about the disclosure of placement information, a designated agency must act in accordance with the principles of the *Act* as set out in section 9, namely:

- the safety, welfare and well-being of children and young people is paramount¹
- where children and young people are able to form views about their safety, welfare or well-being they must be given every opportunity to freely express those views²
- children and young people in out-of-home care are entitled to retain relationships with people significant to them³.

¹ Section 9(1) of the *Act*

² Section 9(2)(a) of the *Act*

³ Section 9(2)(f) of the *Act*

3. Relationship with other information disclosure legislation

3.1. Children and Young Persons (Care and Protection) Act 1998

There are other sections in the *Act* which deal with the provision of information to parents and others, as outlined in the table below. These Guidelines **DO NOT APPLY** to information under sections 14, 51, 163 and 16A.

	Coverage	Who provides the information	Type of information and person it is provided to
Section 14	Aboriginal and Torres Strait Islander children and young people in out-of-home care	Secretary of Family and Community Services (FaCS)	The following people are entitled to have access to all records made within Family and Community Services (FaCS) relating to the placement in out-of-home care of an Aboriginal or Torres Strait Islander child or young person: <ul style="list-style-type: none"> the child or young person the birth or adoptive parent of the child or young person, and a person authorised in writing by the child, young person or parent.
Section 51	Children and young people in care under an emergency care and protection order	Secretary of Family and Community Services (FaCS)	Information about the child or young person's whereabouts is to be disclosed to the parents where there is no reason to believe that such a disclosure would prejudice the safety, welfare, well-being or interests of the child or young person. Where the Director-General does have concerns, only information that is not high level identification information may be disclosed.
Section 163	All children and young people in out-of-home care	Designated agency with supervisory responsibility	Information about the progress and development of the child or young person is to be provided to the parents.
Chapter 16A	All children and young people	Prescribed bodies as specified in section 248 (6) of the <i>Act</i> , or clause 8 of the <i>Act</i> includes Designated Agencies that have responsibilities relating to the safety, welfare or well-being of children or young persons.	Information that promotes the safety, welfare and wellbeing of children and young people to be exchanged between prescribed bodies in order to facilitate the provision of services to children and young people and their families. Because the safety, welfare and well-being of children and young persons is paramount, the need to provide services relating to care and protection of children and young persons and the needs and interests of children and young persons and of their families in receiving those services, take precedence over the protection of confidentiality or of an individual's privacy.

3.2. The NSW Privacy and Personal Information Protection Act 1998 ('PIIP Act')

The *PIIP Act* establishes Information Protection Principles for the collection, retention and security of, access to and disclosure of personal information.

Whilst the *PIIP Act* only applies to public sector agencies, some contracts between Family and Community Services (FaCS) and non-government designated agencies require those agencies to comply with the Information Protection Principles.

The provisions of the *PIIP Act* concerning access to and disclosure of personal information⁴ **DO NOT APPLY** to access by, or the disclosure of, placement information to parents and other significant people⁵.

3.3. The NSW Health Records and Information Privacy Act 2002

The provisions of the *Health Records and Information Privacy Act 2002* **APPLY** and over-ride the provisions of the *Children and Young Persons (Care and Protection) Act 1998* and these Guidelines.

The health information regarding an authorised carer or other people in an authorised carer's household may at times fall within the broad definition of placement information. However, the *Health Records and Information Privacy Act 2002* restricts designated agencies disclosing health information about other people whose identity is apparent, or can reasonably be ascertained from, the information provided.

Health information is information or an opinion that relates to:

- the physical or mental health or disability (at any time) of an individual
- an individual's express wishes about the future provision of health services to him or her
- a health service provided, or to be provided, to an individual
- other personal information collected to provide, or in providing, a health service
- other personal information about an individual collected in connection with the donation, or intended donation, of an individual's body parts, organs or body substances
- other personal information that is genetic information about an individual arising from a health service provided to the individual in a form that is or could be predictive of the health (at any time) of the individual or of a genetic relative of the individual
- healthcare identifiers⁶

Agencies may only disclose health information as relevant placement information if they have obtained the consent of the person to whom the information relates⁷.

For example: if an authorised carer whose identity is known to a parent or other significant person is suffering from cancer, the designated agency may not disclose this information to a parent or other significant person without the carer's consent.

⁴ See sections 18 and 19 of the *PIIP Act*

⁵ Section 25 of the *PIIP Act* provides that agencies are not required to comply with the Information Protection Principles concerning disclosure where another law regulates such disclosure

⁶ See section 6 of the *Health Records and Information Privacy Act 2002*

⁷ See clause 11(1)(a) of Schedule 1 within the *Health Records and Information Privacy Act 2002*

4. Definitions

4.1. Placement information

Placement information is 'information concerning the placement of the child or young person'. Placement information is considered in the following 5 categories

1. High Level Identification information
2. Information that may allow a person to establish high level identification information
3. Contact information that does not allow high level identification information to be established
4. Non-identifying information about events in the placement with significance for the child or young person
5. Non-identifying context information about the placement⁸

The term 'placement information' does not refer to all information about a child or young person in out-of-home care. For example, it differs from information about the progress and development of a child or young person, which is dealt with in section 163 of the *Act* (see Section 3.1 of these Guidelines).

4.2. Parents

Under Section 149C (a) of the *Act* the designated agency responsible for the placement must disclose information concerning the placement to any parent of the child or young person.

A parent is a person who had parental responsibility immediately before the child or young person was placed in out-of-home care, or immediately before the Children's Court made an order placing them under the parental responsibility of the Minister or Director-General⁹.

Therefore the 'parent' of a child or young person will not necessarily be the biological parent.

4.3. Significant others

Under Section 149C (b) of the *Act* the designated agency responsible for the placement must disclose information concerning the placement to any other person who is significant to a child or young person and who makes a **written** request.

People who **may** be significant to a child or young person include (but are not limited to) a parent, step parents or adoptive parents outside of the definition above, siblings, extended family, peers, family friends and community members¹⁰.

If a person other than a parent makes a written request to the designated agency for placement information, the agency must assess whether the person is significant to the child or young person. The child or young person should be consulted and given whatever help is needed to express a view on the matter.

Aboriginal and Torres Strait Islander people have a broad system of family relationships that extend far beyond the general non-Aboriginal and Torres Strait Islander concept of extended family. It includes connections and identification with land, wider family and community networks and heritage.

⁸ See Appendix 1 for detailed information regarding levels of information

⁹ Section 149B(1) of the *Act*

¹⁰ Sections 149B(2) and 9(2)(f) of the *Act*

When making assessments regarding significant others for Aboriginal and Torres Strait Islander children and young people, designated agencies should recognise that ties exist between Aboriginal and Torres Strait Islander children and young people and community members that are not based on blood or marriage. People who are significant to the child or young person can include those related by blood, marriage, adoption or other culturally determined affiliation.

It is important for designated agencies to consult with an Aboriginal and Torres Strait Islander child or young person and appropriate members of the specific cultural community to develop a clear picture of the people who may be significant to the child or young person.

For **all** children and young people, regardless of whether a person makes a request for placement information, the individual child or young person may identify people who they care about, or may talk about people with whom they have formed a bond or close relationship. Designated agencies should acknowledge the significance of particular people to a child or young person and record this in assessment reports, case plans and case plan reviews. They should be aware that who is significant may change over time. If a designated agency identifies a significant person who it believes should be provided with placement information, and that person has not requested the information, the designated agency may inform the person of their right to make a written request for the information.

5. Assessment of the amount of information to be disclosed

The designated agency responsible for the placement of a child or young person must provide placement information to the parents as soon as practicable after placement¹¹. Agencies will have to assess this on a case by case basis to determine an appropriate level of information to be disclosed to any individual, in relation to a particular child or young person.

Information should be released soon after the child or young person enters the placement to help the child or young person and parents cope with their separation and loss. However, it would not be appropriate to release Type 1-3 information before relevant risks associated with disclosure have been assessed. As a matter of practice, Type 4 and 5 placement information may sometimes be disclosed while a risk assessment and consultation with children and young people and their carers is taking place on the disclosure of Type 1-3 information. However the disclosure of any information should only occur where there are not reasonable grounds to believe any disclosure of placement information would adversely affect the safety, welfare and well-being of the child or young person, carer or any member of the household where the child or young person resides (see section 10 of these guidelines)¹².

An assessment needs to consider the risks that may be posed to the safety of the child or young person, the authorised carer, the authorised carer's family and household members and any other children and young people within the placement (including in a residential care setting); the views of the child or young person; and the views of the authorised carer/household. Each of these areas should be given balance and the highest weight should be given to the level of safety and risk.

Some examples of areas that may be considered as part of a risk assessment include a person's history of violence or threatening behaviour; any drug or alcohol issues which may pose a risk to a child or young person or their carer; any history of domestic violence; the person's views toward the child being in care; any risk that the person may remove the child from their placement or another location should they have this information; or any other evidence that the person will pose a risk to the child or young person or their carer.

Appendix 2 provides an example of a risk assessment including consideration of some of the above issues.

¹¹ Section 149C (2) of the *Act*

¹² Section 149I of the *Act*

Note: In consulting with a carer for example, evidence indicating the likelihood of frequent inappropriate intrusion and harassment would justify withholding a contact number, but concern regarding possible inconvenience to the authorised carer (without there being a risk to their safety, welfare or well-being) would not.

As a general principle, designated agencies should give parents and other people significant to the child or young person as much information about the placement as is practicable. If a decision is made to disclose high level identification information then relevant types of information at a lower level, i.e. Types 3, 4 and 5, should also be provided.

This general principle is subject to the following special provisions:

- that prevent or limit disclosure where a designated agency believes on reasonable grounds that the disclosure would adversely affect the safety, welfare or well-being of the child or young person, their authorised carer, or any member of the household where the child or young person resides, including residential care
- that recognise the relevance of the wishes of the child or young person
- that recognise the relevance of the wishes of the authorised carer, **insofar as they relate to the safety, welfare or well-being** of the child or young person, the authorised carer, or any member of the family or household of the authorised carer for the disclosure of high level identification information
- that recognise any orders of a court or tribunal concerning the disclosure of placement information

In some cases a parent or significant other may be aware of high level placement information even without this being disclosed by the agency. This may occur for example where a child is in a relative or kinship placement or where the parent simply learns this information by accident. Where this has occurred, the agency is not required to automatically approve the disclosure of high level placement information. In these cases it is important that the agency conduct a risk assessment to determine the appropriate level of information that the parent may be provided with.

If the assessment determines that high level placement information is appropriate, the agency should record the rationale for this and disclose this level of information to the parent as per agency procedures e.g. via a letter.

However if the assessment determines that a lower level of information is to be disclosed, the rationale for this should be clearly documented. Where high level information has not been approved, but a parent or significant other already has this level of detail, the agency should put in place a strategy for managing this.

5.1. Keeping records of disclosure of placement information

The designated agency should record on the child or young person's case file the nature of the placement information disclosed, when it was disclosed, why it was disclosed and who it was disclosed to.

Note: Parents and other significant people may need some support and guidance on how they should use placement information disclosed to them. Agencies might develop an information package with advice for example on respect for the boundaries and privacy of authorised carers and their families.

6. Participation of children and young people and authorised carers in decisions to disclose placement information

6.1. Participation of children and young people

When a designated agency is considering the amount and type of placement information to disclose, or refuse to disclose, it must have regard to the wishes of the child or young person¹³. Children and young people must be given every opportunity to freely express their views according to their age and developmental capacity and due weight must be given to their views. It may therefore be necessary to help a child or young person to understand the implications of placement information being provided and, if there is to be a meeting where it is discussed, they may need help from a support person in preparing for the meeting, in having their say at the meeting, or may wish to give their input in a different way.

6.2. Participation of authorised carers

It is a requirement of the *Act* that the designated agency also seeks and has regard to the carer's views on any conditions being considered to manage risk¹⁴. This should be done regardless of the type/level of information that is ultimately approved.

However, where a decision is made that high level information is appropriate to disclose, the designated agency is required to seek the **consent** of the authorised carers prior to doing so, and carers are entitled to have this decision reviewed if they are unsatisfied with the outcome. Please refer to sections 11 and 12 in relation to this process.

7. Initial and ongoing disclosure of placement information

The provision of placement information to parents and/or significant others should be considered on an ongoing basis and not only as a one-off event at the beginning of the placement. Changes in a child or young person's needs and wishes over time will influence the type of placement information provided and who it is provided to. For example, people significant to the child may change or the level of risk may also change.

7.1. Dealing with new concerns relating to disclosure of placement information

There may be circumstances where the designated agency receives new information about a parent or significant person that gives rise to concerns about the risk they pose to the safety, welfare and well-being of relevant people. This information may be provided by the authorised carer or some other person.

In these circumstances, the designated agency should review the type/level of information that is to be provided in the future and advise the authorised carer accordingly.

8. Disclosure must be consistent with any order by a court or tribunal

Placement information cannot be disclosed if this would be contrary to the order of any court or tribunal¹⁵. Similarly, the *Act* and these Guidelines do not prevent any disclosure of placement information ordered by any court or tribunal¹⁶.

Designated agencies need to be aware of orders made in care and protection, criminal and family law jurisdictions. The child or young person's file(s) should be reviewed to determine whether there are any relevant orders, before further consideration is given to disclosure.

¹³ Sections 149D(a) and 149I(3)(a) of the *Act*

¹⁴ Section 149D of the *Act*

¹⁵ Section 149K(1) of the *Act*

¹⁶ Section 149K(2) of the *Act*

Orders of a court or tribunal may also provide the designated agency with a reasonable belief that the disclosure of placement information would adversely affect the safety, welfare or well-being of a child or young person, their authorised carer, any member of the authorised carers family or household where the child or young person resides, including other children or young people in a residential care setting.

For example: a court may have granted an interim or final Apprehended Violence Order (AVO) which includes the child or young person as a protected person. An AVO may of itself not give rise to such a reasonable belief that it would be unsafe to disclose placement information however the designated agency should be aware of any conditions on an AVO and ensure the provision of placement information does not breach them.

9. Refusal to disclose placement information

Placement information of Type 1-3 in Appendix 1 of these Guidelines (i.e. high level identification information and other identifying or contact information) may need to be withheld in some cases.

Type 4 and 5 information (i.e. non-identifying information about key events and context information) should be disclosed unless a court or tribunal has ordered non-disclosure or the designated agency decides it is not appropriate to disclose that information following a risk assessment and having regard to the wishes of the child or young person and authorised carer.

The designated agency must refuse to disclose placement information to a parent or significant person, or must impose conditions on the disclosure, if it believes on reasonable grounds that the disclosure would adversely affect the safety, welfare or well-being of:

- a child or young person
- an authorised carer,
- any member of the family or household of the authorised carer where the child or young person resides¹⁷, including in a residential setting.

Any conditions imposed on the disclosure should be conditions that address the risk to the safety, welfare or well-being of the above people.

Circumstances may change so that a designated agency no longer believes there is a risk to the safety, welfare or well-being of relevant people. In such cases following a new risk assessment, the approved level of placement information should be disclosed.

For example: a parent may have previously attempted to kidnap their child from a placement or local area, after locating the child using the information that had been provided to them by a designated agency. In consulting with the child or young person and authorised carer, it may be deemed unsafe for the parent to be provided even with low level type 5 information as this may pose a risk to the security of the child. A decision may therefore be made that all correspondence will go through the FaCS CSC who had previously dealt with the parent, so they are unaware of the area in which the child resides.

¹⁷ Section 149I(1) of the Act

10. Requirements when placement information is not disclosed

If a designated agency decides to refuse to disclose information concerning the placement of a child or young person, it must give **written** notification to the parent and/or other significant person who has made a written request¹⁸.

There is no avenue for a parent or other significant person to have such a decision reviewed¹⁹. Whilst there is no requirement to do so, reasons for non-disclosure of placement information and support and assistance should be provided to the parent or significant person, where appropriate.

However, the designated agency should have regard to any further information provided by the person in its ongoing assessment of whether non-disclosure remains appropriate.

A decision to withhold placement information should be reflected in the case plan and review reports. The decision should be reviewed whenever the case plan is reviewed, or at least annually.

11. Disclosing high level identification information

It is not necessary to consider the provisions of the *Act* concerning high level identification information if the designated agency has already decided to refuse to disclose that information.

11.1. Consent from the authorised carer

A designated agency must not disclose high level identification information concerning the placement of a child or young person unless the designated agency has contacted the authorised carer and requested their consent to the disclosure²⁰.

When contacting the authorised carer, the agency should note that any consent provided to the designated agency is to be in writing²¹ and provided within 28 days of consent being requested²².

The agency should also make it clear to the authorised carer that once a decision has been made to disclose a particular kind of high level identification information (e.g. a landline phone number), the agency may provide the parent or other significant person with updates to that information if it changes, unless the agency has new information that suggests disclosure is no longer appropriate (see further below).

The authorised carer should be advised that they should inform the designated agency if they have any new concerns that disclosure of such information may pose a risk to the safety, welfare or well-being of the child or young person in care, the authorised carer, or a member of the authorised carer's family or household.

¹⁸ Section 149I (2) of the *Act*

¹⁹ See section 245(1A) of the *Act*

²⁰ Section 149E(1)(a) of the *Act*

²¹ See section 149E(1)(b) of the *Act*

²² See section 149E(2) of the *Act*

11.2. Authorised carer does not consent to disclosure of high level information

If the authorised carer does not consent to the disclosure within 28 days of being requested to do so, or refuses to consent to the disclosure, the designated agency may disclose the high level identification information if it:

- a) believes on reasonable grounds that the disclosure will not pose any risk to the safety, welfare or well-being of:
 - i. the child or young person concerned, or
 - ii. the authorised carer of the child or young person, or
 - iii. any member of the family or household of the authorised carer where the child or young person resides, including a residential setting.

AND

- b) ensures that the following has been completed²³:

Authorised Carer

Prior to disclosure of high level placement information, the designated agency must provide the authorised carer with written reasons as to why it believes the disclosure will not pose any risk to the safety, welfare or well-being of:

- i. the child or young person concerned, **and**
- ii. the authorised carer of the child or young person, **and**
- iii. any member of the family or household of the authorised carer of the child or young person²⁴, including others within a residential setting.

The designated agency must also give the authorised carer a written notice stating that:

- iv. the information will not be disclosed within the period of 21 days after the date of the notice
- v. the decision to disclose the information may be reviewed by the NSW Civil and Administrative Tribunal (NCAT):
 - a. on the application of the authorised carer, or
 - b. on the application of the designated agency (on behalf of the authorised carer), at the request of the authorised carer within 21 days of receiving the notice²⁵.

²³ Section 149E(2) of the *Act*

²⁴ Section 149F(1)(a) of the *Act*

²⁵ Section 149F (2)(b) of the *Act*

Child or young person

If the child or young person is 12 years or older, the designated agency must provide a copy of the written reasons, unless the agency considers that it is not in the child or young person's best interests to do so²⁶.

If the child is less than 12 years of age, the designated agency must provide a copy of the written reasons to any person nominated by the child, unless the agency considers that it is not in the child's best interests to do so, or that the child is too young to nominate a person²⁷. Some younger children may find it hard to nominate someone and the agency may have to help them identify an appropriate person.

The designated agency must ensure a copy of the written reasons is retained on the designated agency's file for the purpose of disclosing them to the child after he or she reaches the age of 12. This information should be disclosed to the child as soon as practicable after the child reaches 12 years of age, unless the agency considers that it is not in the child's best interests to do so²⁸.

For example: it may not be in the best interests of a child or young person to be given the written reasons where the reasons contain details about a parent which could be upsetting for the child or young person and their developmental capacity would not enable them to process this information without it being detrimental to their wellbeing.

These requirements are in place to ensure children and young people are appropriately informed of relevant information, not to enable them to seek a review of a decision. A child or young person has no right to internal or NCAT review of such a decision²⁹.

However, issues raised by a child or young person in response to the written reasons could influence an agency to change a decision to disclose high level identification information.

12. Internal or NSW Civil and Administrative Tribunal (NCAT) Reviews

If an authorised carer requests that the designated agency apply to the NCAT on his or her behalf within 21 days of the date of the notice to disclose high level information, the designated agency **must** comply with that request³⁰. However, before doing so the designated agency must carry out an internal review of the decision³¹.

If an application is made, the designated agency must not disclose the information relating to the application during the time the decision to disclose that information is subject to internal or NCAT review. If the application for review is withdrawn by or at the request of the authorised carer, then the review process ceases and the information may be disclosed³².

Designated agencies will need to develop procedures to support internal and NCAT review of their decisions to disclose high level identification information and should have regard to the Out of Home Care: Legal assistance for Carer Fact Sheet³³ published by Community Services.

²⁶ Section 149F(1)(b) of the *Act*

²⁷ Section 149F(1)(c) of the *Act*

²⁸ Section 149F(1)(d) of the *Act*

²⁹ See section 245(1A) of the *Act*

³⁰ Section 149G(1)(b) of the *Act*

³¹ Section 149G(2) of the *Act*

³² Section 149G(3) of the *Act*

³³ Out of Home Care: Legal assistance for Carers

http://www.community.nsw.gov.au/docswr/assets/main/documents/oohc_legal_assistance.pdf

Advice of a general nature on what is expected of an agency during review, the provision of legal assistance to authorised carers and the payment of reasonable authorised carer costs, can be obtained from Legal Services Branch, Family and Community Services (FACS) on tel. (02) 9716 2307; fax. (02) 9716 2988 or Locked Bag 28 Ashfield NSW 1800.

NCAT decisions are binding and designated agencies must have systems in place to ensure ongoing compliance with such decisions.

13. Improper disclosure of placement information

Section 254 of the *Act* establishes an offence for improperly disclosing information obtained in connection with the administration or execution of the *Act*. This includes placement information.

It is important to note that a person who discloses placement information made under s149B to s149K of the *Act* (including these Guidelines) in good faith, does not contravene the confidentiality provisions of the *Act*, the *Health Records and Information Privacy Act 2002* or the *Privacy and Personal Information Protection Act 1998*³⁴.

To act in good faith means to act with an honest and genuine intention or with a sincere belief. Keeping records will help demonstrate that disclosure of placement information was made in good faith.

14. Education and training for agency staff and authorised carers

The agency should develop clear policies and procedures around the process of assessment to determine the level/type of placement information that can be disclosed. All disclosures of placement information must be approved by an appropriately authorised senior officer within the designated agency. All other staff must be instructed that they are not to disclose placement information without the approval of the authorised officer. The agency should ensure there is clear procedure in place to document the outcome of the assessment as well as ensuring this is communicated to all staff involved with the child or young person.

For example: agency staff who transport children to have contact with their parents should be made aware of the approved level/type of information that may be disclosed about a placement and to whom this has been approved. This will ensure that they are aware not to disclose information on where the child is living unless the agency has decided to release high level identification information.

Designated agencies will need to provide education and training on the disclosure of placement information to staff. As a minimum, education and training should cover:

- an overview of the legislative provisions and these guidelines
- privacy of information and records
- types of placement information to be disclosed
- steps for disclosing placement information and the agency's internal policies and procedures
- consultation with and participation by children and young people

³⁴ Section 149J of the *Act* - It should also be noted that the offence provisions of the *Privacy and Personal Information Protection Act 1998* relating to disclosure only apply to public sector officials, not employees of non-government organisations.

Where possible, training and information on the disclosure of placement information should be integrated into pre-existing training and information resources concerning confidentiality, privacy and the release of information.

Designated agencies will also need to inform authorised carers about the legislative provisions and guidelines. Designated agencies should inform prospective authorised carers about disclosure of placement information arrangements as part of the recruitment process.

15. Review of the Guidelines

These Guidelines are subject to review. The Children's Guardian will notify all designated agencies of any changes made to the Guidelines arising from any review.

Appendix 1: Type and amount of placement information to be disclosed

To assist designated agencies in developing policies and making decisions around the release of placement information, various types of placement information have been categorised into a hierarchy outlined below. Each type of placement information must be considered individually. A reason for withholding one type of placement information is not justification for withholding all placement information.

<p>1. High level identification information</p>	<p>An agency must not disclose high level information unless it has decided that the disclosure would not adversely affect the safety, welfare or well-being of the child or young person, their authorised carer, or any member of the household where the child or young person resides, including residential care.</p> <p>High level identification information is³⁵:</p> <ul style="list-style-type: none"> (a) the surnames of the authorised carer of the child or young person and of any other person living in the household of the authorised carer, (b) the street address and locality of the authorised carer of the child or young person, (c) the landline telephone number of the authorised carer of the child or young person, (d) details of the employment or activities of the authorised carer of the child or young person that would be sufficient to identify the authorised carer³⁶, (e) the name of the school that the child or young person is attending, (f) any other type of information prescribed by the regulations. Currently no other information has been included in the regulation
<p>2. Information that may allow a person to establish high level identification information</p>	<p>An agency must not disclose information which may enable a parent or significant person to establish high level identification information unless it has decided to disclose high level identification information.</p> <p>Examples of type 2 information:</p> <ul style="list-style-type: none"> • a description or location of a school, or the name of the school principal may allow the person to work out the name of the school • an email address containing part of the authorised carer's surname may allow the person to work out the surname.
<p>3. Contact information that does not allow high level identification to be established</p>	<p>Whilst the disclosure of Type 3 information may not pose a direct risk to the physical safety of relevant people, it may pose a risk to their welfare and well-being. For example, some parents may harass the carer if provided with their mobile phone number.</p> <p>Where there are concerns this sort of behaviour may occur, Type 3 information should not be disclosed, with all contact to be managed via the designated agency.</p> <p>Consideration should always be given as to whether information disclosing the general community or geographical location of a child or young person or an authorised carer may allow the child or young person or authorised carer to be located (in which case the information falls within the second category). Whilst stating that an authorised carer lives in Western Sydney may not allow a parent to locate the carer, stating that they live in a particular small country town might. As a general rule, the smaller the community or location referred to, the greater the risk of the authorised carer being located and/or identified.</p>

³⁵ Section 3 of the Act

³⁶ For example, disclosing the employer's name or a work email address may allow the carer to be identified.

	<p>Examples of type 3 information:</p> <ul style="list-style-type: none"> • Post office box address (where this does not identify that the authorised carer lives or works in a particular small community) • Authorised carer's first name (unless the name is very unusual) • Email address (where that does not include the authorised carer's surname or allow the surname to be ascertained, or identify the place of employment) • Carer's mobile phone number • Child or young person's mobile phone number
<p>4. Non-identifying information about events in the placement with significance for the child or young person</p>	<p>This includes general non-identifying information about life events of the household that are known to be significant for the child or young person. The reason for providing this type of information is to keep parents and other significant people up to date with what is happening around the child or young person so that interactions during contact are more supportive and relevant to the child or young person's current life.</p> <p>Significant events relating which parents and other significant people <u>may</u> be informed about include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Births, deaths, marriages, separations and other significant events for key people in the authorised carer's household or extended family that impact on the child or young person's life (e.g the death of a carer's parent who had played a grandparent like role for the child or young person) • Moving house or school (ie: informing of the event, not the new address) • Departure/arrival of other (non-identified) children or young people in the authorised carer's home.
<p>5. Non-identifying context information about the placement</p>	<p>This type of information allows parents or others with significant attachment to the child or young person to have a picture of the situation in which the child or young person is placed. It is different from information on the progress and development of the child or young person (see s163 of the Act and Section 5 of these Guidelines).</p> <p>Contextual information about the placement helps parents and others stay engaged with the child or young person's life, which is important for long term outcomes for children and young people.</p> <p>Some examples of this type of information includes but is not limited to, the following:</p> <ul style="list-style-type: none"> • General details about the composition of the family (eg. Number of carers, number of children and ages) • General non-identifying descriptive information about authorised carers' backgrounds, lifestyles and experience (eg. One of the carer's works full-time and the other carer is at home. They have been carers for ten years and have cared for other children before. They are an active outdoors type of family involved in sports and other activities like camping) • General non-identifying descriptive information about the placement situation (eg. pets and type of accommodation) • The cultural identity of the authorised carer's family • The language spoken in the authorised carer's home if not 'Australian-English' • The religion of the authorised carer(s)

Appendix 2 – Sample of a risk assessment

Child or young person	Susie Sunflower
Authorised carer (if applicable) and relationship to child	Mandy Jones – foster carer
Person requesting information and relationship to child	Sally Sunflower – Mother
What is the child or young person's view?	Discussion with Susie during a home visit on 1 June 2015. She would like her mother to know where she lives and who she lives with.
What is the carer's view?	Mandy is concerned about Sally having identifying information about the placement as she is worried Sally will come to the house or school and take Susie without permission.
What are the risk factors? (e.g. history of violence, domestic violence, history of threats being made, drug and/or alcohol issues)	<p>Sally and Sam (Susie's father) have a history of domestic violence and have only recently ended their relationship. This was one of the key reasons for Susie entering OOHC. There have been concerns raised that Sally and Sam may still be having regular contact.</p> <p>Sally has a history of illicit drug use however she is now engaged with drug and alcohol services to address this.</p> <p>Sally has never made any threats to staff or others and does not have a history of violence. However, Sam has made threats to agency staff and does not agree with Susie being in care.</p>
What information is available about the person's current engagement with the agency?	Sally has engaged well with the agency and is attending contact with Susie. Sally is supportive of the current placement and is hoping to work towards the restoration of Susie.
Level of risk posed	Sally poses low level risk. Although Sally and Sam have recently separated, there have been a number of reports that they remain in contact and there is a risk that details provided to Sally may be shared with Sam. Given Sam's history of violence and threatening behaviour, the current risk should be increased to medium.
Recommendation	<p>Due to the concerns in relation to Sam and the continued contact with Sally, this increases the level of risk to Sally if she were to be provided with HIGH level information. Therefore Level 3 information is to be disclosed to Sally.</p> <p>This should include details such as the carer's first name, the composition of the family (carer, her biological child, Susie) and a general description of the household lifestyle). At this stage, the mobile phone number only will be provided to allow for regular phone contact.</p>
Tasks and timeframes for disclosure	<p>Caseworker to write to Sally advising her of the above information within 1 month.</p> <p>The above risk assessment is to be reviewed after 3 months, with consideration to increasing the level of information, dependent upon progress, the current situation and whether the plan is still to progress towards restoration.</p>