



Children's Court of NSW publications protocol

Preamble

Principles of open justice and judicial independence are fundamental to the rule of law.

Published decisions assist to maintain public confidence in the integrity of the justice system.

The Children's Court of NSW publishes Children's Court decisions through [NSW Caselaw](#). The Children's Court publishes the [Children's Law News](#) to highlight important decisions and papers.

This protocol sets out the procedures followed by the Children's Court for the publication of decisions on NSW Caselaw and the publication of the Children's Law News.

NSW Caselaw

NSW Caselaw publishes decisions for New South Wales Courts and Tribunals and is administered by the NSW Department of Communities and Justice.

Magistrates submit written decisions to the Children's Court Caselaw Publication Convenor. The Children's Court Caselaw Publication Committee determines whether Children's Court judgments are suitable for publication by applying guidelines.

Magistrates are asked to consider publishing written decisions for any matters that meet Guideline 10 or 11.

The Children's Court Publication Committee comprises four specialist Children's Magistrates, appointed by the President, who have regional and metropolitan experience.

All judgments that meet the guidelines are referred to the President for approval prior to publication. The Convenor may refer the judgment back to the submitting magistrate for clarification or consideration of any comments by the Committee prior to referring the judgment to the President.

The President will ensure that judgments that meet the guidelines are broadly representative of the work and outcomes of the Children's Court.

The Children's Court is not able to publish all judgments. To do so would reduce efficiency and delay decisions about children.

To access NSW Caselaw, follow the link provided:
<https://www.caselaw.nsw.gov.au/search/advanced>

Guidelines

Matters to be considered when determining whether a judgment is suitable for publication on NSW Caselaw are:

1. The judgment addresses a matter of law, including interpretation of legislation and legal principles relevant to a case dealt with in the Children's Court.
2. The judgment clarifies practice and/or procedure.
3. The judgment assists Judicial Officers, parties and legal practitioners dealing with similar cases.
4. The judgment contributes to an understanding of court processes.
5. The judgment is an example of good practice (in case work or through consolidating different aspects of law).
6. The judgment is an example of good decision making such as finding of facts, an analysis of the relevant law and the application of the law to the facts.
7. The judgment addresses a matter identified as a systemic issue or an individual case which raises significant concern as to the lack of sufficient compliance with the principles of the Care Act.
8. The judgment promotes access to justice by providing precedents to parties and legal practitioners.
9. The judgment provides the public, policy makers, academics and interested stakeholders access to information about the way proceedings are conducted and determined in the Children's Court.
10. Care proceedings involving Aboriginal or Torres Strait Islander Children/Young People where the Court does not make the orders sought by the Secretary on a final or interim basis regarding the placement of the children.
11. Care proceedings where Aboriginal or Torres Strait Islander Children/Young People are placed by way of Final Order after hearing into one of the

following care arrangements:

- a. Non-kinship/relative foster care: The term 'foster care' is used for the out-of-home care setting where a child is placed with a foster carer and is living with the carer and their family in the family home. Non-kinship/relative is where the carer is not a relative (other than a parent), or the carer is not considered to be family, or is not a person to whom the child shares a cultural or community connection.
 - b. Residential care: 'Residential care' is care provided to a child in a residential facility, usually a house with other children, and involves the use of paid staff rather than an individual carer matched with the child.
- 12. Judgments are respectful of the integrity of the justice system and the doctrine of *stare decisis* that requires judicial officers in lower courts to accept the decision of higher courts.
 - 13. Judgments are considerate of the principle of procedural fairness and, in care proceedings, consistent with the non-adversarial nature of proceedings.
 - 14. Consistent with s 105 of the Care Act details including the parties' names and dob will be anonymised. Other identifying details such as geographical locations may be anonymised. Case workers and designated agencies will normally be anonymised. Pseudonyms or redactions are used.
 - 15. Judgments will not be published on Caselaw until proceedings are finalised, subject to special circumstances.

Other considerations

- 16. Judgments are representative of the work and outcomes of the Children's Court
- 17. Judgments are from a broad range of differing Magistrates.
- 18. The Committee will proactively encourage other contributors to publish decisions or identify barriers to publishing decisions.

Reviews

- 19. If a party or practitioner is concerned that the publication of a name or a detail identifies a person or organisation, they may ask the Court to review the judgment.

Children's Law News

Children's Law News (CLN) is a regular online publication that highlights important cases and papers relevant to the Children's Court jurisdiction.

The Children's Law News Editorial Committee meets two times a year to determine whether judgments or articles are placed on CLN.

The Children's Law News Editorial committee is made up of three specialist Children's Magistrates, members of the private legal profession and representatives from Legal Aid NSW, the Aboriginal Legal Service and the Department of Communities and Justice.

Unpublished articles written by Children's Magistrates and Children's Registrars are referred to the President prior to being placed on CLN.

The Committee may ask a judicial officer to publish an unpublished decision if satisfied the decision meets the publication guidelines.

To access Children's Law News, follow the link provided:

<https://www.childrenscourt.nsw.gov.au/childrens-court/publications/children-s-law-news.html>



Judge Ellen Skinner
President of the Children's Court of NSW
6 June 2024

Version	Effective date	Reason for amendment	Approval	Date
1.0	5 May 2022		Judge Skinner	5 May 2022
2.0	1 June 2024	Anonymising caseworkers and organisations	Judge Skinner	3 June 2024
2.1	7 June 2024	Non-publication of ongoing matters	Judge Skinner	6 June 2024
3.0	29 April 2025	Review of publication guidelines and other considerations	Judge Skinner	29 April 2025