## Guide to completing care and protection forms

This is a guide to help you complete forms for care proceedings in the Children’s Court. All forms are available on the [Children’s Court website](http://www.childrenscourt.justice.nsw.gov.au) [www.childrenscourt.justice.nsw.gov.au] or at your nearest Children’s Court Registry.

## Meaning of terms

***Alternative Dispute Resolution (ADR)*** ***or Dispute Resolution Conference (DRC)*** - A process where a trained person helps parties to resolve issues between them without taking sides.

***Applicant*** – The person applying for court orders. This could be the Secretary of DCJ, a parent or carer, a person with parental responsibility or a person with sufficient interest in the welfare of the child/young person.

***Care order*** – An order of the Court made with respect to the care and protection of a child/young person.

***Children’s Registrar*** - The person responsible for managing a DRC.

***Contact order*** – An order setting out the contact arrangements between a child/young person and their parents, relatives or other persons with significance to the child/young person.

***ECPO*** – An emergency care and protection order is time limited to 14 days, however it can be extended by a further 14 days.

***DCJ*** – Department of Communities and Justice.

***NGO*** – Non Government Organisation is a not for profit organisation whose role is to provide out of home care services and casework.

***PCO*** – A parent capacity order is a court order requiring a parent or carer to attend or participate in a program, service or course.

***PR*** –Parental responsibility refers to the duties, powers, responsibilities and authority which, by law, parents or carers have in relation to their children.

***PRC*** – A parent responsibility contract is a voluntary agreement between a parent or carer and DCJ.

***Party*** – A person who is involved in a case which is before the Court including a biological parent, or a person who has parental responsibility for the child/young person because of a court order, the child/young person (through their legal representatives) and any other person who has been joined as a party to the proceedings by the Court.

***Respondent*** – A person who has a legal right to respond or reply to an application.

***Service*** – The process of giving documents to any party to an application.

***The Secretary*** – The head officer of the Department of Communities and Justice.

## Important notes

* Provide as much information as possible in support of your application – attach extra pages if you need more space.
* Subpoenas in the care jurisdiction are issued under Rule 30A of the [*Children's Court Rule 2000*](http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg%2B706%2B2000%2Bcd%2B0%2BN/?dq=Regulations%20under%20Children%E2%80%99s%20Court%20Act%201987%20No%2053)
* All references to legislation are in relation to the [*Children and Young Persons (Care and Protection) Act 1998*](http://www.legislation.nsw.gov.au/#/view/act/1998/157).

| **Form** | **Application type** | **Filed by** | **Information** |
| --- | --- | --- | --- |
| 1Application initiating care proceedings | Care orderSection 61NOTE: This application may include applications for:S 46 ECPOS 46(4) Extension of ECPOS 73 UndertakingsS 74 Support ServicesS75 Therapeutic/treatment programS 76 Supervision orderS 79 PRS 79A Guardianship order | * DCJ
 | The application must specify the particular care orders sought, the grounds (section 71) for any final orders sought and include a report detailing:* the support and assistance provided for the safety, welfare and well-being of the child/young person – s 63(1)(a).
* the alternatives to a care order that were considered before the application was made and reasons why those alternatives were rejected – s 63(1)(b).

NOTE: DCJ to file Form 40 – Summary of proposed plan for the child/young person with the Children’s Court within 14 days (refer to Practice Note 5 – Case management in care proceedings). |
| 1Application initiating care proceedings | ECPOSection 46 | * DCJ
 | As per application for care order.The applicant must also provide details to the Court by affidavit, oral evidence or by other means approved by the Court detailing why the applicant considers that the child/young person is at risk of serious harm sufficient to warrant the Court making an ECPO. |
| 1Application initiating care proceedings | Extension of ECPO Section 46(4) | * DCJ
 | As per application for ECPO. |
| 1Application initiating care proceedings | Order accepting undertakingsSection 73 | * DCJ
 | As per application for care order. |
| 1Application initiating care proceedings | Order for provision of support servicesSection 74 | * DCJ
 | As per application for care order.NOTE: The Children’s Court will give notice of its intention to consider making an order to the person/organisation who would be required to provide support (refer to Form 20). |
| 1Application initiating care proceedings | Order to attend therapeutic or treatment programSection 75 | * DCJ
 | As per application for care order. |
| 1Application initiating care proceedings | Order for supervision or extension of an order for supervisionSection 76 | * DCJ
 | As per application for care order. |
| 2Application (other than Form 1) | Care plan with PR Section 38(2) | * Any person who is a party to the care application
 | A care plan allocating PR to any person other than the parents of the child/young person requires a court order before taking effect.The application will be listed before a judicial officer for consent orders to be made.NOTE: Form 37 – Consent form must be attached to the application. |
|  2Application (other than Form 1) | Application for joinderSection 98(3) | * Person/persons wanting to join the proceedings
 | The application must specify:* the reasons for making the application
* details of the genuine concern for the safety, welfare and well-being of the child/young person.
 |
| 2Application (other than Form 1) | Guardian ad litem or amicus curiaeSections 100 & 101 | * DCJ
* Child/young person
* A person with PR
* Legal representative for the child/young person
* Proposed guardian ad litem
 | The application must be accompanied by an affidavit in support which specifies:* the relationship, if any, between the proposed guardian ad litem and the child/young person or parent, and
* the way in which the best interests of the welfare of the child/young person or parent would be promoted by the appointment of the proposed guardian ad litem.

NOTE: Rules 28 and 29 of the [*Children’s Court Rule 2000.*](http://www.legislation.nsw.gov.au/#/view/regulation/2000/706) |
| 2Application (other than Form 1) | Order approving alternative parenting plan Section 116 | * Child/young person
* Parent/carer
* DCJ
 | The application must specify:* that all steps to resolve the matter have been taken and all appropriate forms of dispute resolution have been exhausted; or
* that no useful purpose would be served in taking those steps or other forms of dispute resolution.
 |
| 2Application (other than Form 1) | Review of temporary care arrangementSection 152(6) | * Child/young person
* A person having PR for the child/young person
 | An application for review of temporary care requires a court order before taking effect.The application will be listed before a judicial officer for orders to be made. |
| 2Application (other than Form 1) | Registration of alternative parenting planSection 119 | * A party to the alternative parenting plan
 | The application must include the following information:* The date on which the alternative parenting plan is made
* The name of each party to the plan, and their relationship to the child/young person
* The method by which the views of the parents and child/young person were obtained (for example, by interview, in person or over the telephone, and whether the persons were spoken to separately or together), and
* Is to set out the way in which the needs of the child/young person are proposed to be met, and any proposals concerning:
1. allocation of PR
2. residential arrangements
3. supervision
4. contact arrangements
5. education and training
6. medical care, and
7. the provision of services.

NOTE: Form 37 – Consent form must be attached to the application. |
| 3Application for rescission/variation of care order | Rescind or vary care orderSection 90 | * Any person who was a party to the original care application
* Any person who considers that they have sufficient interest in the welfare of the child/young person
* The child/young person’s Guardian
 | A copy of the original care order must be filed with the application to rescind/vary.The application must specify:* the reasons for making the application
* the reasons for leave being granted, in particular, details of any significant change in any relevant circumstances since the order was made
* details of interest in the welfare of the child/young person (where applicable)

NOTE: Before granting leave the Court will consider:* the nature of the application
* the age of the child/young person
* the length of time the child/young person has been with the current carer
* the plans for the child/young person
* whether the applicant has an arguable case
* matters concerning the care and protection of the child/young person that are identified in a section 82 report or section 85A report.
 |
| 4Application for contact order | Contact orderSection 86 | * Any person who is a party to the care application
* Any person who considers that they have sufficient interest in the welfare of the child/young person
 | The application must specify:* the reasons for making the application
* the reasons for leave being granted, in particular, details of any significant change in any relevant circumstances since the order was made
* details of interest in the welfare of the child/young person (where applicable).
 |
| 5Application for PCO | PCOSection 91A | * DCJ
 | The application must specify:* details of the deficiency in parenting capacity that has the potential to place the child/young person at risk of significant harm
* that it is reasonable and practicable to require the parent or care-giver to comply with the order
* why the applicant believes the parent or care-giver is unlikely to attend or participate in programs unless a PCO is made.
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| 6 Application for variation or revocation of a PCO | Revoke or vary PCOSection 91H | * Any person who is a party to the PCO
 | The application must specify:* the reasons for making the application, in particular, details of any significant change in any relevant circumstances since the order was made
* details of the change requested.
 |
| 7Application for assessment order | Assessment orderSections 53 & 54 | * DCJ
* Child/young person
* Parent
* Any other person who is a party to the proceedings
 | The application must specify:* why the assessment is being requested and why the information cannot be obtained elsewhere
* the specific issue/s or person to be assessed.
* The list of documents to be provided to the clinician.

NOTE: Where the Court makes an assessment order Registry staff will forward Form 43 – assessment order together with the application for the assessment order to Children’s Court Clinic. |
| 8Application to transfer a child protection order from NSW | Transfer child protection orderSection 231G | * DCJ
 | The application must specify:* whether the application is made by the Secretary
* the child protection order is not subject to an appeal to the District Court
* the interstate officer has consented in writing to the transfer and to the provisions of the proposed interstate order.
 |
| 9Application to transfer child protection proceedings from NSW | Transfer child protection proceedingsSection 231L | * DCJ
 | The application must specify:* whether the application is made by the Secretary
* that the interstate officer has consented in writing to the transfer.
 |
| 10Registration of interstate child protection order in NSW  | Interstate child protection orderSection 231P(1) | * DCJ
 | A copy of the administrative order transferring the child protection order to NSW and a copy of the child protection order must be filed with the application.NOTE: the Children’s Court will send written confirmation of the registration to the interstate Court and the liaison officer of that state. |
| 11Application to register interstate child protection proceedings in NSW | Interstate child protection proceedingsSection 231P(2) | * DCJ
 | A copy of the order transferring the proceedings and a copy of the interim order must be filed with the application. |
| 12Application for revocation of registration of an interstate child protection order or child protection proceeding | Revocation of registration of interstate documentsSection 231R | * DCJ
* Child/young person
* Parent
* Any other person who is a party to the proceedings
 | The application must specify the grounds of the application as either:* the decision or order to transfer the child protection order or the order to transfer the child protection proceedings was at the time of registration subject to appeal or review or a stay, or
* the time for instituting an appeal or seeking a review had not expired.
 |
| 13Application for hearing date to be set | Application for hearing date to be set | * DCJ
* Child/young person
* Parent
* Any other person who is a party to the proceedings

NOTE: The application is completed by or on behalf of one of the parties and signed by or on behalf of all the parties.  | The application must be completed and filed prior to a hearing date being allocated. |
| 14Application to vacate a hearing date | Adjournment application | * DCJ
* Child/young person
* Parent
* Any other person who is a party to the proceedings
 | * Parts A & B must be completed in full before the application is lodged.
* The application will be dealt with in chambers unless there is a good reason for it to be listed before the Court.
 |
| 15Specified documents in support of initiating application and report | Initiating report and service of the relevant portion of the Community Services file - Practice Note 2 – Initiating documents for care applications | * DCJ
* Child/young person
* Parent
* Any other person who is a party to the proceedings
 | DCJ must serve the specified documents with Form 1 as soon as possible, but no later than the first return date of the application.  |
| 16Court order | Interim/Final court order | * Registry
 | To be completed by Registry staff only. |
| 17Care proceedings attendance notice | Care proceedings attendance notice Section 109A | * Registry
 | To be completed by Registry staff only. |
| 18Notice of removal or assumption of child/young person where no court order is required | Removal or assumption of child/young person where no court order is requiredSection 45(3) | * DCJ
 | The notice must be filed with the Children’s Court within 7 days (refer to Practice Note 5 – Case management in care proceedings) and include details specifying:* why the child/young person was removed or assumed; and
* why no care application was made.
 |
| 19Notification of breach of an undertaking | Breach of undertakingSection 73(4) | * Any person who is a party to the proceedings when an order accepting undertakings was made
 | A copy of the order accepting undertakings must be filed with the notification of breach. |
| 20Notice of intention of court to consider making an order for provision of support service | Notice of intention of court to consider making an order for provision of support serviceSection 74(2)(a) | * Registry
 | To be completed by Registry staff only. |
| 21Notice of proposed extension of a supervision order | Notice of proposed extension of a supervision orderSection 76(6) | * Registry
 | To be completed by Registry staff only. |
| 22Notification of breach of supervision order | Breach of supervision orderSection 77(2) | * DCJ
 | A copy of the supervision order must be filed with the notification of breach. |
| 23Report to Children’s Court  | Report on supervisionSection 76(4)Report on suitability of arrangements concerning PRSection 82(2) | * DCJ
 | The report must be filed with the Registry in accordance with the timetable set by the judicial officer. |
| 24Notice of address for service or notice of acting | Address for service – legal practitioner Notice of service – legal practitionerRule 30F of the Children’s Court Rule 2000 | * Legal representative
 | An address for service must be an address in NSW. A legal practitioner may change the address for service by filing Form 24. |
| 25Notice that a solicitor has ceased to represent a party | Notice that solicitor has ceased to represent a party | * Legal representative
 | The notice must:* set out whether the party was notified and if not, why not; and
* future address for service of the party, if known; and
* whether the party was notified of when the matter is next listed before the Court.
 |
| 26Notice of assessment order | Notice of assessment orderSection 53 | * Registry
 | To be completed by Registry staff only. |
| 27Notice to Authorised Clinician to attend Court | Notice to authorised clinician to attend courtPractice Note 6 – Children’s Court Clinic assessment applications and attendance of authorised clinicians at hearings, dispute resolution conferences and external mediation conferences. | * Registrar
 | The notice is to be issued by the Registrar to the Children’s Court Clinic within 7 days of the matter being set down for hearing.  |
| 28Notice to Authorised Clinician attend DRC or external mediation conference  | Notice to Authorised Clinician attend DRC or external mediationPractice Note 6 - Children’s Court Clinic assessment applications and attendance of authorised clinicians at hearings, dispute resolution conferences and external mediation conferences. | * Children’s Registrar
 | The notice must specify the discussion points arising from the Clinician’s assessment report.In the case of a DRC the conference notice is to be issued by a Children’s Registrar to the Children’s Court Clinic within 3 working days of the conference date being set.In the case of an external mediation the notice is to be issued by the party seeking attendance within 3 working days of the mediation date being set.  |
| 29Notice to Authorised Clinician attend joint conference of expert witnesses | Notice to attend joint conference of expert witnessesPractice Note 9 – Joint conference of expert witnesses in care proceedings | * Children’s Registrar
 | The notice is to be issued by a Children’s Registrar within 3 working days of the expert’s conference date being set. |
| 30Arrest warrant | WarrantSection 109B | * Registry
 | To be completed by Registry staff only. |
| 31Warrant of commitment for refusal to give evidence  | WarrantSection 109R | * Registry
 | To be completed by Registry staff only. |
| 32First instance warrant to secure attendance of a witness at the hearing of an application for a care order | WarrantSection 109L | * Registry
 | To be completed by Registry staff only. |
| 33Subpoena | SubpoenaSection 109C | * Any person who is a party to the care application
 | A subpoena may be issued by the Children’s Court, Children’s Magistrate or Registrar.The subpoena must be served at least 5 working days before it must be complied with. |
| 34Affidavit of service | Affidavit of service | * Any person who is a party to the care application
 | The affidavit must specify:* when, where, how and by whom service was effected
* what, if anything, was said by the recipient at the time service was being effected
* that the person effecting service is over the age of sixteen years
* the document that was served.
 |
| 35Affidavit  | Affidavit  | * Any person who is a party to the care application or any person considered to be able to provide relevant evidence on behalf of a party
 | When completing an affidavit, the person swearing or affirming the affidavit must:* have knowledge of the facts being stated in the affidavit
* set out the facts that qualify the party to make the affidavit
* swear/affirm the affidavit and sign each page in the presence of a witness.
 |
| 36Form of undertakings | UndertakingsSection 73(2) | * Any person who is a party to the care application
 | An undertaking:* is to be in writing signed by the person giving it; and
* remains in force for such period as may be specified in the undertaking.
 |
| 37Consent form  | Consent order for care planSections 38(2) and 38(3) | * Any person who is a party to the care application
 | A consent form to accompany a care plan must be filed with Form 2. |
| 38Registration of alternative parenting plan | Registration of alternative parenting planSection 119(3) | * Any person who is a party to the alternative parenting plan
 | The Children’s Court may register the alternative parenting plan if:* it is of the opinion it is necessary and appropriate for the care and protection of the child/young person; and
* the child/young person and his/her parents have been advised of the desirability of seeking legal advice concerning changes to the allocation of parental responsibility.
 |
| 39Agreed summary of matters  | Agreed summary of matters for consideration by the Care Circle | * DCJ
 | An agreed summary of matters must be signed by all persons contributing to the information contained in the summary. |
| 40Summary of proposed plan for the child/young person | Summary of the proposed plan for the child/young personPractice Note 5- Case management in care proceedings | * DCJ
 | A summary of proposed plan must be filed and served within 14 days of the first return date. |
| 41Contract breach notice | Contract breach noticeSection 38E | * DCJ
 | An Application for care order (Form 1) must be filed with a contract breach notice.A copy of the PRC must be attached to the contract breach notice. |
| 42Notification of breach of Prohibition Order | Breach prohibition orderSection 90A | * Any person who is a party to the care application
* Any person who is affected by the prohibition order
 | A copy of the prohibition order must be filed with the notification of breach. |
| 43Assessment order | Assessment orderSection 53 | * Registry
 | To be completed by Registry staff only. |
| 44Contact variation agreement | Contact variation agreementSection 86A | * Any person who is a party to the care application
 | The agreement must:* be in writing; and
* be signed and dated by parties to the proceedings who are affected by the variation; and
* be registered with the Court within 28 days of being signed.

NOTE: If the contract variation agreement is made less than 12 months after the contact order was made the legal representative of the child must sign the agreement. |
| 45Consent to guardianship order | Consent to guardianship orderSection 79A(3)(d) | * Child/young person
 | The consent to guardianship order must:* be in writing; and
* be signed by the child/young person in the presence of a witness; and
* include a statement from the witness that at least 14 days before the consent was signed, the witness explained the nature and effect of the guardianship order to the child/young person and informed the child/young person in a language and manner that the child/young person can understand.

NOTE: The witness is to be:* the principal of the designated agency responsible for supervising the placement of the child/young person or an employee of that agency who has been directly involved in the supervision of the child/young person’s placement; or
* an Australian legal practitioner.
 |
|  | Registration of care planNo form requiredSection 38(1) | * Any person who is a party to the care plan
 | A care plan may, by agreement, be registered with the Children’s Court. |
|  | Registration of PRCNo form requiredSection 38A(2) | * Any person who is a party to the PRC
 | A PRC must be registered with the Children’s Court but does not require any order of the Court.The PRC must specify the period of the contract to a maximum of 12 months and the circumstances in which a breach will authorise the filing of a contract breach notice. |

## Need legal advice?

It is important that you understand the meaning and effect of the orders you are seeking. Even if you do not have a lawyer, you should get legal advice about the meaning and effect of any orders.

Places where you can get legal advice include:

* [Legal Aid](file:///D%3A/Documents%20and%20Settings/dcroke0/Local%20Settings/Temp/notesC4A9C8/www.legalaid.nsw.gov.au) [www.legalaid.nsw.gov.au] provide legal advice and help at court and can be contacted on 1800 551 589;
* [Aboriginal Legal Service](http://www.alsnswact.org.au/%20) [www.alsnswact.org.au] provide legal advice and help at court to Aboriginal and Torres Strait Islander people and can be contacted on 1800 733 233;
* [LawAccess](file:///D%3A/Documents%20and%20Settings/dcroke0/Local%20Settings/Temp/notesC4A9C8/www.lawaccess.nsw.gov.au) NSW [www.lawaccess.nsw.gov.au] is a free government telephone service that provides legal information, advice and referrals for people who have a legal problem in NSW and can be contacted on 1300 888 529; or
* [Search the Law Society database](http://www.lawsociety.com.au/) [www.lawsociety.com.au] for legal firms and solicitors in your area.