## 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+706+2000+cd+0+N/?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** |
| --- | --- | --- | --- |
| 1  Application initiating care proceedings | Care order  Section 61  NOTE: This application may include applications for:  S 46 ECPO  S 46(4) Extension of ECPO  S 73 Undertakings  S 74 Support Services  S75 Therapeutic/treatment program  S 76 Supervision order  S 79 PR  S 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). |
| 1  Application initiating care proceedings | ECPO  Section 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. |
| 1  Application initiating care proceedings | Extension of ECPO  Section 46(4) | * DCJ | As per application for ECPO. |
| 1  Application initiating care proceedings | Order accepting undertakings  Section 73 | * DCJ | As per application for care order. |
| 1  Application initiating care proceedings | Order for provision of support services  Section 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). |
| 1  Application initiating care proceedings | Order to attend therapeutic or treatment program  Section 75 | * DCJ | As per application for care order. |
| 1  Application initiating care proceedings | Order for supervision or extension of an order for supervision  Section 76 | * DCJ | As per application for care order. |
| 2  Application (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. |
| 2  Application (other than Form 1) | Application for joinder  Section 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. |
| 2  Application (other than Form 1) | Guardian ad litem or amicus curiae  Sections 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) |
| 2  Application (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. |
| 2  Application (other than Form 1) | Review of temporary care arrangement  Section 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. |
| 2  Application (other than Form 1) | Registration of alternative parenting plan  Section 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. |
| 3  Application for rescission/variation of care order | Rescind or vary care order  Section 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. |
| 4  Application for contact order | Contact order  Section 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). |
| 5  Application for PCO | PCO  Section 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. |
| 6  Application for variation or revocation of a PCO | Revoke or vary PCO  Section 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. |
| 7  Application for  assessment order | Assessment order  Sections 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. |
| 8  Application to transfer a child protection order from NSW | Transfer child protection order  Section 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. |
| 9  Application to transfer child protection proceedings from NSW | Transfer child protection proceedings  Section 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. |
| 10  Registration of interstate child protection order in NSW | Interstate child protection order  Section 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. |
| 11  Application to register interstate child protection proceedings in NSW | Interstate child protection proceedings  Section 231P(2) | * DCJ | A copy of the order transferring the proceedings and a copy of the interim order must be filed with the application. |
| 12  Application for revocation of registration of an interstate child protection order or child protection proceeding | Revocation of registration of interstate documents  Section 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. |
| 13  Application 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. |
| 14  Application 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. |
| 15  Specified 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. |
| 16  Court order | Interim/Final court order | * Registry | To be completed by Registry staff only. |
| 17  Care proceedings attendance notice | Care proceedings attendance notice  Section 109A | * Registry | To be completed by Registry staff only. |
| 18  Notice 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 required  Section 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. |
| 19  Notification of breach of an undertaking | Breach of undertaking  Section 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. |
| 20  Notice 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 service  Section 74(2)(a) | * Registry | To be completed by Registry staff only. |
| 21  Notice of proposed extension of a supervision order | Notice of proposed extension of a supervision order  Section 76(6) | * Registry | To be completed by Registry staff only. |
| 22  Notification of breach of supervision order | Breach of supervision order  Section 77(2) | * DCJ | A copy of the supervision order must be filed with the notification of breach. |
| 23  Report to Children’s Court | Report on supervision  Section 76(4)  Report on suitability of arrangements concerning PR  Section 82(2) | * DCJ | The report must be filed with the Registry in accordance with the timetable set by the judicial officer. |
| 24  Notice of address for service or notice of acting | Address for service – legal practitioner  Notice of service – legal practitioner  Rule 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. |
| 25  Notice 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. |
| 26  Notice of assessment order | Notice of assessment order  Section 53 | * Registry | To be completed by Registry staff only. |
| 27  Notice to Authorised Clinician to attend Court | Notice to authorised clinician to attend court  Practice 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. |
| 28  Notice to Authorised Clinician attend DRC or external mediation conference | Notice to Authorised Clinician attend DRC or external mediation  Practice 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. |
| 29  Notice to Authorised Clinician attend joint conference of expert witnesses | Notice to attend joint conference of expert witnesses  Practice 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. |
| 30  Arrest warrant | Warrant  Section 109B | * Registry | To be completed by Registry staff only. |
| 31  Warrant of commitment for refusal to give evidence | Warrant  Section 109R | * Registry | To be completed by Registry staff only. |
| 32  First instance warrant to secure attendance of a witness at the hearing of an application for a care order | Warrant  Section 109L | * Registry | To be completed by Registry staff only. |
| 33  Subpoena | Subpoena  Section 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. |
| 34  Affidavit 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. |
| 35  Affidavit | 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. |
| 36  Form of undertakings | Undertakings  Section 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. |
| 37  Consent form | Consent order for care plan  Sections 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. |
| 38  Registration of alternative parenting plan | Registration of alternative parenting plan  Section 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. |
| 39  Agreed 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. |
| 40  Summary of proposed plan for the child/young person | Summary of the proposed plan for the child/young person  Practice 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. |
| 41  Contract breach notice | Contract breach notice  Section 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. |
| 42  Notification of breach of Prohibition Order | Breach prohibition order  Section 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. |
| 43  Assessment order | Assessment order  Section 53 | * Registry | To be completed by Registry staff only. |
| 44  Contact variation agreement | Contact variation agreement  Section 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. |
| 45  Consent to guardianship order | Consent to guardianship order  Section 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 plan  No form required  Section 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 PRC  No form required  Section 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:/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:/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.