

Information for parents attending care and protection hearings

What is the Children's Court?

The Children's Court is a special court that is involved when Department of Community Services (DoCS) staff believe that a child or young person is in need of care and protection.

The Children's Court also has separate sessions to deal with children who have been charged with breaking the law.

The Children's Court only deals with children and young people. Parents are not 'on trial' in the Children's Court. If an adult is charged with a crime against a child, they go to a different court.

Other courts may also be involved with children. For example, the Family Court deals with residence, contact and guardianship matters.

The Children's Court is not involved in appeals against Children's Court decisions, or if a child is being adopted.

In the city there are separate Children's Court buildings. In the country the Children's Court is held during a special session at the local court.

If DoCS staff removed your child in an emergency they must go to court within a few days because your child cannot stay in care without a court order.

If it is not an emergency you will be given notice that DoCS staff plan to go to court.

What will happen at court?

The person up front is called a magistrate.

The magistrate's job is to make a decision according to the laws about children and young people.

The magistrate wears ordinary clothes, and doesn't wear a wig. You can call them 'your worship' when you talk to them but if you forget, don't worry. People at court are expected to show respect, so you will see some people bow when they leave the court.

The magistrate will hear from DoCS staff about the reasons they are seeking a court order regarding your child.

You will have a chance to tell the magistrate what you think should happen to your child after the DoCS workers finish. This is usually done through your solicitor.

Children often don't attend court every time. Check with DoCS if you are not sure about this. The law says children should be told what is happening at court, and about the court's decisions in a way that fits with their age and understanding.

Information sheet 6 continues over ➤

Information for parents attending care and protection hearings

Continued from page 1...

What can the court decide?

The magistrate can decide whether your child should go home, or be cared for somewhere else.

The magistrate says if DoCS workers were right to remove your child in an emergency. If the magistrate decides your child can't go home yet, he or she can make an Emergency Care and Protection Order or an Interim Care Order.

The magistrate decides if your child needs care and protection. The law lists the reasons that a child might need care and protection and the magistrate has to decide one or more of these apply to your child.

The magistrate can send your child home with conditions. This could mean you signing a commitment (called undertakings) to do, or not do specific things. Or it could mean asking if you agree to supervision by DoCS, or to attending, or taking your child to a service named by the court.

The magistrate says if there should be a plan for your child to go home after changes have happened at home, what needs to change, and what help your child and family should get. (This is a *Restoration Plan*.)

The magistrate can make a *contact order* which states who can see your child and how often.

The magistrate decides if there is enough information to make a final decision (called a *final order*) about your child, or whether you will need to come back to court again. Often you will go back to court several times, and sometimes more. In the meantime the court can make an *interim Care Order*.

The magistrate can say that your child should have an assessment. This is when a doctor, psychologist or other specialist worker reports on whether the child has any special difficulties or needs. The law says that the court doesn't need parents to agree to this.

The magistrate can ask you if you would talk to an independent worker about your ideas about being a parent. After that an assessment report is written for the court. It is up to you to decide if you agree to talk to them.

The magistrate can decide that *parental responsibility* for your child should be changed. Parental responsibility means being the carer and decision maker for your child. This could mean that parental responsibility is given to another family member, to someone who is caring for your child, or to the Minister for Community Services.

The law doesn't talk about children being made wards any more. Instead it talks about allocation of parental responsibility.

Information sheet 6 continues over ➤

Information for parents attending care and protection hearings

Continued from page 2...

How can I be prepared for court?

Check with the court, or with your solicitor if you don't know what time you need to be at court.

You may have a long wait! Take some food because it can be hard to get out to the shops. There's not much for kids to do, so you might want to take some toys.

You may be eligible for a free Solicitor. You can talk to the duty solicitor at the court the first time your child's case goes to court.

A different solicitor will be responsible for your child.

The solicitor can speak in court for you. They will talk to you about what you think the court needs to know about you, and will explain the law and your options to you.

The court is closed to the public. You can take a support person into court, as long as no one objects. For example, if a child is frightened of someone, they would not be an acceptable support person.

You or your solicitor will get copies of court papers and reports that the magistrate will read. It can be hard to read that stuff, but if you want to understand what is happening in court you need to know what the court is being told.

If you can't understand the reports, ask someone you trust, (eg your solicitor, or a worker) what they mean.

The court makes big decision about kids. Any parent would feel scared or angry if they had to cope with that, and there may be times when it all feels too much. It can help to keep thinking about how you can show your concern for the child, and the ways in which you can act to keep them safe.

Going to court is stressful. Before court you may feel like having a drink or taking something to help you stay calm. It is important that you don't drink or take drugs. If you do, it is likely that people will think that you can't look after your children.

How do I talk to my children about going to court?

Court can be confusing for children and young people as well as adults. It is important your child knows that they have not done anything wrong.



It can be helpful to talk about the court's job making decisions about where children live, and how they should be looked after.



You may feel like there is no one you can talk to apart from your child. Children are not old enough to support parents when they are really upset. Try to find an adult to talk to who can give you some support.



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Don't put pressure on your child to take sides. It isn't fair on them, and may make workers concerned about your relationship with your child.



Information sheet 6 continues over ➤

Information for parents attending care and protection hearings

Continued from page 3...

It's the Law

- The main law discussed in this sheet is the Children and Young Persons (Care and Protection) Act, 1998 (Sections 43-48 and 71). You can check it out on www.austlii.edu.au. Look at the alphabetical index for the New South Wales Consolidated Acts. The Act can also be found on the DoCS website www.community.nsw.gov.au
- Local libraries can assist with internet access.

Need more information?

Some of the words in this sheet may be new to you. If you want to know about any words that are underlined, look where you found this sheet for the Partnership with parents – *Word list*.

Other information sheets in this series include:

- *Keeping children safe from harm – the law in New South Wales*
- *Promoting safety – Agency responsibilities to children and parents*
- *Will they take the kids?*
- *When a report is made*
- *Going to case meetings with DoCS*
- *My child is in voluntary foster care*
- *My child is in foster care through the court*
- *Getting my children back home – Information for parents about restoration*
- *Word list*

Protecting children and young people from harm is everyone's responsibility. We are committed to working with families and other organizations to keep children safe.

This sheet has been prepared for general information and should not replace legal advice.