



# **Section 82 Report on suitability of arrangements concerning parental responsibility:**

**Where case management  
responsibility has been  
transferred to a funded agency**



## Background

The Children's Court may make an order allocating parental responsibility of a child or young person to someone other than a parent (including the Minister for Community Services) under section 79 of the *Children & Young Persons (Care & Protection) Act 1998*.

Where the Children's Court reallocates parental responsibility, placing the child or young person in Out-of-Home Care, the Magistrate may order a written report within 12 months about the care arrangements for the child or young person under section 82 of the *Children & Young Persons (Care & Protection) Act 1998*.

Where a child or young person has been placed in Out-of-Home Care by a court order, the responsibility for case management may be transferred from Community Services to an agency that is receiving all-inclusive funding<sup>1</sup>.

Community Services identifies cases that are eligible for case management transfer by using the criteria outlined in the [Case Management Policy](#). Assessment for eligibility is undertaken by the CSC with current case management responsibility for the child or young person.

As outlined in the [OOHC Service Provision Guidelines](#) and Community Services [Case Management Policy](#) one of the principles that drive case management practice is that case management should occur as closely as possible to casework for the child or young person.

As case management includes assessment, planning, implementation, monitoring and review to achieve identified goals for a child or young person, agencies with case management responsibility may need to prepare an update report for Community Services to attach to a [Report to Children's Court \(Sec 76 \(4\) & 82 \(1\)\)](#) (form 10A) where this has been ordered by the Children's Court.

## Child & Family Regional Units

As outlined in the [Child & Family Regional Unit Functions Paper](#) Child & Family Regional Units (CFRUs) have been established in all regions of Community Services to be the key interface between CSCs, the Helpline, and funded agencies. CFRU functions include placement and service matching, maintaining knowledge of vacancies, and coordinating cases eligible for case management transfer.

The function of each CFRU also includes coordinating all aspects of parental responsibility where case management has been transferred to a funded agency, and

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<sup>1</sup> The provision of a rolled up funding amount incorporating all organisational costs including staff, carer and child related costs.

non-delegable aspects of parental responsibility where parental responsibility has been transferred to an agency.

## Preparing a Section 82 Report for the Children's Court

### What does a Section 82 Report contain?

Section 82 Reports contain:

- » a covering [Report to Children's Court \(Sec 76 \(4\) & 82 \(1\)\)](#) (form 10A)
- » a written assessment attached detailing progress in implementing the care plan, including progress towards the achievement of a permanent placement.
- » the order requesting the section 82 report will detail any specific issues that are to be addressed in the report.
- » a copy of the current order(s) attached

For further guidance about the structure and content of Section 82 Reports see [Tips for completing Section 82 Reports](#).

### When is a Section 82 Report required?

Where the Children's Court makes an order allocating parental responsibility for a child or young person, the court may also make an order for a Section 82 Report on the suitability of arrangements concerning parental responsibility.

The order will specify when the report needs to be provided to the court. This will be a date or a period within 12 months of the date when final orders are made.

Where case management responsibility for a child or young person has been transferred to a funded agency, the Section 82 Report is prepared by the funded agency and forwarded to Community Services for endorsement. If endorsed, Community Services will file the Section 82 Report with the Children's Court. If not endorsed, Community Services will liaise with the agency about any concerns it has about the report.

### Who may be provided with a copy of a Section 82 Report?

If the report was ordered before 24 January 2010, the report must be filed with the Court. It is only served upon any other party if this is stated in the Court order. Otherwise the other parties will only be sent a copy of the report if the Court, after receiving and considering the report, makes an order/direction that the report be released to the parties.

If the report was ordered after 24 January 2010 the report must be given to each of the other parties or distributed as written in the final order.

### **What happens after the Section 82 Report is given to the Children's Court?**

Where the Children's Court is not satisfied that proper arrangements have been made for the care and protection of the child or young person concerned, the Court notifies each party to the proceedings within 30 days of receiving the report. Each party is invited to make an application to vary or rescind the order under section 90 of the Act.

If a party decides to make an application to vary or rescind an order, the application must be made within 30 days of the party being notified by the Court.

The Children's Court cannot, however, rescind or vary the order, or make a new order allocating parental responsibility, on its own motion.

If the matter is to be listed for review by the Court, the registry will prepare and serve a notice of listing upon the parties.

An agency with case management for a child or young person may recommend to Community Services that an order is rescinded or varied if they can provide sufficient evidence to support their recommendation and the application to vary or rescind the care order.

See [Varying or rescinding a Children's Court order by a funded agency, parent, or other interested party \(under section 90\)](#)

### **Engaging families**

Creating respectful, effective and collaborative working relationships is fundamental to protecting children and young persons, which commences at the first point of contact with a person and continues throughout the case management process.

Engaging people who display evasive, resistant, or hostile behaviour can be difficult, and is an important area of practice due to the impact it can have on outcomes for children.

### **Who does what?**

To assist with understanding the process for a Section 82 Report to the Children's Court, the following steps have been developed:

- » preparing a Section 82 Report
- » filing at the Children's Court
- » serving a copy to all parties

Regions may determine, based on available resources, that some or all casework tasks relating to an application to vary or rescind an order are with a CSC as opposed to the CFRU.

<b>1. Preparing a Section 82 Report</b>	<b>By</b>
1.1 Advise the agency at the Case Management Transfer Meeting where a Section 82 Report has been ordered by the Children’s Court (or as soon as practicable, eg where advised by a Court Liaison Officer), including the Court due date and any specific issues required by the court.	CFRU
1.2 Ensure the Agency Case Manager has a copy of: <ul style="list-style-type: none"> <li>» <a href="#">Tips for completing Section 82 Reports</a></li> <li>» this information tool “Section 82 Reports: Where case management has been transferred to a funded agency”</li> <li>» previous Section 82 Reports, where not already provided at the Case Management Transfer Meeting and considered appropriate</li> </ul>	CFRU
1.3 Complete the Section 82 Report addressing the items to be included in the Court report as written in the care order and including an assessment of progress in implementing the care plan, and progress towards the achievement of a permanent placement.	Agency
1.4 Forward the Section 82 Report and any attachments to the CFRU by email two weeks prior to the Court due date to allow time for the relevant Care Legal Support Legal Officer to review.	Agency
1.5 Complete the covering <a href="#">Report to Children’s Court (Sec 76 (4) &amp; 82 (1))</a> (form 10A), write a report which explains the background to the agency’s role with the child / young person, indicates that CS is endorsing agency report and has addressed it’s obligations in respect to the Minister’s exercise of parental responsibility. Attach an update report and a copy of the current care order(s) to the report.	CFRU
1.6 Forward the Section 82 Report and CFRU report to the relevant Care Legal Support Legal Officer for settlement prior to filing.	Legal Services

<b>2. Filing at the Children’s Court</b>	<b>By</b>
2.1 File the original copy of the Section 82 Report form and the accompanying report with the Court registry at which the original order for parental responsibility was made by the Court due date	CFRU

<b>3. Serving a copy to all parties</b>	<b>By</b>
3.1 Provide a copy of the filed report to the NGO	CFRU
3.2 Give the documents to parties in accordance with the Magistrate’s directions.	Agency
3.3 Retain a copy of the report for the child or young person’s paper file	Agency and CFRU

## Dispute resolution

As outlined in the OOHC Service Provision Guidelines, where a dispute arises from an agency, another service provider, or from a child, young person or other significant person, there is a dispute resolution process to be followed.

This process is based on the *Interagency Guidelines for Child Protection Intervention 2006*, and occurs via the CFRU where case management responsibility has been transferred to an agency.

## Resources

Related forms:

- » [Report to Children's Court \(Sec 76 \(4\) & 82 \(1\)\)](#) (form 10A)
- » [Tips for completing Section 82 Reports](#)

Related guidelines:

- » [Case Management Policy](#)
- » [Child & Family Regional Unit Functions Paper](#)

## Further information

For further information about Section 82 Reports please contact your local Child & Family Regional Unit (CFRU).