



Family &
Community
Services

Parenting programs and the court

*The Children's Court and the Children and Young Persons
(Care and Protection) Act 1998*

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Parenting programs and the court system



Some key principles – under the Care Act

- In any action or decision concerning a particular child or young person, the safety, welfare and well-being of the child or young person are paramount. (s. 9(1))
- In deciding what action it is necessary to take (whether by legal or administrative process) in order to protect a child or young person from harm, the course to be followed must be the least intrusive intervention in the life of the child or young person and his or her family that is consistent with the paramount concern to protect the child or young person from harm and promote the child's or young person's development. (s. 9(2)(c))

Some key principles

Principles of intervention – s. 36

1. In deciding the appropriate response to a report concerning a child or young person, the Secretary must have regard to the following principles:
 - a) The immediate safety, welfare and well-being of the child or young person, and of other children or young persons in the usual residential setting of the child or young person, must be given paramount consideration.
 - b) Subject to paragraph (a), any action must be appropriate to the age of the child or young person, any disability the child, young person or his or her family members have, and the circumstances, language, religion and cultural background of the family.
 - c) Removal of the child or young person from his or her usual caregiver may occur only where it is necessary to protect the child or young person from the risk of serious harm.

Some key principles

Evidence of prior alternative action – s.63

When making a care application, the Secretary must furnish details to the Children's Court of:

- a) the support and assistance provided for the safety, welfare and well-being of the child or young person, and
- b) the alternatives to a care order that were considered before the application was made and the reasons why those alternatives were rejected.

Permanent placement principles – s. 10A

- a) the first preference - is for the child or young person to be restored to the care of his or her parent (within the meaning of section 83) or parents so as to preserve the family relationship,
- b) the second preference - is guardianship of a relative, kin or other suitable person,
- c) the next preference - is (except in the case of an Aboriginal or Torres Strait Islander child or young person) for the child or young person to be adopted,
- d) the last preference - is for the child or young person to be placed under the parental responsibility of the Minister under this Act or any other law,
- e) if it is not practicable or in the best interests of an Aboriginal or Torres Strait Islander child or young person to be placed in accordance with paragraph (a), (b) or (d), the last preference is for the child or young person to be adopted.

Early intervention and restoration tools

- Alternative dispute resolution including family group conferences - s. 37
- Registered care plans – s. 38
- Parent responsibility contracts – section 38A
- Parent capacity orders – s. 91B
- Temporary care agreements – s.151
- Request by court to provide services – s.85

Keeping children safe – some tools

Other orders

- Medical examination of children in need of care and protection – s. 173
- Undertakings – s. 73
- For support services – s. 74
- Therapeutic treatment for child/young person or parent – section s. 75
- Prohibition orders – s. 90A

ADR, FGC and registered care plans (s.38)

- A care plan, developed by agreement in the course of ADR, may be registered with the Children's Court.
- The care plan can:
 - Allocate parental responsibility
 - Set out parenting programs that parents agree to complete
 - Set out minimum outcomes to achieve

Registered care plans

Consent orders can be made by the court provided:

- the proposed order will not contravene the principles of this Act, and
- the parties to the care plan understand its provisions and have freely entered into it, and
- the party has received independent advice concerning the provisions to which the proposed order will give effect.

Parent responsibility contracts – s. 38A

A parent responsibility contract is

- a) an agreement between the Secretary and parent or carer that contains provisions aimed at improving parenting skills and encouraging greater responsibility for the child or young person
- b) Can be with an expectant parent aimed at improving the parenting skills of the prospective parent and reducing the likelihood that the child will be at risk of significant harm after birth.

PRCs

To be enforceable must:

- be in writing and signed
- be in the form prescribed by the regulations
- be registered with the Children's Court
- specify the period (not exceeding 12 months) during which the contract will be in force
- commence on the date on which the agreement is registered with the Children's Court, and
- specify the circumstances in which a breach of a term of the contract will authorise the Secretary to file a contract breach notice with the Children's Court.

PRCs

Can make provision for:

- participation in courses aimed at improving the parenting skills of any party to the contract - including, for example, parenting programs, behavioural management and financial management
- attendance at treatment for alcohol, drug or other substance abuse during the term of the contract
- attendance at parenting programs
- attendance at counselling
- alcohol or drug testing
- permitting information about the contract (including compliance with the contract) to be shared between persons and agencies
- monitoring of compliance with the terms of the contract

Breaches of a PRC

- FACS may file a contract breach notice that sets out the details of the breach
- PRC is terminated on filing notice
- The filing of the notice is an application for the care orders specified in the notice

Parent capacity orders – s. 91B

- Is a court order requiring a parent or primary care-giver of a child or young person to attend or participate in a program, service or course or engage in therapy or treatment aimed at building or enhancing his or her parenting skills
- Can be made:
 - on the application of FACS, or
 - on the Children’s Court’s own initiative if it determines under section 90A that a prohibition order has been breached by the parent or primary care-giver
 - by consent (eg after referral to ADR by the court)

PCOs

- The court can only make a PCO if the court is satisfied that:
 - there is an identified deficiency in the parenting capacity of the parent or primary care-giver that has the potential to place the child or young person at risk of significant harm and it is reasonable and practicable to require the parent or primary care-giver to comply with the order, and
 - the parent or primary care-giver is unlikely to attend or participate in the program, service or course or engage in the therapy or treatment required by the order unless the order is made.
- A parent capacity order may be made whether or not a care application or care order has been made and at any stage in care proceedings.

Statistics

- From Nov 2015 to Jan 2017:
 - PRCs - approximately 21 PRCs registered
 - FGCs – approximately 63 conferences agreed to
 - PCOs - 4 applications made

OOHC Reforms

- 18,659 children in OOHC in NSW and growing
- Their Futures Matter – family preservation and restoration models
 - Multisystemic therapy for child abuse & neglect (MST-CAN)
 - Functional family therapy (FFT-CW)
 - \$90m investment over 4 years
 - Delivered by NGOs

OOHC Reforms

- Needs based supports – wrap around support packages
- Target = 2 year turnaround to find a permanent home for children in OOHC
- Can utilise PRCs, PCOs, registered care plans including referrals to parenting programs
- Target – within 3 years all children in or at risk of entering OOHC will be receiving a coordinated package of supports based on their needs.

Questions
