



Child Protection Orders: Respondent's Kit

Helping you respond to a protection order

Do I have to notify the other parties?

Yes, you need to serve a copy of your court papers with the court stamp on them. You must give the copy of the court papers to all other parties. For example, the Department, other respondents, lawyers and the child representative (if there is one).

Once you have handed them a copy, you will need to complete the Endorsement of Service page, stating who was served and when. You will need to do this for each copy served on each party.

You may arrange for somebody to serve the court papers for you. You may post the papers to each respondent by registered post.

Once all documents have been served you must lodge the Endorsement of Service at the court's registry counter before your next court date. These pages will show the magistrate how and when your application was served on each party.

Are there any court fees?

No. There is no fee to lodge the forms.

What happens at the court hearing?

On the date and time shown on page one of the Protection and Care of Children application form the court will hear the application. There may be different court dates for the DCP application and your interim application.

If you apply for interim orders on the day of the hearing, the court will ask you about the orders you want and ask the Department and Child Representative (if there is one) for their views on whether your orders should be made. The court may not deal with your application on the day. It may be adjourned to be heard with the Department's protection application.

CONTACT

Children's Court of WA
Department of the Attorney General
160 Pier Street
PERTH WA 6000
Phone 9218 0100
Fax 9221 1705
Email childrencourt@justice.wa.gov.au

Legal Aid (Protection Services)
C/- Children's Court of Western Australia
Department of the Attorney General
Interview Rooms 1-3
160 Pier Street
PERTH WA 6000
Phone 9218 0160, 9218 0159
or 9218 0158

Legal Aid WA
55 St Georges Terrace
PERTH WA 6000
Phone 1300 650 579
Fax 9325 5430

Department of the Attorney General
Phone 13 67 57
Website www.dotag.wa.gov.au



Court and Tribunal Services Division
PCP-PAK | JUN09 | JUN09/2000



“In performing a function or exercising a power under this Act in relation to a child, a person or the Court must regard the best interests of the child as the paramount consideration.”

Children and Community Services Act 2004



Is this kit for me?

If you have been given an application for a protection order by the Department for Child Protection (DCP), this kit will provide useful information about how to respond.

Do I need a lawyer?

You should get legal advice as soon as possible. You can contact:

- your local Community Legal Centre
- a private solicitor
- Legal Aid WA - 1300 650 579
- Aboriginal Legal Service - (08) 9265 6666 or 1800 019 900

You should seek legal advice before completing any forms.

Do I need to complete any forms?

You will need to complete forms if you want to:

- respond to the orders sought by the Department for Child Protection
- have orders put in place while the matter is being decided (interim orders). For example, accommodation and contact.

If you want to respond to the orders

You can complete an affidavit form and write down information that will help the court make a decision about your family situation. Before you do this you should get legal advice.

To start, you can list the numbers of any orders you agree with. For example, “I agree with paragraphs 1, 4 and 6 of the Department’s orders sought.”

Write down all the facts relevant to matters where you disagree with the information DCP has written in its affidavit. Give each paragraph a separate number.

If you want interim orders

The Department’s application may not be decided on the first court date. While the case is in the process of being decided, you may ask the court to make interim orders (these are orders that will last until the final hearing).

You will need to complete a Protection and Care of Children application form and affidavit. Write the orders you want on page two of the application form. Listed below are examples of the type of orders you may seek:

- The child to remain with the mother.
- The child to be placed with Jane Smith.
- The mother to have contact with the child each Wednesday between 3.30pm-5.30pm and each Sunday between 10am-4pm.

Completing your application form

To complete an application, fill in the following:

Child: Fill in the name, date of birth, ethnicity and tick which gender.

Applicant details: Complete your name, address and contact details.

Respondent(s) details: These are any other people already involved in the application. One will be the Chief Executive Officer of the Department for Child Protection. Complete each respondent’s details.

Child Representative: If a magistrate makes an order for a child representative in court, the order is given to Legal Aid who makes the appointment. Once the child representative is appointed, they lodge contact details with the court.

Application type: Tick the type of application. Only the Department can seek a warrant or protection order.

Grounds for application: You may need to complete this section on your application form depending on the type of orders sought.

Orders sought: Complete the orders you want the court to make. See examples above.

Remember to sign and date the application form.

If your application needs to be heard urgently, you will need to attach a letter explaining the reasons for the urgency so the court can consider your request.

Do I need to file an affidavit?

You must file an affidavit in support of any application you make to the court. This gives the court your information and why you need the orders. Make sure you swear/affirm and sign your affidavit in front of a Justice of the Peace before lodging it with the court. To find a Justice of the Peace, visit www.dotag.wa.gov.au

What goes into my response to the case outline?

You should receive a case outline from DCP within 21 days of the first court date or by a date ordered by the court.

You should consider responding to the information the Department has written about your family. This is your chance to state the facts you want the court to consider. You may file a Response to Case Outline form. You should get legal help before doing this.

What happens after I have completed the forms?

The forms (including any affidavits) need to be photocopied. You need the original and one photocopy for each party including the child representative.

Return to the court and file all documents with court staff (this is called filing the documents). Court staff will return the photocopies with a court stamp on each to show they have been filed. They will also write a court date and a file number on the forms.