

FIRST STEPS IN THE COURT PROCESS

PARENT PEER SUPPORT PROJECT



When your children are removed from your care, the Department of Communities and Justice (which used to be known as Family and Community Services or FACS) have to apply to the Children's Court for court orders.



The 'care application' has to be lodged with the Court within three working days of your children being removed.

Community Services must give you a copy of the application. You should read it carefully. It will state the time and date of your first court appearance, and the address of the Court.



It is very important that you attend Court. If you cannot attend for a good reason such as illness you must telephone the Court and let them know, and make sure you get a certificate to prove why you could not attend.

The main decision to be made on the first day in Court is who should have temporary powers to make decisions about your children, including where your children will live, until your case finishes. This is called 'interim (short term) parental responsibility'.



Legal Aid will provide you with a 'duty lawyer' to help you on your first day at Court. Usually the duty lawyer will continue to represent you for the rest of your case. If they cannot do this or you would like another lawyer, the duty lawyer can help you to arrange a lawyer to represent you in your case.



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If the Department bring your matter to the Children's Court, they must explain to the Court why this is necessary. To do this, the Department will provide the Court with an initial Report setting out their side of the story and in which there maybe allegations made against you.



You don't really take part; the solicitor just does it all. They don't have an opportunity either really to say things. There's a certain time and a place for everything to be said and each time he goes for a certain issue and that's all they deal with. They don't get a chance to get up and say other stuff either.

You will be provided with a copy of the initial Report. The Court will give you time to work with your lawyer to respond to the things which have been said about you and your family, and to put together any evidence you want to use.



I turned up every day. As I had to... That's all I could do really. My solicitor spoke for me. I didn't get to get up and have my say as I would like to.

You will be given time to meet with a lawyer and decide if you wish to prepare a written response which is called an 'affidavit'. The Court will make a timetable for all parties to do various things, including filing affidavits, before the matter comes back to Court again.



Judicial Commission
of New South Wales

This website has a summary of the legal process
https://www.judcom.nsw.gov.au/publications/benc_hbks/local/care_and_protection_jurisdiction.html



The Family Inclusion Strategies in the Hunter website is developed for parents - find out more information and about events for parents with other parents
<http://www.finclusionh.org>

Legal Aid
NEW SOUTH WALES

Legal Aid has a great website with lots of useful information:
<https://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/kids-in-care>



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