

# ASKING THE COURTS FOR YOUR CHILDREN HOME

A Resource for Parents written by Family Inclusion Strategies Hunter Peer Parent Expert

## 1. When can you ask for orders to be changed?

- If you believe **things have changed** since the Children's Court made final orders, you can ask the court to change them.
- This is called a **Section 90 application**.
- Get legal advice early from legal aid if you are considering this.

## 2. You must show a "significant change in circumstances"

- You need to be able to evidence that there has been a **significant change in circumstances** since the final orders were made.
- The magistrate will:
  - Look at **why your children were removed**, and
  - Decide whether things have changed **enough** to consider changing the orders.

## 3. You must ask the court for permission first ("leave")

- Before the court will hear a Section 90 application, you must ask for permission. This is called asking the court for **leave**.
- The magistrate will only give leave if they believe there has been a **significant change** since the final orders.

## 4. What documents you need

If you are asking for leave, you will need to file:

- A **Section 90 application**, and

- An **affidavit**

The affidavit is your written evidence explaining:

- What has changed since the final orders were made, and
- Why the court should allow your application to go ahead.

Your lawyer can help you prepare both documents.

## 5. What to include in your affidavit

Your affidavit may include:

- What you have done differently since your children were removed
- How your children have been going
- What contact you have had with your children
- What your plans are for your children if the court changes the orders

Evidence from services, workers, or organisations you have been working with can also help support your case.

## 6. What happens if the court gives leave

If the court gives you leave, the magistrate will decide the next steps. This may include:

- Orders for a **care plan**
- A **Dispute Resolution Conference (DRC)**
- An **assessment report**

If there is still no agreement, there may be a **hearing**, where the magistrate makes a final decision.

DCJ information: <https://dcj.nsw.gov.au/children-and-families/nsw-child-protection-guide-for-families/restoration---bringing-your-child-home.html#Going5>

Legal Aid Information:

<https://publications.legalaid.nsw.gov.au/PublicationsResourcesService/PublicationImprints/Files/547.pdf>

**“Writing my affidavit was exhausting. I had to revisit everything that led to my kids being removed. But it was also the first time I could clearly show what had changed and how hard I’d worked to rebuild my life.”**

**“I had done everything they asked. Stable housing, programs, clean reports. I thought the court would just see that. I didn’t realise I had to prove there was a ‘significant change’ since the final orders. That was hard to hear but knowing it earlier helped me prepare better and gather all my evidence.”**

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