

WHAT HAPPENS WHEN YOUR CHILDREN ARE REMOVED

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

What Happens When Your Children Are Removed

1. **DCJ must apply to the Children's Court** for court orders, this is called a care application

2. DCJ must give you a copy of the **care application**.

You should read this carefully. It will include:

- o The **date/time/location** of your first court appearance

3. **The care application must be lodged quickly - within three working days** of your children being removed.

4. **The main decision on the first court day is who will have temporary powers to make decisions about your children**, including where they live, while the case continues.

This is called **interim (short-term) parental responsibility**.

5. **Legal Aid will help you on the first day**

Legal Aid NSW will provide a **duty lawyer** to help you on your first day at Court.

- o Often, the duty lawyer will continue to represent you for the rest of your case.

- o If they cannot, or if you would like a different lawyer, the duty lawyer can help you arrange ongoing legal representation.

6. **It is very important that you attend Court**

You should attend Court on the date listed in the care application.

- o If you **cannot attend for a valid reason**, such as illness, you must:

§ Telephone the Court to let them know, and

§ Get a **medical certificate or other proof** explaining why you could not attend.

7. DCJ must explain their reasons to the Court

To do this, DCJ provides the Court with an **initial report**, which sets out:

- Their concerns
- Their version of events
- Any allegations made about you and your family

8. You will receive a copy of DCJ's report

This document can be **upsetting to read**, as it may include statements you disagree with and reports made by people you weren't aware of.

9. You will have time to respond

The Court will give you time to:

- Meet with your lawyer
- Respond to what DCJ has said
- Gather any evidence you want the Court to consider

10. You may prepare an affidavit

With your lawyer, you can decide whether to prepare a written response called an **affidavit**. An affidavit allows you to:

- Tell the Court your side of the story
- Respond to DCJ's concerns
- Explain your family's strengths and what you are doing to keep your children safe

11. The Court will set a timetable

The Court will make a timetable for everyone involved, including deadlines for:

- Filing affidavits
- Providing reports

- o Returning to Court for the next hearing

Legal Aid Court Process:

<https://publications.legalaid.nsw.gov.au/PublicationsResourcesService/PublicationImprints/Files/546.pdf>

DCJ Court <https://dcj.nsw.gov.au/children-and-families/nsw-child-protection-guide-for-families/if-your-child-needs-to-come-into-care/the-court-process.html>

Absec Know your Rights. <https://absec.org.au/know-your-rights/#guides>

"Reading the care plan wasn't hard because of the paperwork, it was hard because of the things written about me. Seeing my parenting reduced to 'risks' and 'concerns' felt humiliating and cruel. Some of it wasn't true, some of it had no context, and all of it hurt. I didn't expect how much shame would come from reading words written by people who didn't know me as a parent."

"Walking into court on the first day felt terrifying. I didn't want to go, I was shaking and felt sick with fear. But I'm glad I showed up. That's where I met my solicitor, who explained what was happening and stood beside me. If I hadn't gone, I would have felt even more alone."

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