

Preparing for Court

This factsheet is based on the Preparing for Court workshop developed for the Permanency Support Program (PSP) Learning Hub presented by Jane Smith.

Children's Court care proceedings are a key mechanism for determining the safety, welfare, and long-term care arrangements for children and young people (children). PSP practitioners play a critical role in supporting these decisions through the provision of accurate, timely, and evidence-based information.

Care proceedings should always be a **last resort**. Before court action is taken, it must be demonstrated that reasonable steps have been taken to prevent removal and support families to safely care for their children. This includes the use of active efforts and consideration of less intrusive alternatives.

Understanding the Legal Framework

The Children and Young Persons (Care and Protection) Act 1998 (Care Act) is the primary legislation governing care proceedings. It outlines the roles, responsibilities, and powers of Department of Communities and Justice (DCJ) and the Children's Court, as well as the threshold for intervention and the orders the Court can make.

Active Efforts and Prior Alternative Action

Before initiating care proceedings, DCJ must demonstrate that Active Efforts have been made to:

- Prevent entry into care
- Restore children to family where possible
- Engage family, kin, and community

Active efforts must be:

- Timely
- Purposeful
- Culturally appropriate

- Done in partnership.

Threshold for Court Intervention

The Court must determine whether a child **is in need of care and protection**. This is the legal threshold required for intervention. This assessment is based on evidence available at the time of removal or assumption and must meet the legislative grounds set out in the Care Act. For more information about the Care Act, see the [Navigating the Care Act](#) webinar.

The Children's Court Process

Care proceedings generally occur in two stages.

1. Establishment Stage

The Court determines whether the child was in need of care and protection.

2. Placement Stage

The Court considers:

- Whether there is a realistic possibility of restoration within a reasonable timeframe
- if not, what long-term arrangement will best meet the child's needs
- this may include [restoration](#), [guardianship](#), adoption, or long-term out-of-home care (OOHC).

Evidence in Care Proceedings

Court decisions rely on evidence, not opinion. Evidence should be:

- Clear and factual.
- Objective.
- Timely.
- Linked to risk and safety.

Evidence should describe **what was observed, what actions were taken, and the impact on the child**, rather than opinion or assumption. For practical guidance, see: [Affidavit Checklist](#).

Role of PSP Practitioners

PSP practitioners contribute by:

- Providing accurate and timely information
- Supporting care planning and permanency
- Preparing reports and affidavits (via DCJ)
- Attending court where required.

This may include documenting placement observations, supporting family time, and contributing to permanency assessments. PSP involvement in proceedings is supported through **Practice Note 17**, which enables the provision of evidence and participation in Court processes.

Timeframes and Decision-Making

- Care applications are filed shortly after removal
- Matters aim to be finalised within 9–12 months
- Restoration decisions must occur within legislated timeframes

Delays can significantly impact children's outcomes.

Key Message

Children's Court decisions rely on the quality of information provided. **Strong documentation, demonstrated active efforts, and evidence-based practice directly influence outcomes for children.**