

Restoration Pathway for Children Entering the Care System

The Legal Process

This factsheet provides an overview of the legal process when children and young people (child) enter care under the Permanency Support Program (PSP).

Restoration is the default permanency goal for all children who enter care. Prioritising restoration recognises the child's basic human right to be with their parents (providing it is safe for them to do so). Casework and assessments occur to help parents change and assist the Children's Court (the Court) to decide whether restoration is a realistic possibility for the child.

Read our suite of documents on restoration for more information about why it is important and how casework can support restoration.

After the Department of Communities and Justice (DCJ) makes a decision that a child is not safe at home and needs to enter care, they file an application with the Court seeking a care order. DCJ is the only agency that can do this.

The idea of bringing a child into care, while planning to restore them is not new. Under the PSP, what is different is:

- The level of investment in supporting parents to make the necessary changes so their child can return to their care.
- The introduction of shorter-term care orders (STCO) that recognise children's timeframes for needing permanency and provide caseworkers with timeframes in their work to support parents to make changes.
- The growing involvement of PSP Service Providers in the legal process.

For DCJ and the Court to consider restoration as a 'realistic possibility' a parent does not need to have achieved all the goals in their Family Action Plan for change (FAP). However, they need to be making progress towards those goals and demonstrate insight into the safety and risk concerns that lead to their child's removal.

See [Case Planning in Preservation and Restoration](#)

Restoration: Decision-Making Timeframes

Decisions about restoration are urgent. They must occur within child-centered timeframes.

When the Court Must Decide on Restoration

Once an interim order is made the Court needs to decide if restoration is a realistic possibility within:

- 6 months for a child under 2 years
- 12 months for all other children.

Remember that these timeframes are for deciding whether restoration is a realistic possibility. Parents are not expected to have completed every task in the Family Action Plan/case plan or have fully addressed the risk issues which led to their child entering care for restoration to be considered realistic within this timeframe.

What Does it Mean for the Court to Decide that Restoration is a Realistic Possibility?

It means that the child is realistically able to be returned safely to their parents care within the next two years.

The court considers this 24-month period to start at the time the Court is asked to make a final order.

In order to understand the pathway to restoration for children entering care, casework staff must also understand the stages in Care proceedings.

Stages of Care Proceedings when Children Enter Care

1. DCJ will file an Application Initiating Care Proceedings (s61) in the Court within 3 days of the child's removal
 - DCJ, the child's legal representative and the parents will be party to proceedings. Service providers are not party to proceedings, except in exceptional circumstances if they seek the permission of the Court to join.

Service providers do however play an important role in gathering critical evidence to support DCJ's application.

- Because the service provider is generally not a party to legal proceedings, they can only be given access to Court documents if DCJ seeks permission from the Court to share them. This includes Court clinician assessments or documents filed by parties other than DCJ.
- The service provider with primary case responsibility still needs to have important information provided to them, even if they are not a party to the proceeding. DCJ can share with service providers the Court documents that DCJ created. This includes affidavits and the application initiating Court proceedings.

At the first mention the Magistrate will consider any interim orders that are needed. The Magistrate will often make an interim order placing the child under the Parental Responsibility of the Minister (PRM) during the Court proceedings. The Magistrate does not need to make a finding that the child is in need of care and protection to make an interim order of PRM.

2. After the interim order is made, DCJ has two weeks to file a 'Summary of Proposed Plan (SOPP)' to the Children's Court. DCJ should involve Service Providers in the development of the SOPP.¹
 - The SOPP is a short proposal of the permanency plan for a child that must take account of the Permanent Placement Principles. This plan can change over time and is finalised in the Care Plan, subject to the parent/s progress against goals in the Family Action Plan for Change (FAP).
3. The court will need detailed information on the wellbeing of the child and the progress of the parents against the FAP. This will commonly be collated in an affidavit written by the PSP Service Provider. The Court may need more than one update.

The Court can require the parties to the proceeding to participate in Alternative Dispute Resolution (ADR), usually a Dispute Resolution Conference (DRC). This will happen when the parties don't agree about what is in the child's best

¹ The child's OOHC Case Plan should reflect the goal proposed in the SOPP. The child's OOHC Case Plan is required within 30 days of the child entering care.

interests. PSP casework staff are often invited to attend or provide updates to DCJ as they hold the most up-to-date information on the child and family. These are different to Family Group Conferences that DCJ or PSP Service Providers may organise at any time as part of their casework.

4. The Court may order a Court Clinician's Assessment (CCC) or another type of parenting capacity assessment.
5. The DCJ and service provider caseworkers will develop a Care Plan together with the family. Remember that a Care Plan is different to a Case plan. A Care Plan for a child whose permanency goal is restoration will include details of how restoration will be achieved (a restoration plan). For more information see [Case Planning in Out-Of-Home Care](#) and [Case Planning in Preservation and Restoration](#).
6. The Court will review all the information gathered and make a final order. When the Court considers that restoration is realistic, the final order is often a shorter-term Court order allocating parental responsibility to the minister for 24 months. In some cases, there will be a hearing before the Court makes final orders.

When Restoration is Considered 'Realistic'

Restoration is considered realistic if:

- the child has recently entered care and
- the 'Care Plan' seeks a permanent plan of restoration and
- the Court has determined this as being a realistic plan.

Then restoration is a realistic possibility and caseworkers will need to work with everyone to help make this happen.

The Magistrate will usually make a Shorter-Term Care Order (STCO). A STCO is for a maximum period of up to 24 months (unless exceptional circumstances exist) and is based on the time it will take to achieve restoration for the child.

Shorter Term Care Order (STCO) and the PSP

Under a STCO, PSP Service Providers, DCJ and parents have a period of time (as per the length of the STCO) to achieve restoration. The child needs everyone to work with urgency so that they have a safe and permanent home within this timeframe. Note that children can be returned to the care of their parent/s up to 12 months before the order expires.

PSP casework teams are given extra funding to help the family achieve restoration.

If the parents do not make the necessary progress and restoration is no longer realistic or in the child's best interests, DCJ will need to file a s.90 application asking the court to consider an alternative permanency goal: guardianship, adoption or long-term care. DCJ may also seek more time to achieve restoration where special circumstances exist.

The Role of the PSP Service Providers in Care Proceedings

PSP service provider casework staff need to collaborate with the DCJ caseworker to develop the Summary of Proposed Plan. This means exchanging information and discussing the proposed permanency goal with DCJ, the child and their family. This is important because the Summary of Proposed Plan and the subsequent 'Care Plan' will be the basis of your OOHC case planning and casework.

Service provider casework staff need to keep in regular contact with the DCJ caseworker. This helps you update the child (where appropriate), family and carers on what is happening at court. You need to be aware of upcoming court dates.

Important actions you may need to know about or participate in include:

- **Court Mentions** and outcomes (you should receive the outcomes from DCJ, so you know what you need to do – if you don't, please ask your manager to follow up with the CSC).
- **Dispute Resolution Conference** (you may need to participate).
- **Family Group Conference** (you may need to organise and participate).
- **Affidavit** filing dates (it is likely you will need to write these).
- **Care Plan** filing dates (provide any information, attend planning meetings with DCJ or help write the Care Plan with the DCJ caseworker).
- **Assessment Orders** or **Contact Orders** (you will need to organise or follow Court directions).

When the Court requests a document for a particular date, DCJ are not able to ask for an extension. That is why it is important to be aware of timeframes and the PSP caseworker's role in providing any documents.

For more information about the role of service providers see the [Permanency Case Management Policy](#)

PSP Service provider caseworkers may have some additional legal responsibilities:

- preparing a **Section 82** report about the progress towards permanency and suitability of a child's OOHC arrangements, following a STCO or final order made by the Children's Court
- preparing a **Section 76** report regarding the progress and outcomes of a supervision order
- draft reports need to be submitted to DCJ for review and file.

Casework Responsibilities During the Restoration Process

PSP casework staff restoration casework involves:

- Supporting a child's day to day care, while they are in out-of-home care (OOHC), while supporting them to return home. For more information see [Supporting Children and Young People in Restoration](#)
- Adhering to orders of the Court, including the Care Plan, the timeline for restoration and frequency and duration of family time (also known as 'contact'). This means that casework follows what is in the legal documents and no significant changes should be made without consent of the Court i.e. increasing contact. For more information see [Supporting Family Time \(Contact\) in Restoration](#)
- Supporting the parents to address the behaviour that led to their child entering OOHC. For more information see [Supporting Parents in Restoration](#)
- Working with the child's carer so they can support the child and the parent/s in restoration. For more information see [Supporting Carers through Restoration](#)
- Using evidenced based assessments to support restoration work. Service provider caseworkers needs to be trained to use evidenced based assessment tools. DCJ's preferred assessment tool is the Structured Decision-Making Restoration Assessment Tool (SDM RAT). For more information see [Formal Restoration Assessments](#)

- Regular reviews of the OOHC Case Plan and Family Action Plan for Change.
- Accurate and high-quality record keeping and gathering evidence to help achieve restoration.
- Participating in at least six-monthly permanency goal reviews with your Permanency Coordinator (PC).

Families need support to manage a child's safe journey home. In the Permanency Support Program, Service Providers work with families far more intensively than in out-of-home care, in order to support change and build knowledge and skills.

What if Circumstances have Changed and Restoration is No Longer Possible or in the Child's Best Interests?

An STCO is a final order. During your work with a family if you believe the goal of restoration will not be achieved within the length of the order or the timeframe in the Care Plan, or is no longer in the child's best interests you must inform your DCJ Permanency Coordinator.

DCJ will decide whether they need to file a **Section 90** application to seek a different order or seek further time to achieve restoration.

Your casework is critical. The Court needs to understand the reasons why the permanency goal has not/is unlikely to be achieved and the evidence you have gathered will assist the Magistrate to make other appropriate orders.

If restoration is not achievable, PSP casework staff should continue to pursue meaningful connections to family and kin for the child. A child who can't live at home can still be a part of their family in ways that are safe and meaningful for them.

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