

## Section 82 and Section 76 Reports

Section 82 (s82) and section 76 (s76) are part of the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act). These sections give a Magistrate the power to require a report be made to the Court on the suitability of arrangements for the care and protection of a child or young person (s82 report) or the supervision of a child or young person (s76 report).

The purpose of s82 and s76 reports is to determine if the existing orders are sufficient to meet the safety and wellbeing needs of a child or young person (child), and to enable the Court to request further information from the Department of Communities and Justice (DCJ) when there are concerns for a child.

### Section 82 Reports

When the NSW Children's Court (the Court) makes an order for a child that assigns their parental responsibility (PR) to someone other than the parent the court will often order that a report be filed concerning the suitability of the arrangements for the care and protection of the child. The s82 order will specify when the report is due and what issues need to be covered in the s82 report, however, the report must include an assessment of progress in implementing the care plan, including progress towards the achievement of a permanent placement.

### Section 76 Reports

When considering a care application (except for Guardianship), the court may place a child under the supervision of the Secretary of DCJ for up to 12 months or up to 24 months if the Court is satisfied that special circumstances exist to warrant a longer supervision order. If satisfied that the child is in need of care and protection. A PSP service provider may be responsible for this supervision as part of the restoration of a child to their parent.

The court may order that a s76 report be prepared and filed which states:

- the outcomes of supervision and whether they have been achieved.
- whether there is a need for further supervision or further orders to protect the child.

It is important that reports are filed as directed by the court, as a late filing is contempt of court. The Court may consider a s76 report filed after the period of supervision ends if the Court considers it is both reasonable in the circumstances and in the best interests of the child. After considering a s76 report, the Court may, of its own motion, extend the supervision order for a period as long as the total period of supervision does not exceed 24 months.

For period of supervision longer than 12 months, the Court may also, of its own motion, after giving the parties an opportunity to be heard, end the supervision period, if satisfied that it is no longer needed to protect the child. Section 76 reports should be completed on Report to the Children's Court template.

## Collaboration and Reports

DCJ and Permanency Support Program (PSP) service providers must work closely and collaboratively to ensure information about s82 and s76 report requirements are shared early, reports are written on time and provided to DCJ with adequate time for review and filing. The designated agency with primary case responsibility is responsible for writing the s82 or s76 report. However, as it is the DCJ Secretary, who was party to the care proceeding, DCJ retains responsibility to ensure the report is submitted on time and to affirm their agreement with the report. Unless the Court orders otherwise, a copy of the s82 or s76 report will be provided to the other parties to the care proceedings, including the parents.

**If a s82 or s76 report is not filed before the date required, it is a breach of a court order** and the DCJ Secretary, with whom ultimate responsibility lies, will be in contempt of court. If the delay has been caused by the PSP service provider, there may be financial penalties or other repercussions.

If, having considered the report, the Court is not satisfied that proper arrangements have been made for the care and protection of the child, it may re-list the matter for a progress review. A progress review is a review of the progress in implementing the care plan. All parties must be notified if the Court conducts a progress review and may be invited to give evidence and make submissions as part of the process review.

The Court cannot, on its own motion, rescind or vary the final order, or make a new order allocating parental responsibility. A [section 90 Application](#) is required to rescind or vary the final orders.

The table below outlines the responsibilities of PSP services providers and DCJ:

PSP service provider	Department of Communities and Justice (DCJ)
Records timeframes for submission of the s82 or s76 report to DCJ.	Advises PSP service provider that a s82 or s76 Report has been ordered by the Court and provides timeframes. Advises whether the Court has noted any specific issues to be included in the report.
Complete s82 or s76 report, including information regarding progress in relation to care plan and permanency arrangements. Address specific issues if directed by Court. Include any attachments (if required by the s82 or s76 order) and provide to the relevant Community Services Centre (CSC) or Child & Family District Unit (CFDU) in DCJ by email for review. The report should be provided to DCJ as a word document (not PDF), ideally 10 working days prior to the due date and definitely no later than 5 working days prior to the due date.	CSC or CFDU and legal review documents and advise of suggested amendments to meet Court requirements (if required).
Finalise report, sign and submit to DCJ. Provide addresses of any parties to proceedings to DCJ (separately, not in the report).	Prepare Endorsement and Cover Sheet and file all documents.
Retain a copy of the report for the child's file and their own records.	Retain a copy of the report for ChildStory records.