

## 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 (known as the Care Act). Both 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 (s82 report) or the supervision of a child (s76 report).

The purpose of s82 and s76 reports is to determine if the existing orders are sufficient to meet a child's safety and wellbeing needs. This is with the intention of either finalising the matter (when things are working well) or bringing the matter back before the Court (when they are not working well) so they can ask further information about the Department's plans for the child.

### Section 82 Reports

When the NSW Children's Court (the Court) makes an order for a child or young person (child) that assigns their parental responsibility (PR) to someone other than the parent the court will often order that a report be filed detailing the suitability of the living, caring, cultural and other plans made for the child ("s82 report"). These plans or 'arrangements' are in the Care Plan.

To understand the purpose of the report and its requirements, you need to understand what the Care Act requires:

#### **82 Report on suitability of arrangements concerning parental responsibility**

(1) When the Court makes an order allocating PR to someone other than the parent or guardian they may order a written report.

(2) The report must—

- (a) be provided to the Court within 12 months of the order or earlier if ordered by the Court and
- (b) include an assessment of progress in implementing the care plan, including progress towards a permanent placement, and
- (c) be given to each of the other parties to the proceedings unless the Court directs otherwise.

(3) If, after considering the report, the Court is not satisfied that proper arrangements have been made for the care and protection of the child it may, conduct a review of progress in implementing the care plan (a progress review) and re-list the matter (direct it come back to court).

(3A) Before conducting a progress review, and within 30 days of receiving the report, the Court—

- (a) gives notice of the progress review to each party to the proceedings, and
- (b) may invite the party to give evidence and make submissions at the progress review, in relation to the progress in implementing the care plan and achieving permanency.

## Collaboration and s82 Reports

DCJ and PSP service providers must work closely and collaboratively to ensure information about s82 report requirements are shared early, reports are written on time and provided to DCJ with adequate time for review and filing.

Where you have primary case responsibility, you are responsible for writing the s.82 report. However, as it is the DCJ Secretary, who is party to proceeding and the court order requiring the s82 report, DCJ retains responsibility to ensure the report is submitted on time and to affirm their agreement with the report.

**If a s82 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.

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 s. 82 Report to be submitted to DCJ.	Advises PSP service provider that a s. 82 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.

PSP service provider	Department of Communities and Justice (DCJ)
Complete s. 82 report, including information regarding progress in relation to care plan and permanency arrangements. Address specific issues if directed by Court. Include any attachments & return to the relevant Community Services Centre (CSC) or Child & Family District Unit in DCJ by email ideally 10 working days prior to the Court due date for review. Definitely no later than 5 working days.	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.

## Section 76 Reports

When considering a care application (except for Guardianship), the court may place a child under the supervision of the Secretary of Department of Communities and Justice (DCJ) for up to 12 months after the order granting parental responsibility to the Minister (PRM) expires. A Permanency Support Program (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 precludes the court from extending the period of supervision and it is contempt of court to not do what the court has ordered.

To understand the purpose of the report and its requirements, it's important to first understand what the Care Act requires:

## **76 Order for supervision**

(1) The Children's Court may, after inquiry, make an order placing a child who has been subject to care application under the supervision of the Secretary. They cannot do this for a guardianship order.

(2) In making this order the Court must specify—

- (a) the reason for the order, and
- (b) the purpose of the order, and
- (c) the length of the order.

(3) The maximum period of this type of order is 12 months.

(3A) Despite (3), the Court can make an order no longer than two years if it is satisfied there are special circumstances.

(4) The Court may require—

- (a) a report before the end of the period of supervision that states—
  - (i) the outcomes of the supervision, and
  - (ii) whether the purposes of the supervision have been achieved, and
  - (iii) whether there is a need for further supervision in order to protect the child, and
  - (iv) whether any other orders should be made to protect the child, or
- (b) one or more reports during the supervision period that describe the progress of the supervision or reports under both paragraph (a) and paragraph (b).

(5) – (7) of this part of the Care Act relate to providing copies of reports and assessments to the child's legal representative, extending periods of supervision and revoking the supervision order.

S76 reports should be completed on the [Report to the Children's Court](#) template.