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13. Order allocating parental responsibility

Overview:

The Children's Court may make an order allocating parental responsibility for a child or young person, or specific aspects of parental responsibility (PR), where it is established a child or young is in need of care and protection.

The Children's Court may only make an order allocating PR where it:
has considered the least intrusive intervention in the life of the child or young person and his or her family (consistent with the paramount concern to protect the child or young person from harm and promote the child's or young person's development)

- is satisfied that any other order would be insufficient to meet the needs of the child or young person
- is not inconsistent with an order by the Supreme Court about custody and guardianship of the child or young person.

The Children's Court may make an order allocating PR:

- solely to one parent to the exclusion of the other parent, or
- to one, or both parents, and to the Minister, or another person(s) jointly, or
- to another suitable person or persons
- solely to the Minister

Where a child or young person is removed the parents or usual carers may still retain aspects of PR where it is in the interests of the child or young person, and to maintain links with the parents or usual carers.

The specific aspects of PR that may be allocated include, but are not limited to, the child or young person's:

- residence
- contact arrangements
- education and training
- religious upbringing
- medical treatment.

13.1. Applying for an order allocating parental responsibility

Consult with key parties, including MCS, where an assessment or review indicates an application for an order allocating PR is required.

Completed by: CW

Approval by: MCW

Determine whether the application is to allocate PR:

- solely to one parent to the exclusion of the other parent, or
- to one, or both parents, and to the Minister, or another person(s) jointly, or
- to another suitable person or persons, or
- solely to the Minister.

Completed by: CW

Approved by: MCW

Determine the specific aspects of PR to be allocated:

- residence
- contact arrangements

- education and training
- religious upbringing
- medical treatment.

Completed by: CW

Approval by: MCW

Consider all resource and financial issues when determining the allocation of specific aspects of PR.

Completed by: CW

Approval by: MCW

Prepare an Application to Children's Court (any other care order) and affidavit where a decision is made to apply for an order allocating PR.

Completed by: CW

Approval by: MCW

Prepare and file a Care Plan in consultation with key parties including the views of each party, and any areas of disagreement.

Completed by: CW

Approval by: MCW

Record the decision to apply for an order allocating PR in an Assessment Consultation (AC), Secondary Assessment, or Case Meeting record, as appropriate.

Completed by: CW

Approval by: MCW

Record the details of the court proceedings and attach a copy of the application to allocate PR and affidavit to the child or young person's Legal record in KiDS.

Completed by: CW

Approval by: MCW

13.2 Requirement of a care plan

The Children's Court may only make a final order allocating PR for a child or young person where it has considered a care plan presented by Community Services.

Care plans are developed in consultation with the child or young person, their parents or carers and other significant people, and records the case plan, the views of each party, and any areas of disagreement.

Where short term court orders are being sought the Permanency Plan will be inclusive of a restoration plan, Details of the proposed restoration plan and the support services to be provided to the family must be included.

Where long term orders are sought, the exact details of the long-term placement for the child or young person does not need to be provided in the permanency plan, however the Children's Court must be sufficiently clear about how the child or young person's needs, welfare and well-being are going to be met in the foreseeable future through the Permanency Plan.

Where a permanent placement is still to be determined, the Permanency Plan clearly sets out the processes to be followed, and the agencies to be consulted, to achieve a permanent placement.

13.3 Monitoring and review

Once an order allocating PR has been granted the case plan is monitored and reviewed by Community Services.

Where there is any disagreement between the Minister and any other person jointly exercising PR, local resolution and ADR is attempted.

When making an order allocating PR to a person other than a parent the Children's Court may order a party to the proceedings to prepare a written report concerning the suitability of the arrangements for the care and protection of the child or young person.

The report must:

- be provided to the Children's Court within 12 months or such earlier period as the court may specify, and
- include an assessment of progress in implementing the care plan, including progress towards the achievement of a permanent placement, and
- unless the Court orders otherwise, be given to each of the other parties to the relevant proceedings.

Where the Children's Court is not satisfied that proper arrangements have been made for the care and protection of the child or young person concerned the court notifies each party within 30 days of receiving the report to invite them to make an application to vary or rescind the order. Any application to vary or rescind the order must be made within 30 days of being notified by the court.

The Children's Court cannot, however, rescind or vary the order, or make a new order allocating PR, on its own motion.