

Parenting resources

Parent responsibility contracts and parent capacity orders can be used with families to help address issues about the safety and wellbeing of a child in their care.

Department of Family and Community Services (FACS) practitioners can use a parent responsibility contract or parent capacity order to maintain the child safely with their family or return them to their family's care.

From 29 October 2014, these parenting resources come into effect through changes to the *Children and Young Persons (Care and Protection) Act 1998*. Parent responsibility contracts have been changed whereas parent capacity orders are a new resource.

Parent responsibility contracts

The changed parent responsibility contract aims to improve parenting skills and encourage parents to accept greater responsibility for the care of their child. In the contract, parents agree to actions that will reduce key risks to their child.

The contract also details what FACS will do to support the parent or primary caregiver to address the issues, and how the contract will be monitored.

This collaborative work can be undertaken without using a parent responsibility contract, such as through usual case planning, however a contract provides a more structured and systematic process to help some parents address safety and wellbeing issues.

A parent responsibility contract can only be made if the parent or primary caregiver agrees. Because it is a binding agreement with specific legal consequences, a parent or primary caregiver will be provided with a referral from Legal Aid so they can seek independent advice.

Parent responsibility contracts are registered with the Children's Court.

How long is a parent responsibility contract?

New parent responsibility contracts cover up to 12 months, which gives parents time to make real change. Where FACS has received a risk of significant harm report about an unborn child, a contract can be used to support expectant parents to address issues so the child is safe when they are born.

What happens if a parent or primary caregiver breaches a contract?

If a parent or primary caregiver breaches a contract, a contract breach notice can be filed with the Children's Court. The court can then make:

- a supervision order
- an order requiring the parent or primary caregiver to make undertakings to the court
- an order reallocating parental responsibility to another person for the child or young person.

Under the legislative changes, there is **no longer** an automatic presumption that the child or young person is in need of care and protection if a contract breach notice is filed with the court. This means parents and primary caregivers who

work with FACS to address child protection concerns will not be at a legal disadvantage if they enter into a parent responsibility contract.

Parent capacity orders

A parent capacity order is a new order that can be made by the Children's Court. It requires a parent to participate in a parent capacity program, service, course, therapy or treatment aimed at enhancing their parenting skills to reduce the risk of harm to their child.

The Children's Court may make a parent capacity order when FACS has clearly identified:

- an issue with the parent or primary caregiver's ability to care for a child or young person
- the potential for the child or young person to be at risk of significant harm
- it is reasonable and practical to require the parent or primary caregiver to participate in a service, course or other treatment program
- there is an appropriate and available service, course or treatment program
- it is unlikely the parent or primary caregiver would participate unless an order is made.

A parent capacity order gives a parent or primary caregiver an opportunity to address the issue of the child's safety and wellbeing before the situation escalates. It aims to avoid a more intrusive intervention by FACS, such as removal of a child from the family home or, in the case of an already removed child, a decision not to return a child to their parent's care.

The court can make a parent capacity order on its own or FACS can make an application. Unlike a parent responsibility contract, a parenting capacity order does not require the consent of the parent or primary caregiver. However, where possible, the court will aim to gain consent from the parent or primary caregiver.

How long does a parent capacity order apply?

The duration of a parent capacity order depends on the service, program or treatment required. It is specified in the order. The Children's Court can vary the timeframe or terminate the order early.

Further information

Visit the FACS website: www.facs.nsw.gov.au/safehomeforlife