



PSP Practice Minute

Application for a Shorter Term Care Order (STCO)

1. Overview

- 1.1 When completing the *Application Initiating Care Proceedings (form 1)*, the caseworker has two options. If FACS:
 - 1.1.1 is assessing the viability of making an STCO, the caseworker should seek an *interim order allocating interim parental responsibility*. To do this, they should select this order only ([example 1](#))
 - 1.1.2 determines an STCO is viable, the caseworker should seek an *order allocating parental responsibility*. To do this, they should select this order, cross out the words '*until he/she/they attain 18 years of age*', and handwrite the (shorter) period of the order they seek ([example 2](#)).

2. Compliance with Placement Principles and Permanency Plan

- 2.1 When assessing long-term placement options following removal of a child or young person from the care of a parent, FACS is guided by permanent placement principles (section [10A](#)) and Aboriginal child placement principles (section [13](#)) of the *Children and Young Persons (Care and Protection) Act 1998*.
- 2.2 FACS involves a child or young person, their parents and family/kin in permanency case planning. If the permanency goal is restoration, guardianship or adoption, FACS serves a care application seeking allocation of parental responsibility (PR) to the Minister until the child reaches 18 years, this may (unintentionally):
 - interfere with the trust FACS is trying to build with the family and
 - have the effect of misleading the family about the type of care order FACS is seeking.
- 2.3 An STCO provides greater accountability. Where a court has approved the permanency plan for a child and made an STCO, but the permanency goal has not been achieved, FACS may need to bring the matter back to court. This allows FACS

to provide evidence of reasons why the permanency goal has not been achieved and seek other appropriate orders.

3. Shorter Term Care Orders

3.1 An *Application Initiating Care Proceedings* (form 1) is completed by FACS (the applicant), to seek an interim order only, or STCO. The type of order sought is selected in 'Orders sought' on page two of the form.

3.2 When to seek an interim order only

3.2.1 Only an interim order is sought, rather than an STCO, if FACS:

- does not yet know what final order they will be seeking, and
- is assessing the viability of an STCO.

3.2.2 By seeking an interim order only, FACS keeps all permanency options open, subject to assessment that occurs during the period of the interim order.

3.2.3 In form 1, select only an *interim order allocating interim parental responsibility*. See example 1.

3.2.4 There is no legal obstacle to seeking an interim order only.

3.3 When to seek an STCO

3.3.1 An STCO is sought, if FACS has assessed this to be consistent with the child or young person's permanency plan.

3.3.2 In form 1, select *order allocating parental responsibility*; then cross out the words '*until he/she/they attain 18 years of age*'; and handwrite the (shorter) period of the order sought – see example 2.

3.3.3 Circumstances that are appropriate for seeking an STCO include those where:

- the permanency plan is **restoration** – an STCO is sought to provide FACS and the restoration service provider with sufficient time to gradually restore a child or young person to the care of their parents.
- the permanency plan is **guardianship** – an STCO is sought to provide sufficient time for the child or young person to settle with the prospective guardians, conduct a guardianship assessment, and prepare an application for a Guardianship Order to be filed in the Children's Court.
- the permanency plan is **adoption** – an STCO is sought to provide FACS and the adoption service provider with sufficient time for completion of an adoption assessment and prepare an application for an Adoption Order to be filed in the Supreme Court.

3.3.4 There is no legal obstacle to seeking an STCO.

3.4 Period specified in the order

- 3.4.1 The period specified in an interim order is any period determined by the court as necessary for further assessment to occur, having considered submissions by all parties and evidence filed in the proceedings.
- 3.4.2 The period specified in an STCO is any period determined by the court to be necessary to achieve the permanency goal, having considered submissions by all parties, a care plan and evidence filed in the proceedings.
- 3.4.3 Whilst an STCO order may be made for any period (see 3.4.2), it may be:
- a period of, say six months to two years, if the permanency plan is restoration or guardianship or
 - a period of, say two to five years, if the permanency plan is adoption.

3.5 Allocation of parental responsibility

- 3.5.1 The court may allocate aspects of parental responsibility (PR) to either the Minister and/or another suitable person (for example, a relative) for a period specified in an interim order or an STCO (section [79\(1\)](#)).
- 3.5.2 It may not be necessary for the Minister to hold PR when FACS and the court determine it can be held by another suitable person instead.

3.6 Where a registry declines to accept an application seeking interim order only

- 3.6.1 In some cases, a Children's Court registry may decline to file (stamp and seal) a [form 1](#), where an interim order only is selected on the form.
- 3.6.2 In these circumstances, the applicant may seek an STCO – see [3.3](#) above.
- 3.6.3 The applicant notifies FACS Legal Services by emailing the following to the FACS Legal Inbox (FACS.LegalInbox@facs.nsw.gov.au):
- a record of the interaction between FACS and registry staff members and
 - a copy of the application.

4. About this Practice Minute

- 4.1 This PSP Practice Minute is part of a series of minutes that will each deal with a specific change in casework practice, as we implement the [Permanency Case Management Policy \(PCMP\)](#).
- 4.2 Questions or feedback about this Practice Minute are welcomed and should be sent to the Permanency Support mailbox at permanencysupport@facs.nsw.gov.au

Example 1 Interim order only

Form 1 (version 1)

IN THE CHILDREN'S COURT
OF NEW SOUTH WALES
AT

CASE NUMBER

Application initiating care proceedings

Section 61(2) Children and Young Persons (Care and Protection) Act 1998

[NOTE: This form is to be used for care applications made under Part 2, Chapter 5 and applications for Emergency Care and Protection Order]

Date of application
Date filed

Applicant

Applicant Secretary, Department of Family and Community Services

Name of delegate

Address of Community Services Caseworker

Position

Children or young persons

	Child 1	Child 2	Child 3
Given name			
Family name			
Date of birth & current age			
Cultural background	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither
Gender			
KIDS number [Community Services Identifier]			

	Child 4	Child 5	Child 6
Given name			
Family name			
Date of birth & current age			
Cultural background	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither
Gender			
KIDS number [Community Services Identifier]			

Page 1 of 7

Form 1 (version 1)

Parents/carers

	Mother 1	Father 1	Carer 1
Family name			
Given name			
Date of birth			
Address			

	Mother 2	Father 2	Carer 2
Family name			
Given name			
Date of birth			
Address			

[NOTE: Include carer details where the carer is a guardian or otherwise providing care for the child under an arrangement with the parents. Do not include where the carer is an authorised carer arranged by Community Services or an NGO unless the carer is a member of the extended family or kinship group and consents to disclosure of their details]

Application details

Orders sought

[List general heading and section under which each order is sought - Parental Responsibility, Guardianship, Contact, Supervision, etc. (for example: I seek an order allocating parental responsibility of <child's name> to the Minister until he/she attains 18 years of age)]

- An interim order allocating interim parental responsibility of (child or young person) to the Minister.
- An order for the removal of (child or young person) (Section 48)
- An Emergency Care and Protection Order (section 46)
- An order allocating parental responsibility of (child or young person) to one parent to the exclusion of the other parent (section 79(1)(a))
- An order allocating parental responsibility of (child or young person) to the Minister until he/she/they attain 18 years of age (section 79(1)(b))
- An order allocating parental responsibility of (child or young person) to one or both parents and to the Minister or another person jointly (section 79(1)(c) or (d))
- An order allocating parental responsibility of (child or young person) to the Minister or another person jointly (section 79(1)(e))
- An order allocating parental responsibility of (child or young person) to another suitable person or persons (section 79(1)(f))
- An order allocating parental responsibility of (child or young person) to a suitable person or persons by guardianship order (section 79A)
- An order placing (child or young person) under the supervision of the Secretary for a period of (insert period, no more than 12 months) (Section 76)
- An order accepting undertaking (from persons name) (section 73)
- A prohibition order (section 90A)

Page 2 of 7

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Example 2 STCO

Form 1 (version 1)

IN THE CHILDREN'S COURT
OF NEW SOUTH WALES
AT

CASE NUMBER

Application initiating care proceedings

Section 61(2) Children and Young Persons (Care and Protection) Act 1998

[NOTE: This form is to be used for care applications made under Part 2, Chapter 5 and applications for Emergency Care and Protection Order]

Date of application
Date filed

Applicant

Applicant Secretary, Department of Family and Community Services

Name of delegate

Address of Community Services Caseworker

Position

Children or young persons

	Child 1	Child 2	Child 3
Given name			
Family name			
Date of birth & current age			
Cultural background	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither
Gender			
KIDS number [Community Services Identifier]			

	Child 4	Child 5	Child 6
Given name			
Family name			
Date of birth & current age			
Cultural background	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Neither
Gender			
KIDS number [Community Services Identifier]			

Page 1 of 7

Form 1 (version 1)

Parents/carers

	Mother 1	Father 1	Carer 1
Family name			
Given name			
Date of birth			
Address			

	Mother 2	Father 2	Carer 2
Family name			
Given name			
Date of birth			
Address			

[NOTE: Include carer details where the carer is a guardian or otherwise providing care for the child under an arrangement with the parents. Do not include where the carer is an authorised carer arranged by Community Services or an NGO unless the carer is a member of the extended family or kinship group and consents to disclosure of their details]

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- An order accepting undertaking (from persons name) (section 73)
- A prohibition order (section 90A)

Page 2 of 7

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Handwrite period of order

Cross these words out

for 2 years

