

Information sharing with Family Law Courts

It is important that DCJ and Family Law Courts (FLC's) share information about issues concerning the safety, welfare and wellbeing of children so decision makers are able to make decisions that will promote the best interests of children.

DCJ and FLC's can only disclose information or provide documents to each other where there is a lawful basis to do so. Sharing of information between DCJ and FLC's is governed by legislation, MOUs and protocols.

Information sharing under the Family Law Act (FLA)

● Notice of Allegation of Child Abuse by a party

Under s67Z of the FLA where a party to family law proceedings alleges that a child has been abused or is suspected of being abused, the party is required to file Notice with the court detailing those allegations.

The court Registry provides the Notice to DCJ Helpline, where Helpline assesses the information.

Where a report is made under this section, the FLA authorises such disclosures to DCJ as the court reasonably believes necessary to enable DCJ to properly assess the report.

● Mandatory reporting by FLC personnel

Under s67ZA(2) of the FLA where a member of FLC personnel in the course of carrying out their duties has reasonable grounds for suspecting that a child:

- has been abused, or
- is at risk of being abused

that member must as soon as practicable report to DCJ Helpline their suspicion and the basis for that suspicion.

This obligation applies to registrars, family consultants, family counsellors or family dispute resolution practitioners, ICLs and arbitrators.

DCJ Helpline assesses the information in the same manner as any other report of risk of significant harm.

• Discretionary reporting by FLC personnel

Under s67ZA(3) of the FLA where a member of the FLC personnel in the course of carrying out their duties has reasonable grounds for suspecting that a child:

- has been ill treated, or
- is at risk of being ill treated, or
- has been exposed to behaviour which psychologically harms the child, or
- is at risk of being exposed to behaviour which psychologically harms the child,

that member may report to DCJ Helpline their suspicion and the basis of the suspicion.

This obligation applies to registrars, family consultants, family counsellors or family dispute resolution practitioners, ICLs and arbitrators.

DCJ Helpline assesses the information in the same manner as any other report of risk of significant harm.

• Order under s69ZW

Section 69ZW of the FLA provides the court with the power to request documents recording, or information about, the following:

- Risk of significant harm reports made to the DCJ Helpline where allegations have been made of suspected abuse of a child or suspected family violence.
- any assessments by DCJ of investigations into reports of that kind or the findings or outcomes of those investigations
- any reports commissioned by DCJ in the course of investigating a notification.

Refer to Fact Sheet on s69ZW for more information.

• A request to intervene in proceedings

Under s91B of the FLA an FLC can request DCJ intervene in the family law proceedings. When a judicial officer makes a request for DCJ to intervene, the judicial officer will sometimes provide DCJ with reasons why the request has been made.

The judicial officer will also normally make orders that allow DCJ to access the documents that have been filed in the proceedings or orders requiring a party to provide documents to DCJ.

Refer to the Fact Sheet on s91B Intervention in Family Law proceedings.

Information shared under s248 of the Care Act

The Family Court and Federal Circuit Court are prescribed bodies under the Care Act.

Under s248 of the Care Act, information can be shared between DCJ and the FLCs if it is considered that the information will assist the court or DCJ to make a decision relating to the safety, welfare and well-being of a child or children the subject of the court proceedings or a risk of significant harm report.

Information can be shared in a number of ways, including in writing, by providing documents or in urgent matters, by providing information orally.

A legal officer will always be available to provide advice to assist to decide if information should be shared under s248 and if it should, what you can and can't share.

A case note regarding any information shared will need to be recorded in ChildStory.

• Person History Reports

FLCs can make a request under s248 to DCJ for a document generated from ChildStory called a Person History Report, referred to as a Person Summary for FLC on ChildStory. This report provides a summary of the child protection history for a child.

The information in this report will provide a 'snapshot' of the child protection history including; any orders made; whether there is an open case; risk of significant harm reports received; the nature of the risks in those reports; and any action taken and assessments completed by DCJ in response to reports.

This information can be particularly helpful to a judicial officer in determining an urgent application for a recovery order or interim parenting orders, especially when urgent orders

are sought *ex parte*, that is without hearing from the other parent or party to the proceedings.

MOUs and Protocols for sharing information with the Family Court and Federal Circuit Court

DCJ have entered into an MOU and Protocol with the Family Court and the Federal Circuit Court that facilitate working collaboratively with these courts, intervening in proceedings and sharing information.

The Protocols include information about how and when information can be shared.

Under the Protocols, DCJ can obtain information from the Family Court or Federal Circuit Court about:

- The stage reached in the proceedings
- Any future list dates
- The identity and contact details of the ICL, and
- Whether an expert or family report has been ordered and prepared.

Any information that the Family Court or Federal Circuit Court provides to DCJ should be recorded in a case note in ChildStory.

Under the Protocols, the Family Court or Federal Circuit Court can obtain information from DCJ about:

- Whether DCJ has received any risk of significant harm reports in respect of a child
- The status of any investigations on any current reports and information on their assessment of the risk involved
- In general terms, any action DCJ proposes to take in relation to any current report
- The status of any care proceedings, including details of any orders made, the next listing date and the contact details for the relevant DCJ caseworker.

The Protocols allow for the information to be provided in writing or orally.

Any information provided by DCJ to the Family Court or Federal Circuit Court provides should be recorded in a case note in ChildStory.

A link to the MOUs and Protocols between the Family Court, the Federal Circuit Court and DCJ are here:

https://intranet.facs.nsw.gov.au/_data/assets/pdf_file/0003/409044/mou.pdf

https://intranet.facs.nsw.gov.au/_data/assets/pdf_file/0005/409037/mou_docs_federal_magistrates_court_aust.pdf

<https://intranet.facs.nsw.gov.au/search?q=Protocol+between+Family+Court+and+DoCS>

https://intranet.facs.nsw.gov.au/_data/assets/pdf_file/0007/409066/Protocol-between-Department-of-Community-Services-and-Federal-Magistrates-Court-of-Australia.pdf