



**CHILDRENS COURT
OF THE
AUSTRALIAN CAPITAL TERRITORY**

Practice Direction 3 of 2026

Case Management in Care and Protection Proceedings

Introduction

1. This practice direction establishes the case management and listing arrangements for care and protection proceedings under Chapter 14 of the *Children and Young People Act 2008* (the Act).
2. This practice direction commences on 31 August 2026. Practice Direction Childrens Court 2 of 2021 - Case Management of Care and Protection applications is revoked on this date.
3. The objective of these procedures is to facilitate the timely progress and finalisation of proceedings in the best interests of the child or young person and in line with the object, principles and considerations of the Act.¹
4. The Childrens Court aims to have each proceeding finalised within 12 months from commencement and matters listed for a listing hearing within seven months of commencement. Parties and practitioners are expected to assist the Childrens Court to meet this timeframe and conduct proceedings in line with this objective.

¹ In particular section 9(d) of the Act which requires a decision maker to have regard to the principle that delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child or young person's wellbeing.

Type of applications

5. Applications under Part 14.2 of the Act for a final care and protection order must be commenced by originating application. This includes matters where final orders have been made but the final orders have lapsed. The originating application must also include whether an interim care and protection order is sought.²
6. Other applications in the proceeding for a care and protection order are to be made by way of an application in proceeding³. This includes applications seeking:
 - a. to amend or revoke an interim care and protection order (interim orders)
 - b. assessment orders and assessment order extensions
 - c. extension or amendment of a care and protection order
 - d. revocation of a care and protection order
 - e. interlocutory orders including:
 - i. amendments to names or dates of birth on final orders
 - ii. to dispense with service of a specified notice, order or instrument or shortening the time for service
 - iii. for substituted service
 - f. leave to have the application heard in the absence of any other party
 - g. cross application or response to originating application.
7. Leave of the Court is required to amend an originating application after the matter is listed for hearing.
8. Applications for a family violence order⁴ or a personal protection order⁵ must be made using the approved forms and not as part of an originating application for care and protection orders.⁶

² *Court Procedures Rules 2006* approved form 2.7 originating application.

³ *Court Procedures Rules 2006* approved form 6.2 application in proceeding.

⁴ https://www.Courts.act.gov.au/_data/assets/pdf_file/0019/3019222/Application-for-Family-Violence-Order.pdf

⁵ https://www.Courts.act.gov.au/_data/assets/pdf_file/0003/3019224/Application-for-Personal-Protection-Order.pdf

⁶ This practice direction does not seek to limit the Childrens Court in its jurisdiction to make, amend or vary a protection order under section 459 of the Act. Where a protection order is made, amended or varied by the Childrens Court, the application for a protection order will still proceed down the usual pathway, including a preliminary conference and directions.

Documents to be served with originating application

9. When serving the originating application, the applicant must serve the following documents on the other parties:
 - a. any affidavit in support of the originating application; and
 - b. if the applicant is the Director General:
 - i. if eligible, a copy of the Care and Protection Intensive List (CPIL) practice direction and CPIL election form
 - ii. a notice to attend the proceeding per section 718 of the Act, issued by the Court on filing the originating application
 - iii. information about how to contact Legal Aid (ACT) and the Aboriginal Legal Service (ACT), if appropriate.

Service

10. Except where emergency action has been taken, originating applications for care and protection orders must be personally served no later than three working days prior to the listing date of the application.
11. Where emergency action has been taken, service must occur as soon as reasonably practicable after emergency action has been taken but no later than three hours prior to the first return of the application.
12. An application in proceeding to dispense with service must be accompanied by an affidavit that:
 - a. specifies the document, notice, order or other instrument the subject of the application
 - b. provides cogent reasons why an order should be made to dispense with service or shorten the time for service of the document, notice, order or other instrument
 - c. specifies what other methods of service have been considered and why they are not suitable.

Procedure following emergency action

13. As soon as possible and no later than 10:00am the day before the matter is required to be listed, the Director-General must notify the Childrens Court that emergency action has been taken. The Director-General must provide the following information to the Childrens Court Registry by email:
 - a. the name of child or young person
 - b. the date of birth of the child or young person
 - c. any previous Childrens Court file number
 - d. the date and time emergency action was taken
 - e. whether the child or young person is Aboriginal or Torres Strait Islander
 - f. details of the parents including email, phone number and address.
14. The Registrar will initially consider the application in chambers on the day it is filed and list the application for first return within two working days of emergency action being taken, in accordance with section 410 of the Act.
15. For the purposes of section 413(3) of the Act and this practice direction the Childrens Court considers listing the matter for first return to be giving initial consideration to the application on the day it is filed.
16. The originating application, any application in proceeding and documents in support must be filed no later than 4:00pm the day prior to the matter being listed for first return.
17. Applications following emergency action will usually be listed at 1:00pm on the day the emergency action ceases to have effect.
18. The affidavit in support of the originating application following emergency action should be no more than ten pages in length, including any annexures or exhibits⁷ and address:
 - a. the circumstances that led to emergency action;
 - b. the grounds relied on that the child or young person is in need of care and protection or would be in need of care and protection if an interim care and

⁷ Nothing in this practice direction precludes the filing of further evidence in support of an application at a later time and before the matter proceeds to hearing.

- protection order was not made; and
- c. the grounds relied on for each condition sought on an interim basis.

First return of originating application

19. Originating applications will be listed in the first instance before the Registrar.
20. At the first return the Court will:
 - a. consider whether service has been effected
 - b. consider any application for interim orders on a short-term basis (between 4-6 weeks)
 - c. make procedural directions in accordance with Schedule 1
 - d. provide procedural information to parties and contact details to relevant agencies for obtaining legal advice
 - e. obtain an address for service for each party. Solicitors are required to file and serve a notice of solicitor acting prior to the first return
 - f. list the matter for the second return.
21. Unopposed or applications by consent will remain before the Registrar.
22. Contested applications, where an order is sought in respect of a person who is not a party or has not been served, or where the Registrar considers it appropriate, will be referred to the Childrens Court Magistrate.
23. Between the first and second return, parties are to:
 - a. prepare for the hearing of the application for longer-term interim orders
 - b. file and serve any applications in proceeding to be returnable at the second return
 - c. obtain legal advice if they wish to do so
 - d. prepare draft care plans and where appropriate, draft cultural plans
 - e. consider whether, if eligible, the matter is suitable for CPIL
 - f. identify the steps needed to prepare the matter for final hearing and discuss the steps with the other parties with a view to reaching a consent position in accordance with Schedule 1

Care and protection intensive list

24. If eligible, a party wishing to be considered for CPIL is to provide the CPIL election form to the Director-General and the representative of the child at least five days prior to the second return.
25. At the second return, parties are required to inform the Court whether the matter is appropriate to participate in CPIL (see Practice Direction Childrens Court No 1 of 2021- Care and Protection Intensive List).
26. Parties in proceedings who are eligible for CPIL must continue to actively consider CPIL throughout the proceedings. Parties are to approach the Court to relist the matter if they seek to have the matter transferred to CPIL.

Assessment order

27. An application in proceeding is required if a party seeks to undertake an assessment in accordance Division 14.3.3 of the Act.
28. An application in proceeding seeking an assessment order under the Act must be filed no later than five days prior to the second return of the matter.
29. The application for an assessment order will be listed for determination at the second return of the originating application. Applications for assessment orders made at other times will be listed in the Care and Protection Registrars List.
30. The Court may adjourn an application for an assessment order for an appropriate reason. An inability to obtain an appointment within the assessment order period, if made, will not ordinarily be accepted as an appropriate reason. If further time is required by parties to consult on the terms of reference for an assessment order, parties are to provide the Court with information about the steps that have been taken to comply with this obligation prior to the second return.
31. No later than two days before the hearing of the application for an assessment order, the party applying for the assessment must inform the Court and the other parties by email:
 - a. the name of the proposed assessor or assessors
 - b. the proposed terms of reference

- c. the proposed number of appointments
 - d. the dates of available appointments
 - e. the date that it is anticipated that the report will be filed.
32. Directions will be made in accordance with Schedule 1 if an assessment order is made.
33. An application in proceeding for an extension of time for an assessment order must be made in writing. An affidavit in support must be filed and served with the application in proceeding.

Second return of originating application for final orders

34. A second return for an originating application seeking interim orders will be listed before the Childrens Court Magistrate. At the second return, the Court will:
- a. consider whether to make (or continue) interim care and protection orders until a fixed date or until final determination of the application for final orders by the Court
 - b. make procedural directions to prepare the matter for hearing
 - c. consider any application in proceedings, including for assessment orders
 - d. consider listing the matter for a court-ordered meeting
 - e. list the matter for further directions or a listing hearing
 - f. consider whether, if eligible, the matter is suitable for CPIL.
35. At the second return, the parties should provide the Court with agreed or competing directions for the preparation of proceedings for hearing in the form of Schedule 1.
36. Parties seeking to amend or revoke an interim order must file an application in proceeding to amend or revoke the interim order in accordance with the Act.

Care and Protection Registrars List

37. The purpose of the Registrars List is to:
- a. hear and decide applications in proceedings which are unopposed or by consent
 - b. make procedural directions to prepare the matter for hearing
 - c. consider listing the matter for a Court-ordered meeting

- d. list the matter for a listing hearing before the Registrar
 - e. consider, if eligible, whether the matter is suitable for CPIL
 - f. provide procedural information to parents and assist with arrangements for obtaining legal advice if this has not occurred to date.
38. Matters that do not commence by emergency action will be listed in the Registrars List.
39. Applications in proceedings⁸ filed outside of a direction to file where a future Court date has already been given (for example an application for an assessment order listed for the second return) will be initially listed in the Registrars List.
40. Unopposed or applications by consent will remain before the Registrar.
41. Contested applications in proceeding for care and protection orders, where an order is sought in relation to a person who is not a party, or where the Registrar considers it appropriate will be referred to the Childrens Court Magistrate.
42. For the purposes of sections 430, 435 and 470 of the Act and this practice direction the Childrens Court will consider the matter in chambers and considers listing the matter for a return date to be giving initial consideration to the application within the required time.
43. At the second return, the parties are to provide the Court with agreed or competing directions for the preparation of proceedings for hearing in the form of Schedule 1.

Listings at other times

44. Parties seeking a listing outside of the listing practices provided for in this practice direction and notice to practitioners are required to include a section in the affidavit attached to the originating application or application in proceeding, that outlines the cogent reasons as to what listing is sought and why a different listing is required. The Registrar will consider these reasons in chambers and list the matter having considered the reasons provided.

⁸ Applications in proceeding seeking interim orders and assessments orders will be listed as set out in paragraphs 27 to 36 above.

Court-ordered meeting

45. Prior to being listed for hearing, parties will generally be required to participate in a court-ordered meeting,⁹ either externally or before a Registrar.
46. The purpose of the court-ordered meeting is to:
- a. identify or narrow issues to be determined at the final hearing
 - b. give parties the opportunity to resolve the issues in dispute and any other outstanding issues.
47. If the matter is suitable for a court-ordered meeting, directions will be made in accordance with Schedule 2.

Listing Hearing

48. The date for the listing hearing will be set at the second return and aims to be within seven months after the commencement of proceedings.
49. Seven days prior to the listing hearing the applicant is to file a case management document in the form of Schedule 3.
50. At the listing hearing, the Court may:
- a. identify the length of any contested hearing and address any issues relevant to the conduct of the hearing
 - b. list the matter for final hearing
 - c. list the matter for final determination if the parties consent to the orders sought
 - d. make any further directions required.
51. All evidence must be filed before the listing hearing. A party may seek leave to file updated affidavits prior to the final hearing.
52. If a party has failed to comply with directions of the Court and/or this practice direction, the matter may still be listed for hearing if it is in the best interests of the child or young person.
53. This paragraph applies if the Director-General intends to make an ex-parte written or oral application that the Court finalise the matter on the papers at any stage in the

proceedings prior to a hearing date, without the consent of one or both child or young person's parents. The Director-General must provide proof of service of correspondence to all parties providing notice of the intended application and the possible consequences should the parent/s fail to attend the listing for the matter. An affidavit of service in support of the above actions must be filed with the Court by 4:00pm three business days prior to the listing for the matter, along with the documentary evidence the Director-General will tender at the application.

Hearing dates

54. A hearing date will not be vacated without cogent and compelling reasons. An application to vacate a hearing date must be made at the earliest opportunity and as soon as a party becomes aware of the need to apply to vacate a hearing date, including because the matter has resolved.
55. The application to vacate a hearing date must be made by way of application in proceeding with an affidavit filed in support.

Evidence

56. Unless contrary directions are given, all lay witness evidence-in-chief is to be given in affidavit form. All expert evidence is to comply with the Expert Witness Code of Conduct provided for in the *Court Procedures Rules 2006* (CPRs).

Representation

57. The Court expects proper representation at each listing. This includes that:
 - a. solicitors have complied with the Act and the CPRs in relation to the required steps to represent a party. Leave of the Court by way of application in proceeding is required to withdraw as a solicitor less than 28 days before the hearing of the matter. Oral applications will only be considered in exceptional circumstances
 - b. all parties affected by orders that may be made by the Court appear at any listing of the matter
 - c. appearances will only be mentioned by consent if the proceedings have settled or a party is not affected by the orders sought at the listing

- d. parties are prepared to make submissions in support of the orders they are seeking from the Court.

58. A representative of the child or young person is required to advise the Court if they are representing the child or young person on best interests, instructions or both, per section 74E of the *Court Procedures Act 2006* and advise if this changes through the proceeding.

59. The Court's expectations of a representative of the child or young person are set out in Schedule 4. The Court expects the representative to meet with the child or young person and inform the Court of their views. If it is not appropriate for the representative of the child or young person to meet with the child or young person, the reasons this is not appropriate should be provided to the Court when making submissions in relation to the best interests considerations.

In Chambers Orders

60. If parties seek orders by consent to be made in chambers, orders must be emailed to the Childrens Court (Childrens@Courts.act.gov.au) no later than 4pm two days prior to the date on which the matter is listed.

61. In general, all parties must be included in any correspondence with the Court.

Non-compliance with Court orders

62. The Court expects that parties will comply with the Act, this practice direction, the CPRs and any direction made by the Court. Non-compliance may result in the Court declining to grant the parties further time to complete previously timetabled steps, or the making of adverse costs orders in accordance with the Act. A failure by one party to comply with the Court's direction is unlikely to be considered an adequate excuse for any failure to comply by another party.

63. If a party is unable to comply with the Court's direction, the defaulting party must, at the earliest opportunity, contact all other parties and propose alternative orders to ensure that the progress of the matter is not delayed.

64. The Court must be advised at the earliest opportunity in writing if parties are unable to comply with the Court's directions and the reasons for non-compliance. The Court may re-list the matter for non-compliance.

Subpoenas to produce a document or thing

65. Parties may request the issue of up to eight subpoenas to produce a document or thing in each proceeding. Leave of the Court is required if parties seek more than eight subpoenas to produce a document or thing.
66. Where matters involve siblings and the matters are based on the same or similar factual circumstances and mirror orders are sought, the Director-General should make an application for the matters to be joined. Where matters are joined, the Court will nominate a head file and subpoenas in the matter will be issued from the head file. Where matters are joined, parties may request the issue of up to ten subpoenas on the head file.
67. The issuing party must actively enquire with the subpoenaed entity about the production of subpoenaed documents or things and advise the Court by the return date as to the status of the subpoena.
68. Where a party is not legally represented, inspection of material produced in response to a subpoena will take place in the presence of registry staff.

Interpreters

69. It is the responsibility of the Director-General to arrange an interpreter if required for any listing. It is the Court's preference that the interpreter attend in person.
70. Where an interpreter is required for a final hearing, the Court expects that the interpreter attends in person.
71. If it is not possible for the interpreter to attend in person, an application must be made at the earliest possible opportunity seeking an alternative way for the interpreter to attend.
72. The Court will rarely consider it appropriate for interpreters to attend by telephone. The Court can arrange for an audio-visual link (such as Webex) to be provided.

Parties in custody

73. If a party is in custody, the party's solicitor, or if the party is unrepresented the Director-General, must advise the Court no later than 48 hours prior to each listing to enable sufficient time for the Court to seek the consent of the party to attend the proceeding.

By direction of the Chief Magistrate and magistrates



Helen Banks

Registrar

29 July 2026