



Childrens Court

Practice Direction Childrens Court No. 1 of 2021

Care and Protection Intensive List

- 1) This practice direction sets out procedures for the care and protection intensive list (CPIL) in accordance with section 288(1)(d) of the *Magistrates Court Act 1930*. It commences 2 March 2021.
- 2) The CPIL is a proceeding within the Childrens Court (the Court). The legislative framework is provided in the *Children and Young Persons Act 2008* (CYP Act).
- 3) CPIL is an alternative to regular care and protection proceedings. The process will ordinarily take 12 months but an earlier determination may be made in certain circumstances or the process may be extended but to no longer than 18 months in total.
- 4) CPIL will provide an opportunity for parent(s) in respect to whose child/ren or young people (children) CYPS has made application for long-term orders to participate in a court-mandated process with the aim of either immediate restoration of children to their parent/s care at the completion of proceedings or short-term orders with planned restoration where that is found to be in the best interests of the child/ren.
- 5) At any point during the proceedings where the court forms the opinion that restoration cannot foreseeably be ordered in the child/ren's best interests, the process will be terminated, and long-term orders made.

Eligibility

- 6) Eligibility for participation in CPIL is based on the following criteria:
 - a. the parent/s is/are committed to change and enter/s the program voluntarily;
 - b. the child/ren is/are assessed by the Director General for Community Services Directorate (the DG) as in need of care and protection and:
 - i. the risk of neglect or harm arises particularly because of a dependency on alcohol or other drugs, family violence or parenting capacity;
 - ii. the child/ren is/are in out of home care (regardless of placement- kinship, foster or residential care) or is/are at risk of removal;

- c. there is an application before the Court for long-term orders under the CYP Act in relation to the child/ren;
- d. the parent/s accept/s that there is a need for therapeutic intervention and consents to interim care or protection orders in a form approved by the Court;
- e. the parent/s consent/s to participate in the CIPL eligibility and suitability assessment processes;
- f. the parent/s with pending criminal matters before a court
 - i. will be assessed on a case by case basis for suitability and may be deferred entry into the program until the criminal matters are resolved;
 - ii. parents currently engaged in Warrumbul, Galambany or Supreme Court Drug and Alcohol Sentencing List processes will be assessed on a case by case basis in consultation with the co-ordinator of those processes to ensure their suitability for participation and that services are appropriately co-ordinated;
- g. there are no serious plausible allegations of physical or sexual abuse by a parent;
- h. the parent/s consent to eligibility and suitability assessors accessing their mental health records as required;
- i. the parent/s has/have no mental health conditions which in the opinion of the eligibility assessor would prevent the parent/s from complying with the program obligations;
- j. in the event that the parent/s are unable to comply with the requirements of the program such that the magistrate determines that the process must be terminated, all parties consent to the magistrate determining the application on the papers, consisting of affidavits filed in the proceeding to the point of termination, reports prepared by the co-ordinator for review conferences, reports received during the process from any support agencies, rehabilitation facilities, program or treatment providers and the transcripts of review conferences.

Referral Process

- 7) If all the above eligibility criteria above are met, a parent or their lawyer may apply for a suitability assessment at the second mention of an application following discussion between the registrar and parties.
- 8) An application is made by filing an 'Election for the Care and Protection Intensive List'. The form is available at ([hyperlink to form](#)). A copy of the completed form is to be provided to the DG and the children/s lawyer.

- 9) Parent/s electing for CPIL may be referred for a clinical screening eligibility assessment on the day of their election or as soon thereafter as it can be facilitated by the co-ordinator.
- 10) If ordered, the clinical screening eligibility assessment will be conducted by mental health, social work and/or drug and alcohol workers employed by ACT Health but allocated to provide support to the courts. The assessors will review the parent/s ACT mental health records and any reports provided to them at the direction of the registrar.
- 11) Once the eligibility form and assessment are prepared, the matter will be listed at the first available time before the CPIL magistrate. Any objection by the DG or child/children's lawyer to the parent's application to have their matter dealt with in the CPIL may be ventilated at this mention.

Suitability Assessment Process

- 12) Parent/s identified as eligible will be referred by the CPIL magistrate to an independent family assessor (an appropriately qualified and experienced expert practitioner) for assessment. The assessor will provide an independent family assessment report.
- 13) The terms of reference for an independent family assessment report will be determined by the CPIL Magistrate pursuant to s442 of the CYP Act. A copy of the report will be provided to all parties.
- 14) The independent family assessment report will contain a recommendation that the parent/s is/are either suitable or unsuitable for the CPIL. The CPIL magistrate will ordinarily follow the report recommendation. If not, the CPIL magistrate must provide reasons for not doing so.
- 15) The independent family assessment report will focus on the child/ren's needs in consideration of their age, developmental ability and psycho-social factors and any other matters identified in the terms of reference. Parenting issues will be identified. The report will make recommendations for short, medium and long-term goals for families and recommendations around interventions or support services to support the family in achieving these goals. The report will form the basis of a family recovery plan.
- 16) If a parent is found unsuitable for CPIL, they will be informed of this outcome and the matter will be listed for a care and protection case conference for progression in the regular Childrens Court list.

Views of Children or Young People

- 17) In accordance with the CYP Act and *Court Procedure Rules* (ACT) 2004, children are entitled to have their views and wishes considered by the Court and to participate in the proceedings before the Court.
- 18) Children will be represented by a lawyer and may participate in the CPIL as is consistent with their best interests having regard to their wishes and their capacity.
- 19) Participation in the proceedings in CPIL may include the magistrate meeting with the child or inviting them to attend or participate in progress review conferences.
- 20) The CPIL may engage an intermediary to assist at any point.

Progress of matters after referral

- 21) If the parent/s is/are found suitable by the assessor for CPIL, a family recovery plan will be developed by the co-ordinator for presentation before the CPIL magistrate.
- 22) The family recovery plan will be developed from the independent family assessment report and any clinical or health recommendations available to CPIL. It will have regard to the care concerns of the DG under the CYP Act. It will identify and engage supports required to assist the parent, child or family.
- 23) The family recovery plan will be developed in collaboration with the parent.
- 24) Where alcohol and other drugs are identified as risk factors, CIPL will adopt a harm minimisation approach.
- 25) The family recovery plan will be provided to all parties and any support service or individual given leave to participate to consider prior to a conference with the CPIL magistrate.
- 26) The CPIL magistrate will make necessary orders.
- 27) The parent/s must sign their commitment to compliance with the orders at that conference.
- 28) The co-ordinator will be the conduit for communication between the court, parties and referred services and will assist with co-ordination of services for the participating family.
- 29) The Director General will be responsible for ensuring funding and access to identified support services.
- 30) Progress review conferences will be held as schedule set by the CPIL magistrate.
- 31) Progress reports will be provided to parties two (2) business days before progress review conferences by the co-ordinator. Progress reports may include information provided to the court from support services.

- 32) Progress review conferences are intended to be an informal meeting between the court and the parties, with the aim of supporting the family achieve identified recovery goals.
- 33) The following persons are expected to attend progress review conferences:
- i. CPIL magistrate
 - ii. parent/s
 - iii. parent's lawyer
 - iv. CYPS dedicated CPIL lawyer
 - v. CYPS case worker
 - vi. child/ren's lawyer
 - vii. co-ordinator
- 34) Alcohol and other drugs clinicians, mental health supports, DVCS case worker or support people may request or be requested to attend on an ad hoc basis.
- 35) In some matters it may be appropriate for the child and/or extended family members to attend conferences or provide information to the CPIL.
- 36) The Public Advocate may attend any proceeding within the CPIL in accordance with their statutory function under the *Human Rights Commission Act 2005* and the CYP Act.

CPIL Phases

- 37) The CPIL process will be broken into three (3) phases:
- i. stabilisation and compliance monitoring (minimum 4 months),
 - ii. building foundations and progression (minimum 3 months), and
 - iii. consolidation and restorative phase (minimum 3 months).
- 38) The child/ren may be restored to the parent/s during any phase of the program however while an application remains before CPIL, parent/s is/are required to complete the program.
- 39) The CPIL magistrate may direct family group conferencing between the parties or other individuals during any of the CPIL phases.

Completion of CPIL Phases

- 40) Upon successful completion of all phases of the CPIL, the CPIL magistrate will decide the application in accordance with the CYP Act.
- 41) If a parent takes longer than 12 months to complete the program, the CPIL magistrate may extend the time to complete the program by up to 6 months. The maximum time a parent has to complete the CPIL process is 18 months from the date of the first progress review conference.

Exiting from the program

- 42) A parent may withdraw from CPIL or be exited at the CPIL magistrate's direction.
- 43) If no parent remains in CPIL a date will be set for parties to make submissions, noting that the application will be determined on the evidence already before the CPIL magistrate, unless leave is given for the filing of further evidence.

Orders

- 44) CPIL proceedings are concluded by orders being made by the CPIL magistrate for the care and protection of the Child or young person pursuant to s 464 of the CYP Act.

By direction of the Chief Magistrate and Magistrates.



Helen Banks
Acting Registrar
ACT Magistrates Court

2 March 2021