



# PSP Practice Minute

## Application for a Shorter Term Care Order (STCO)

### 1. Overview

When completing an [Application Initiating Care Proceedings](#), a caseworker has two options:

- If assessing the viability of making an STCO, seek an interim order allocating interim parental responsibility. To do this, they select only this order ([example 1](#)).
- If an STCO is viable, seek an order allocating parental responsibility up to a maximum of 24 months<sup>1</sup>. Select this order and cross out the words '*until he/she/they attain 18 years of age*'. Handwrite the (shorter) period of the order sought ([example 2](#)).

### 2. Compliance with Placement Principles and Permanency Planning

- 2.1 When assessing long-term placement options following removal of a child from the care of a parent, FACS complies with permanent placement principles ([section 10A](#)) and Aboriginal child placement principles ([section 13](#)) detailed in the *Children and Young Persons (Care and Protection) Act 1998 (the 'Care Act')*.
- 2.2 FACS always involves a child, their parents and family/kin in permanency case planning – see [Permanency Case Management Policy](#). For Aboriginal children, there are additional case planning requirements – see [Aboriginal Case Management Policy](#).
- 2.3 If FACS is proposing a permanency goal of restoration, guardianship or adoption, the care application seeks allocation of parental responsibility (PR) to the Minister for a maximum period of 24 months (unless there are special circumstances).
- 2.4 An STCO provides greater accountability. Where a court has made an STCO, but the approved permanency goal has not been achieved within the timeframe, FACS will need to bring the matter back to court. FACS provides evidence of reasons why the permanency goal has not been achieved in the (up to) 24 month timeframe and seeks other appropriate orders.

### 3. Shorter Term Care Orders (STCOs)

An [Application Initiating Care Proceedings](#) is completed by FACS (the applicant). The type of order sought is either an interim order only, or interim order and an STCO. The caseworker selects the order type in 'Orders sought' on page two of the application.

#### 3.1 When to seek only an interim order

- 3.1.1 Only an interim order is sought, and not an STCO, if FACS does not yet know what

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<sup>1</sup> Important: Except in special circumstances, an STCO allocating parental responsibility to the Minister is for a maximum period of no more than 24 months.

- final order will be sought; and is assessing the viability of an STCO.
- 3.1.2 By seeking only an interim order, FACS is able to (later) propose a permanency plan that best meets the child's needs:
- based on [assessment by FACS](#) that occurs during the interim order period
  - in compliance with placement principles ([section 10A](#) and [section 13](#)) and
  - subject to approval of FACS' permanency plan by the Children's Court.
- 3.1.3 In the [application](#), select only an interim order, allocating interim parental responsibility. See [example 1](#).
- 3.1.4 There is no legal obstacle to seeking only an interim order.

## 3.2 When to seek an STCO (in addition to an interim order)

- 3.2.1 An STCO is sought if FACS has assessed this to be consistent with the child's permanency plan for restoration, guardianship or adoption.
- 3.2.2 In the [application](#), 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 up to a maximum of 24 months (unless there are special circumstances). See [example 2](#).
- 3.2.3 Circumstances where FACS seeks an STCO are those where the permanency plan is:
- **Restoration** – an STCO is sought to provide sufficient time to gradually restore a child to the care of their parents.
  - **Guardianship** – an STCO is sought to provide sufficient time to:
    - a) demonstrate a stable relationship between the child and prospective guardians
    - b) support and consult the child and family about guardianship options
    - c) support the prospective guardians to satisfy eligibility criteria
    - d) conduct suitability and probity checks and a guardianship assessment
    - e) prepare an application for a Guardianship Order to file in the Children's Court.
  - **Adoption** – an STCO is sought to provide sufficient time to:
    - a) conduct an adoption assessment, including whether or not adoption is in the child's best interests
    - b) identify a suitable placement option<sup>2</sup> for the child (where adoption is a preferred permanency outcome)
    - c) prepare an application for an Adoption Order to file in the Supreme Court.
- 3.2.4 Under the 2019 amendments ([section 79](#)) to the *Care Act*, where the Children's Court approves a permanency plan for restoration, guardianship or adoption, the court is prohibited from making an order allocating parental responsibility to the Minister for more than 24 months unless the court finds there are special circumstances

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<sup>2</sup> FACS [Adoption and Permanency Services](#) maintain a pool of families dually authorised as prospective adoptive applicants and authorised carers and can therefore assist with seeking a suitable placement option. These carers have already been assessed by FACS as suitable to adopt.

warranting making a longer order.

### 3.3 Period specified in the order

- 3.3.1 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.
- 3.3.2 The period specified in an STCO is determined by the court to be necessary to achieve the permanency goal up to a maximum of 24 months, after considering the care plan, evidence filed in proceedings and submissions of all parties.
- 3.3.3 Whilst an STCO order can only be for a maximum of 24 months (unless there are special circumstances), it can be made for any shorter period of time (see 3.4.2). It may be a period of:
- say, six to 12 months, if the permanency plan is restoration or guardianship
  - say, two years, if the permanency plan is adoption.
- 3.3.4 The 24 month period for a STCO is measured from the time of making the final order. In some cases the child may be under the parental responsibility of the Minister for longer than 24 months because interim orders were in place pending the final determination of the application for a STCO.

### 3.4 Allocation of parental responsibility

- 3.4.1 The court may allocate aspects of parental responsibility 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)).
- 3.4.2 It may not be necessary for the Minister to hold parental responsibility when FACS and the court determine it can be held by another suitable person instead.

### 3.5 Where a registry declines to accept an application for interim order only

- 3.5.1 In some cases, a Children's Court registry may decline to file (stamp and seal) the [application](#), that seeks an interim order only.
- 3.5.2 In these circumstances, the applicant may seek an STCO – see [3.3](#) above.
- 3.5.3 The applicant notifies FACS Legal Services by emailing the following to the FACS Legal Inbox ([FACS.LegalInbox@facs.nsw.gov.au](mailto: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, each dealing with a specific change in casework practice, as we implement the Permanency Support Program.
- 4.2 Questions or feedback about this Practice Minute are welcomed and may be sent to the Permanency Support mailbox ([permanencysupport@facs.nsw.gov.au](mailto: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]			

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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]

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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]			

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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 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)]
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- 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]

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Handwrite period of order

Cross these words out

for 2 years