

This guide is intended to assist Foster and Kinship carers (Carers) understand the function of the Youth Court and identify how Carers can be part of the process.

The Youth Court is located at 75 Wright Street, Adelaide. It is established to deal with criminal acts committed by persons over the age of 10, but under the age of 18. It also deals with applications pursuant to the *Children and Young People (Safety) Act 2017* (CYP SA), primarily applications to place a child or young person under the guardianship of the Chief Executive of the Department for Child Protection (DCP), and all follow up orders including:

- continuing to keep a child or young person under guardianship of Chief Executive, or
- revoking a guardianship order and effectively re-unifying a child or young person with their biological family.

A Carer is not involved in the original decision to place a child under guardianship of the Chief Executive, but a Carer is often in a very good position to provide useful input into follow up orders, given their knowledge of the child or young person in care. The rights to provide this input are set out in the *Children and Young Person (Safety) Act 2017* (CYP SA).

This Carer Guide sets out the processes of the Youth Court and indicates

- what rights you have to give input;
- how you can give input; and
- how Connecting Foster & Kinship Carers SA (CF&KC-SA) can help.

N.B. for the purpose of developing this Carer Guide the Youth Court process is described through the use of "steps". It is important to note the Youth Court may not follow each step in a linear process. There is no mandatory timeline of events as each case is different. This document is designed to provide context to the Youth Court and a guide of what Carers may expect.

CARERS RIGHTS IN THE YOUTH COURT

As a Carer, you are not a party to the proceedings in the Youth Court. However, the Court is interested to hear from you, given that you are in daily contact with the child or young person.

Before the trial: You can provide your input informally through DCP, or by attending the Court, or by writing to the Court.

At a trial: You have to formally apply to participate in Youth Court trial. This involves lodging a form.

More information on all of this is provided below.

Step 1: DCP makes an Application for a Care and Protection Order

DCP sometimes reach a view that biological parents are not appropriate to care for the child or young person. In this instance DCP make an application to the Youth Court asking that the child be placed under the Guardianship of the Chief Executive of DCP, for a specified period of time. A copy of the Application is provided to the parents, and other parties.

Step 2: Parent responds to Application

Parents have a right to challenge the order sought by DCP. They can therefore file a document in response to the application, setting out their side of the story. A copy of this document is provided to DCP and other parties.

Step 3: Youth Court makes a Care and Protection Order under section 53 of CYP SA

A Care and Protection Order (made by agreement or after a hearing or 'trial') places the child or young person under the guardianship of the Chief Executive of DCP. An order can be made for any period of time, three months, six months, twelve months, and long-term orders are common.

Step 4: The Chief Executive of DCP places child

Chief Executive of DCP (as the guardian of the child or young person) places the child or young person with a Carer.

CARER INPUT:

This is when you as a Carer first become involved with a child or young person, as their approved Carer.

Step 5: DCP makes a fresh Application for further orders or makes an Application to vary the order

DCP may make an Application:

- to lodge a fresh application for child protection orders due to original orders expiring;
- to vary the existing order, for example to place the child or young person under the long-term guardianship of someone else (e.g. a Carer under section 91 of CYP SA);
- to revoke the order.

At this stage, the parents could also lodge an application to vary or revoke orders and also have an opportunity to respond to any applications made by DCP.

CARER INPUT:

Carers are not generally involved at this stage, but may make submissions to the court.

Step 6: Pre-Trial Conference

A Pre-Trial Conference is an opportunity for all parties and their lawyers to sit down to try to reach an agreement to avoid a trial. The Conference is overseen by a judicial officer.

If an agreement is reached, the Court will record the agreement as orders of the Court. If there is no agreement the matter is generally given a date for **Trial** (usually to take place in about one or two months).

CARER INPUT:

There are a number of ways to have input into the pre-trial processes of the Youth Court.

Let DCP advise the court of your views

Some Carers are happy to give their views to DCP and let DCP pass the information on to the Court.

Attend the Court

Other Carers want to speak directly to the Court. This can be done simply by attending the Court at the appropriate date and time and advising court staff who you are, and why you are there. You may want to prepare something in writing to hand to the Court, or some notes of what you want to say, or both. A CF&KC-SA Advocate can help you with your preparation and can attend the Court with you as your support (but cannot speak on your behalf) The Youth Court is a closed Court, so members of the public are not allowed in, and most proceedings are held in private. You will therefore be asked to sit in the waiting room until a Judge or Magistrate is ready to hear from you. A Youth Court employee will be on hand to tell you when the Court is ready for you, where to sit, when to speak.

Write to the Court

A third way to get your voice heard is simply to write to the Court. This can be done by email or letter. You will need to make it clear in the email or letter that you are the Carer of a child or young person who is before the Court. You can then set out your views on what is in the best interests of that child or young person, and comment on how any Court orders might impact on you. A CF&KC-SA Advocate can help you prepare this written submission.

Step 7: Status Conference

If a matter has been listed for trial, the Court may also order a Status Conference to determine if the Application is still contested. It is a check-in point for the Court to see where the status of the case is at.

CARER INPUT:

Your rights at this step are the same as your rights at Step 6. You may allow DCP to speak on your behalf, attend the Court to speak directly to the Court, or write to the Court with your views. See above for more detail.

Step 8: Family Group Conference

The Court may at any time refer a matter to a **Family Group Conference**. The Conference may be referred under section 22 of CYP SA for the purpose of making care arrangements for the child, or may be referred under section 67 of CYP SA to discuss/resolve a specific issue. The Conference is convened by a 'coordinator' who records any decisions made at conference. This conference process is separate to the Court process, but decisions made at the conference are reported to the Court.

Matters can be referred to the Conferencing Unit from DCP at any point once there has been an identified risk.

CARER INPUT:

All relevant people can attend the Family Group Conference (FGC) including the child or young person themselves and their family members. You may also be able to attend a Family Group Conference as a person who has 'a close association with the child or young person and who should, in the opinion of the coordinator, attend the conference' under section 23(1)(d) CYP SA. If you want to attend a FGC, you must write to the Conferencing Unit to seek permission. If you do not want to attend the FGC but still want your views to be heard you can write to the Conferencing Unit directly.

A CF&KC-SA Advocate can assist you in writing to the court and also attend the conference with you, to provide support.

Step 9: Re-Unification Court

The Re-Unification Court is presided over by Judge or Magistrate. Lawyers are not involved, with the exception of the child representative. A child representative is a lawyer who is appointed independently for the child, to act in the child's best interests. DCP staff are invited by the Court to give their view on re-unification and report on the progress of the parents. Primarily, the Re-Unification Court is used for orders up to twelve months. Parents are also asked for their view.

If re-unification is viable, a reunification care plan is prepared. If re-unification is not viable, the issue gets pushed out of the Re-Unification Court and back into the Youth Court proper.

The hearings are conducted on an informal basis, with the Judge, DCP and Child Representative sitting around a table.

CARER INPUT:

Your rights at this step are the same as your rights at Step 6. You may allow DCP to speak on your behalf, attend the Court to speak directly to the Court, or write to the court with your views. See above for more detail. Please refer to reunification carer guide for more information.

Step 10: Trial

If the parents do not agree to an order, the court will order a trial. A Trial can take 1-2 days, or longer in more complex cases. At Trial the Judge or Magistrate will hear evidence from the parties and witnesses and will make a decision that is binding on everyone concerned.

CARER INPUT:

If you wish to participate in a trial, you must make a formal application to the Court. This is done by completing a **Form CP6: Application for Interested Person(s) to be heard** (s 66 CYPISA). A CF&KC Advocate can help you to complete the application.

You may also want a lawyer to represent you at the trial. CF&KC-SA can give you the names of lawyers who work in this area of law.

The earlier you contact a lawyer the better – as he or she will need time to prepare.

Step 11: Judgment

If the matter proceeded to trial, the Judge or Magistrate may publish their decision, and the reasons for their decision in a Judgment. The **judgment** will include the orders of the Court.

Carer support

For more information, or to discuss your personal circumstances, contact CF&KC-SA:

Email: support@cfc-sa.org.au

Freecall: 1800 732 272

For more guidance and assistance contact the Youth Court Registry:

Email: youthcourt@courts.sa.gov.au

Phone: 8204 0331