**Information for parents and primary carers with a child protection court case**

This fact sheet is for parents and primary carers who have a child protection court case or court order already in place. It answers some common questions about the court process and where to get help.

If you already have a lawyer helping you with a child protection matter, you should talk to that lawyer about any questions you have.

## Why is Child Protection taking me to court?

If Child Protection thinks that your child is at risk of harm and a court order is needed to keep them safe, Child Protection can start a court case called a protection application.

Once a court case is started it is a Children’s Court magistrate (like a judge) who decides what will happen with the care of your child.

## How can I find out about a court date or if there is a child protection order for my child?

If you have been told by Child Protection that you have a court hearing, check the document they have given you for the court date and location.

If you do not have this document and do not know the child protection worker’s contact details, contact the Children’s Court at the location closest to where your child lives. State your child’s name as any court applications or orders will be filed under this name.

If there is a child protection order in place you should seek help from a lawyer to understand what it means and what your options are.

## Do I have to go to court?

Participating in court is very important. If you do not participate, decisions about your child’s care can be made without the court hearing what you think.

Your court hearing may happen in person or it may be online. You can check this with the child protection worker or your lawyer if you have one.

You should be at court (or ready to participate online) by 9.30 am on the day of your hearing unless you’ve been told another specific time to attend. The court process can take several hours.

If you need an interpreter for the court case, tell the child protection worker or your lawyer and they will arrange one for free.

If you are sick or have been diagnosed with COVID-19, or you have been told to self-isolate, do not attend court in person. Contact the Children’s Court to tell them why you cannot attend (see Where to get help on page 3).

## Do I need a lawyer and how do I get one?

It is your choice whether to get a lawyer for your child protection case. Court cases can be complex and Child Protection will have a lawyer, so it may help you to have a lawyer too.

If Child Protection has started a court case about the care of your child, you can get free legal help from a duty lawyer on the first day of court. This help is available to all parents including those who cannot attend in person court cases, for example because they are in hospital or prison.

If you already have a child protection lawyer, try to contact them first for help.

If you do not have a lawyer, contact Victoria Legal Aid who will refer you to a duty lawyer. The lawyer will be independent and work for you, not Child Protection.

Child Protection will also give your details to Victoria Legal Aid to help you get a duty lawyer. If you do not want this to happen, tell the child protection worker.

If your court hearing is in person, you can meet the duty lawyer at court on the day. If your hearing is online, the lawyer will call you. Make sure you are available the whole day of the court hearing as your lawyer may need to speak with you several times.

If you can’t afford a lawyer for the rest of the court case, speak to your duty lawyer on the first day and they can help you apply for legal aid to pay for your legal costs.

## How should I prepare for my court hearing?

Gather any documents you have that are relevant to the case so you can share them with your lawyer. Relevant documents include:

* all documents given to you by Child Protection
* any notes you have made about your contact with Child Protection
* any documents that show things you have been doing to address the concerns Child protection has, such as letters from a counsellor or drug screen results
* any other court orders you have, such as family law orders or intervention orders.

It is important that you are prepared to tell your lawyer all the information they need. Any information you give your lawyer is confidential and your lawyer will not tell anyone else without your permission.

## What will happen when my case is heard at court?

The lawyer for Child Protection will tell the magistrate why they think your child needs protection and what they think should happen to keep your child safe.

The magistrate will take what the Child Protection lawyer says very seriously but will also listen to what lawyers for parents and children have to say and what they think should happen. If you don’t have a lawyer, you can speak directly to the magistrate. You should call the magistrate ‘Your Honour’.

The magistrate will then decide what will happen, including where your child will stay and any rules about their care and who they can see.

Usually the court case will not finish on the first day and will be adjourned (put off) to another date which could be several days or weeks away. Make sure you note down when the next court date is. Talk to your lawyer about what you can do to be ready for the next hearing.

## Do I have to do what Child Protection is asking me?

You need to do what Child Protection says if it is written in a court order. This could be a child protection order made by the Children’s Court, or another order such as a family violence intervention order or bail. The rules in an order (called conditions) may include things like accepting visits from Child Protection, doing drug tests, or not seeing certain people.

It is important that you follow all the conditions as this will be reported to the magistrate at each court hearing. If you do not follow the conditions, Child Protection may take you to court again for breaching (breaking) the order. The magistrate will take this very seriously and it may harm your court case.

Speak to your lawyer or contact Victoria Legal Aid if:

* you think the conditions on your order are unreasonable or very hard to follow.
* you have a court order and Child Protection says you need to do other things not written in the order.

## If my child is out of my care can I see them?

If your child is removed from your care the magistrate will decide what contact you can have with them.

COVID-19 means that extra care needs to be taken in making decisions about contact arrangements, in order to protect children, parents, carers and workers’ safety.

Talk to your lawyer about how you would like contact to happen and how this can be managed safely.

If you have a court order or case plan that allows for contact with your child to happen in person:

* make sure you carry the order when travelling to and from contact if COVID-19 restrictions are in place
* call your lawyer or Victoria Legal Aid if Child Protection have told you that contact can no longer happen in person.

## More information

Visit [www.vla.vic.gov.au/find-legal-answers/child-protection](http://www.vla.vic.gov.au/find-legal-answers/child-protection) to download these fact sheets:

* **Child Protection involvement with your family** – **what you can do** – answers common questions about child protection involvement, how to get help and what you can do if you’re unhappy with a Child Protection decision.
* **Tips for working with Child Protection for parents and primary carers** – offers tips about working with Child Protection, from advocates and parents who have experience of Child Protection involvement with their family in the past.

## Where to get help

### Victoria Legal Aid

Free legal information and advice

Tel: 1300 792 387, 8:00 am to 6:00 pm, Monday to Friday, excluding public holidays

Website: [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

### Aboriginal legal services

If you or your child is Aboriginal or Torres Strait Islander, you can choose to access an Aboriginal legal service directly, or tell Victoria Legal Aid that you want to be referred to one of the following services:

### Victorian Aboriginal Legal Service

Tel: 1800 064 865

Website: [www.vals.org.au](http://www.vals.org.au)

### Djirra (Aboriginal and Torres Strait Islander women only)

Tel: 1800 105 303

Website: [www.djirra.org.au](http://www.djirra.org.au)

### Children’s Court

To find out about court dates or court orders in place contact the Children’s Court where the case is being heard. This will usually be the court closest to where the children live.

Contact details for all metropolitan and regional courts are listed on the Children’s Court website. Visit [www.childrenscourt.vic.gov.au](http://www.childrenscourt.vic.gov.au).

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