Government of South Australia
Department for Child Protection

Family Law Matters Procedure

1. Purpose

The purpose of this procedure is to assist the Department for Child Protection (DCP) case management staff to understand and respond to family law matters. The procedure includes guidance regarding:

- responding to 91B requests to intervene in family law proceedings
- the role of the Co-located Child Protection Practitioner
- managing notifications from the Federal Circuit and Family Court of Australia (FCFCoA)
- responding to 67ZBD orders.

2. Scope

This procedure applies to all departmental staff with case management responsibilities for matters that intersect with the FCFCoA.

3. Authority

3.1 Legislative context

- *Children and Young People (Safety) Act, 2017* – *'CYPS Act'*
    - Section 32(1)(b) requires the Chief Executive to assess any report or notification made to the department indicating that a child or young person may be at risk (however described and whether or not received under this Act).
    - Section 32(2) stipulates in the course of an assessment under this section, the Chief Executive may make use of or rely on such systems of information gathering, collating or reporting as the Chief Executive thinks fit (whether or not the system is operated or provided by a State authority).
    - Section 164(1)(e) details the confidentiality provision that departmental workers must not disclose personal information obtained (whether by that person or otherwise) in the course of performing functions or exercising powers under the Act except to an agency or instrumentality of this State, the Commonwealth or another State or Territory of the Commonwealth for the purposes of the proper performance of its functions.
- *Family Law Act 1975 (Cth)* – *'FLA'*
    - section 67ZBD

      (1) the court may make an order, in child-related proceedings, requiring an information sharing agency to:
        a. inform the court whether the agency has in its possession or control any documents or information relating to a matter mentioned in subsection (2)
        b. if it has – give the court particulars of the documents or information.

      (2) the matters are the following:
        a. abuse, neglect or family violence to which a child to whom the proceedings relate has been, or is suspected to have been, subjected or exposed;
        b. family violence to which a party to the proceedings has been exposed, or in which a party to the proceedings has engaged, to the extent it may affect a child to whom the proceedings relate;

c. any risk or potential risk of a child to whom the proceedings relate being subjected or exposed to abuse, neglect or family violence;
d. any risk of potential risk of a party to the proceedings being subjected to, or engaged in, family violence, to the extent any such family violence may affect a child to whom the proceedings relate.

(3) the order may (but is not required to) include descriptions of the kinds of documents or information that the court considers the agency may have in its possession or control relating to a matter mentioned in subsection (2). However, any such descriptions do not limit the scope of the order.

(4) the following are examples of descriptions of kinds of documents or information that may be included in an order:
a. notifications to the agency suspected of abuse of a child to whom the proceedings relate;
b. notifications to the agency of suspected abuse, by a party to the proceedings, or any other child.

(5) the agency may, on its own initiative:
a. produce to the court any documents the particulars of which are required by the order;
b. give to the court any information the particulars of which are required by the order;
c. give to the court any other particulars that the agency considers useful to characterise documents or information particulars of which are required by the order.

(6) if the agency produces a document or gives information or particulars on its own initiative under subsection (5), the agency must consider:
a. redacting the document if the document contains protected material;
b. not providing the information or particulars to the extent that the information is, or the particulars would reveal, protected material.

- section 91B Intervention by child welfare officer

(1) In any proceedings under this Act that affect, or may affect, the welfare of a child, the court may request the intervention in the proceedings of an officer of a State, of a Territory or of the Commonwealth, being the officer who is responsible for the administration of the laws of the State or Territory in which the proceedings are being heard that relate to child welfare

(2) Where the court has, under subsection (1), requested an officer to intervene in proceedings:
a. the officer may intervene in those proceedings
b. where the officer so intervenes, the officer shall be deemed to be a party to the proceedings with all rights, duties and liabilities of a party.

- Instrument of Authorisation between DCP and the FCFCoA
  - In addition to the information sharing provisions permitted under section 164 of the CYPS Act, the Chief Executive has signed a specific authorisation for the departmental Co-located Child Protection Practitioner to disclose information held by the department to Family Law Judicial Officers, registry staff, independent children's lawyers, Court Child Experts and SAPOL. Such disclosures of information are made in line with the confidentiality provisions of the CYPS Act.

3.2 Whole of Government requirements

Not Applicable.

3.3 DCP requirements

Not Applicable.

4. Procedure requirements

4.1 Request to intervene in family law proceedings

In any proceedings under the FLA the court may request the intervention of the DCP in proceedings which may affect the welfare of a child or young person. The court will request the department to intervene under section 91B of the FLA where the court is of the view that child protection concerns are present and that the department may have an interest in the proceedings. In order for the department to be able to respond to the request to intervene, a current, thorough and holistic assessment must have been recently undertaken, or must be undertaken after the request is received.

DCP is required to provide the court with information gathered through the investigation and assessment by way of a report which assists the court in their decision making regarding the safety and welfare of the children subject of the proceedings.

The Court Services and Liaison Team has oversight of all matters that progress through the FCFCoA subject to the orders under section 91B. The delegation for decision making remains with the allocated supervisor where the case is allocated to a departmental office, and with the Court Services Team when they undertake an assessment or investigation for the matter.

4.1.1 Responding to a 91B request to intervene order

The orders under section 91B are sent by the FCFCoA to a central mailbox monitored by the Court Services and Liaison Team. Differing processes exist for cases that are open or closed at the time the court order is received.

Open child protection cases
For matters where a 91B order is received on an open case, the case management team with the open case will be required to respond. The Court Services and Liaison Team will liaise with the allocated DCP case worker and supervisor to respond appropriately to the 91B request. A consultation will be scheduled and an email sent containing the FCFCoA order and the 91B report template.

The consultation with the allocated DCP case worker and supervisor will outline what information should be detailed in the report. The due date for the report will be determined based on the scheduled FCFCoA hearing (usually one week prior to the hearing date).

The Practice Lead or Co-located Child Protection Practitioner attends all FCFCoA hearings and will liaise directly with the allocated DCP case worker and supervisor.

Closed cases - Metro
For matters where a 91B order is received on a closed case, the Practice Lead or Co-located Child Protection Practitioner will conduct an assessment of departmental information to determine if an investigation is required to respond to the request.

If it is determined by the Practice Lead or Co-Located Child Protection Practitioner that there is sufficient and current information available to provide a holistic assessment, a report will be completed by the Court Services and Liaison Team outlining the department's assessment. This report will detail information obtained and assessments made in previous departmental investigations and may detail information from any service providers engaged with the family. When possible and relevant, the Court Services and Liaison

Team will provide a copy of the report to the relevant office to ensure an accurate assessment has been reflected.

In cases where it is assessed by the Practice Lead or Co-located Child Protection Practitioner that an investigation is required, the assessment and associated report will be conducted by senior social workers within the Court Services and Liaison Team. Circumstances where an investigation is required may include instances where there has been no recent, or prior, investigation conducted. The Court Services and Liaison Team will advise the relevant catchment office of the investigation via email as a courtesy.

Closed cases – Country offices

For matters where a 91B order is received for children residing in regional/rural catchment, the Court Services and Liaison Team will contact the relevant supervisor to schedule a case consultation to determine whether an investigation is required. An email will be sent containing the FCFCoA order and the 91B report template.

The consultation with the allocated DCP case worker and supervisor will outline whether an investigation should be undertaken and what information should be detailed in the report written by the office. The due date for the report will be determined based on the scheduled FCFCoA hearing (usually one week prior to the hearing date).

The Practice Lead or Co-located Child Protection Practitioner attends all FCFCoA hearings and will liaise directly with the allocated supervisor regarding the outcome of FCFCoA hearings.

Raising intake for closed cases

For matters where a 91B order is received for a child or young person without an open case, the Court Services and Liaison Team will contact the DCP Call Centre to advise of the request to intervene. The Court Services and Liaison Team will be responsible for providing the details of the child or young person that require a response and provide information about any new concerns.

If no new concerns have been provided, the intake will state:
"The notifier explained DCP have received a section 91B court order, request to intervene from the Federal Circuit and Family Court of Australia in relation to…."

If new concerns have been provided, these will be documented in the notification and the SDM Screening and Response Priority Assessment will be applied. If no grounds are added, a discretionary override will be used to screen the notification in.

Where a discretionary override has been applied, the rationale will state:
"This intake has been assessed as X02 – Discretionary Override.
Whilst the information provided doesn't detail concerns, unique circumstances for the family have been identified via the Family Court Process which has resulted in a section 91B court order of the Family Law Act, request to intervene in proceedings. As such, a ten day response has been raised to allow for DCP involvement".

The DCP Call Centre will create a new notification and screen in the matter as above, and the matter will be allocated to the Intake Supervisor, Court Services and Liaison Team.

Intake regarding siblings

In situations where there are other children or young people in the home who are not subject to the request to intervene, the Court Services and Liaison Team will be responsible for assessing if there is a need for an

investigation and assessment to occur with respect to these children or young people during their involvement with the family.

The decision regarding the need for an investigation to occur for additional children and young people in the home will occur following the initial home visit where assessments will be made in relation to their safety. Should safety concerns be identified for additional children and young people in the home, the Court Services and Liaison Team will raise a notification, which will subsequently be allocated to the respective worker.

Where there have been no safety concerns identified, and the decision has been made to not conduct an investigation and assessment for additional children and young people in the home, a rationale will be recorded in C3MS under the child subject to the 91B's profile.

In situations where a 91B request is received and an open intake already exists that includes additional children and young people, the Court Services and Liaison Team will allocate all children subject to the notification for investigation.

Youth Court orders

For matters where the Court Services and Liaison Team has conducted the investigation, and the Practice Lead, Court Services and Liaison has assessed that Youth Court orders are required to secure safety, consultation will occur with the supervisor of the relevant office noting the:

- Court Services and Liaison Team will complete the first Adelaide Youth Court (AYC) court report, interim case plan and undertake case work up until the first AYC hearing
- Court Services and Liaison Team will complete a Family Group Conference referral where appropriate
- Court Services and Liaison Team will prepare the Aboriginal and Torres Strait Islander Child Placement Principle Recognised Organisation Consultation (ROC) form in consultation with a Principal Aboriginal Consultant or other Aboriginal or Torres Strait Islander staff member where applicable
- Court Services and Liaison Team will attempt to identify a temporary placement within the family's network and initiate the Aboriginal or Non-Aboriginal Winangay temporary carer assessment where applicable
- allocated office will source a placement for a child or young person if a temporary placement/kinship placement cannot be secured by the Court Services and Liaison Team
- Court Services Team will facilitate a case handover meeting with the allocated office and an introduction to the family.

4.2 Co-located Child Protection Practitioner

The Co-located Child Protection Practitioner facilitates the sharing of information between the department, the FCFCoA and relevant stakeholders such as:

- **Independent Children's Lawyers (ICL)** who are appointed by a Judicial Registrar or Judge primarily to ensure that all information relevant to a child or young person's welfare is put before the court for consideration
- Court Child Experts who are psychologists and/or social workers employed by the FCFCoA to assist with the resolution of disputes, provide assessment reports and give evidence in the FCFCoA. The Co-located Child Protection Practitioner can seek permission to obtain these expert reports where available to assist with departmental assessment.

The Co-located Child Protection Practitioner can be contacted via email to DCP:Family Law Interface for all FCFCoA related questions or to request FCFCoA orders.

4.3 Notifications from the Federal Circuit and Family Court of Australia

Under section 67Z(3) of the FLA, the FCFCoA is required to notify the department of any child abuse allegations. This information is assessed by the child abuse report line.

4.4 67ZBD orders and subpoenas

Under section 67ZBD of the FLA, the FCFCoA may make an order requiring the department to provide documents or information specified in the order. This order may pertain to notifications, the outcome or findings of investigations and reports received by the department in relation to the subject children and relevant parties.

The Court Services and Liaison Team is responsible for monitoring and responding to all 67ZBD requests from the FCFCoA. In the event a request for information is received on an open case, the Court Services and Liaison Team will endeavor, when possible and relevant, to ensure the information is reviewed by the allocated DCP case worker and supervisor prior to the information being submitted to FCFCoA. This is primarily to ensure accuracy and relevant information being shared.

Should the FCFCoA seek further information from the department, including case notes, these can be requested via 67ZBE or subpoena. The Subpoena and Information Release team are responsible for responding to both 69ZBE orders and subpoenas.

5. Compliance, monitoring and evaluation

The Practice Lead, Court Services and Liaison monitors the compliance, monitoring and evaluation of this procedure, seeking advice from DCP Legal Services and the Aboriginal Practice Directorate as appropriate.

6. Related documents

Related documents, forms and templates
Family Law Report Template
Children and Young People (Safety) Act 2017
Family Law Act 1975

7. Glossary

Term	Meaning
FCFCoA	Federal Circuit and Family Court of Australia
FLA	Family Law Act
CYPS Act	Children and Young Persons (Safety) Act
DCP	Department for Child Protection
ROC	Recognised Organisation Consultation
AYC	Adelaide Youth Court

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4 September 2026	2.0	Review undertaken as part of the DCP policy review cycle.
10 November 2026	2.1	Minor amendment to section 4.1 Request to intervene in family law proceedings, to make the guidance clearer.