

Removal and assumption of care of a child from the service by Community Services

Objective

The purpose of this procedure is to provide guidance for children's services when responding to a Community Services request for removing a child or young person at immediate risk of significant harm, with or without a search warrant or Children's Court order.

Overview

Community Services (an agency within the NSW Department of Human Services) and NSW Police have the legal authority to remove children from their parents' or usual carer's responsibility where:

- there are reasonable grounds to believe that the child or young person is at risk of significant harm AND
- the risk is immediate, and less intrusive actions insufficiently reduce the risk of harm.

Community Services also has authority to assume the care of a child while they are in attendance at a children's service (that is, where it is not in the best interests of the child to be removed from the premises where they are currently living/located), if the child is assessed as being in need of care and protection on returning to the care of parents or carers.

Section 34 of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) authorises Community Services to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of a child or young person who is in need of care or protection.

Community Services must ensure that the child's parents/carers are kept informed of the whereabouts of the child:

- by disclosing the whereabouts of the child where the disclosure would not prejudice the child's safety, welfare, wellbeing or interests, or
- by not disclosing high level identification information (including name and address of the carer; information that may identify the placement; or contact information) where the disclosure would prejudice the child's safety, welfare, wellbeing or interests

Section 234 (1) of the Act requires *the person conducting the removal* to provide the following information to the child (where over 10 years old):

- the person's name and authority to conduct the removal
- the reasons why the child or young person is being removed

- that the law authorises the person to conduct the removal
- what is likely to happen to the child or young person after they have been removed

This information may be provided verbally at the time, however must be provided in writing as soon as practicable in a language and manner the child or young person can understand.

The child (10+ years) must be informed they may contact any person and be assisted to contact that person.

Community Services is responsible for arranging a placement for the child, where required.

Community Services will not ordinarily return the child(ren) to their parents or carers until it assesses that it is safe to do so or the Children's Court orders it.

Procedure:

If Community Services representatives arrive at the service to remove or assume the care responsibility of a child, please ensure this procedure is followed:

1. Community Services will contact the service to seek approval from the Coordinator/Authorised Supervisor or the most senior staff member on shift to collect the child, and advise about the need to remove or assume the child from the service, including the names of the representatives and the proposed arrival time (Community Services may be assisted by Police).
2. In preparation for the attendance of Community Services, centre staff should sit with the child in a comfortable area, e.g. foyer, office or staff room (this will reduce distress to other children). Ensure that the other children at the centre will still be adequately supervised.
3. Do not contact the child's parent/s to advise them about the impending removal of the child.
4. Contact any supervisor or employer immediately to advise that your service will have a child removed from care by Community Services representatives and the approximate time.
5. If there has not been a prior call from the Community Services or the representatives do not advise their names upon arrival the Coordinator/Authorised Supervisor should:
 - confirm the identification of the representatives (formal ID)
 - record the names and contact details of the representatives and the names of any Police in attendance
 - request that they sign the visitor in/out book

6. If there is any doubt about the identity of the Community Services representatives the Coordinator/Authorised Supervisor should contact the relevant Community Services Centre for verification or, if the removal is taking place outside office hours, contact the Child Protection Helpline on 133627 (the mandatory reporting number).
7. Where there is a Children's Court Order or a search warrant, Community Services representatives will serve an Order on the person at the service who appears to have the care and protection of the child and provide them with an information booklet about the removal (a child or young person may be removed with or without a search warrant or Children's Court order depending on the circumstances).
8. Ensure a representative sign the child out and that parents have been informed. An official must remain at the service until it is confirmed that the parent has been informed of the child's removal from the centre.

Staff Safety

If the parent or carer contacts and/or arrives at the service for information they should be directed to contact the Community Services Centre, or to call the Child Protection Helpline on 132 111. Where possible a Community Services caseworker should remain at the centre to inform the parent.

Complaints

Service staff or parents can also contact the Community Services Complaints Unit on 1800 000 164 if they have a complaint in relation to the removal.