**A GUIDE FOR SUPPORT WORKERS**

**Children's Court Assistance Scheme**

 

**Acknowledgements**

This guide was only made possible via the efforts and commitment of:

* Kirsty Harrison, Children's Legal Service, Legal Aid NSW;
* Leah Cruickshank, CCAS Co-ordinator, Macquarie Legal Centre; and
* Te'res Sia, Children's Legal Service, Legal Aid NSW.

A special thanks is also extended to members of the Children’s Court Assistance Scheme (CCAS) Advisory Group and a number of Community Legal Centre (CLC) staff for their input**.**

This guide was original issued in September 2012 and has been reviewed for publication on the Legal Aid NSW website in June 2015.

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1. **Purpose of the scheme**

Children's Court Assistance Schemes (CCASs) provide support to young people facing court in relation to all matters except care and protection. This is generally criminal matters and apprehended violence orders (AVOs). CCAS provide support to the family, carers, friends and other support people who accompany the young person to court. CCAS provide support for defendants in criminal law and AVO matters as well as support young people who are witnesses and people in need of protection (PINOPs),

The support that the CCAS program provides to young people and/or their families includes:

* information about court processes and outcomes;
* social support; and
* referral to welfare services such as counselling services, accommodation providers and drug and alcohol programs.

The Program creates a supportive and non-legal point of engagement for children and young people, allowing CCAS workers to identify and respond effectively to welfare and social needs. The CCAS program operates in parallel with, but is distinct from, the legal system.

1. **The Children's Court**
	1. ***Who's Who at the Children's Court***

**The Magistrate**

The Magistrate decides whether a young person is guilty or not guilty. If a young person pleads guilty or is found guilty, the Magistrate will decide what the penalty will be.

**Defendant**

If a young person has a lawyer they will sit behind their lawyer who will sit at the bar table. If a young person does not have a lawyer, they will go to the microphone towards the front of the court beside the bar table, when their case is called by the court officer. The young person should speak clearly and loudly and listen carefully to everything.

**Defence Lawyer**

A person who represents the young person at court. The lawyer will enter a plea of guilty or not guilty, conduct the case at the hearing and/or tell the court about the young person in sentencing.

**The court officer**

The court officer organises the court lists and calls people into the courtroom. When the court officer calls the young person's name, they will then go into court. He/she will show the young person where to stand if they are not sure.

**Witnesses**

Witnesses give their version of the events which are relevant to the young person's case. If they are pleading not guilty, a young person can bring their own witnesses to give evidence in your case. The police prosecutor can also call witnesses. Witnesses can be questioned by the defence lawyer or by the young person if they don’t have a lawyer, the prosecutor or the Magistrate. Witnesses must stay outside the courtroom until their name is called. When a witness enters the court they go to the witness box.

**Sherriff**

The sheriffs are present to ensure that the court is a safe environment for all to work in. They are part of the Department of Attorney General and Justice and employed by the court.

**Registrar**

The Registrar of the Children’s Court is responsible for the daily management and administration of the court. The Registrar maintains the records of the court, provides client service, prepares and issues court process, manages and supervises staff and manages the building and property.

**Juvenile Justice**

The Department of Juvenile Justice is the young people's version of Probation and Parole NSW/Corrective Services NSW. Intake Officers from the Department of Juvenile Justice are usually at the court. Juvenile Justice Officers (JJOs) provide supervision for young people on bail or on supervised community based orders, such as probation or a good behaviour bond. Part of this supervision includes offering counselling programs that address offending behaviour and assist young people to access other programs suitable to their needs. They also prepare background reports for the court to assist with sentencing. Juvenile Justice is also responsible for running the Juvenile Justice Centres (detention centres) across the state.

* 1. ***Court Rules***

You must follow all the court rules. Below are some of the more common ones. Others you will pick up as you go.

**Dress**

* Basically neat and tidy
* No hats
* No off-the-shoulder attire
* No shorts
* No singlets
* Your individual CCAS may have a different dress code so you should ask the Co-ordinators if you have any questions

**Procedures**

* Children's Courts are closed courts, which means the magistrate decides who can be present during a case. Family and Support Workers are almost always allowed in but friends of young people may or may not be allowed in.
* If a young person doesn't want a member of their family to be in the court, they should ask their solicitor (in advance if possible) to ask the magistrate to refuse entry to that person. Magistrates don't always agree to this request.
* If a CCAS worker is initially refused entry, you should inform the court officer that you are a CCAS Support Worker and that the young person coming before the court has asked you to come in with them, if that is the case.
* Bow upon entering and leaving the court room.
* If the magistrate is not on the bench and is about to enter the room, all in the court should stand and be silent. This same procedure applies for when the magistrate goes off the bench for a break.
* Talking in court should be kept to a minimum, but may be done softly to the client, family or duty solicitor. You should avoid longer conversations.
* At the start of the day it is good practice to greet the court staff, juvenile justice officer and duty solicitors. Wear your badge and identify yourself as a Support Worker to clients and anyone else you are dealing with.

**Speaking to the magistrate**

If you are addressed by the bench, you should respectfully advise the magistrate that your role as a CCAS worker is to provide information and referrals to a young person and the instructed solicitor would be a more appropriate person to inform the court about any referral.

A CCAS worker should not disclose information pertaining to a young person's court matter.

* 1. ***Overview of the Court Process***

When a young person has allegedly committed a crime, the police have two options of dealing with them. The police can either:

1. deal with the matter outside court under the *Young Offenders Act* (NSW) 1997, or
2. send the matter to court.

**Option 1: Police options in dealing with the young person outside court**

a) *Warning*

Police can give warning for very minor offences. They may or may not record the young person's name. The young person does not get a criminal record if they are given a warning.

b) *Caution*

This is like a warning but more formal. It is usually done at the police station. Police will record the young person's name and the details of the offence. If the young person is under 16 years, they must admit that they committed the offence in front of a parent, guardian, carer or other adult chosen by one of these people. If the young person is 16 years or over, they can choose which adult they wish to be present.

The young person must agree to be cautioned (they may prefer instead to defend the matter at court). A young person does not get a criminal record if they receive a caution, however, they will receive a police record, which can cause hassles later in life.

A young person is entitled to a maximum of three caution occasions. Several cautions for related offences, delivered on the same day, only counts as one caution occasion.

c) *Youth Justice Conference*

The police can send the young person to a Youth Justice Conference (YJC) if they admit to the offence in front of one of the people mentioned above (see *Caution)* and if the young person agrees to attend the YJC.

**Option 2: Matter referred to court**

When the offence is not a serious offence, police must always consider using one of the less serious options, as outlined above, before commencing criminal proceedings against a young person. Referring a matter to court is meant to be used as a measure of last resort. Nonetheless, police cannot use warnings, cautions or conferences for serious offences such as:

* traffic offences (except for under age drivers);
* drug offences that involve supply;
* serious sex offences;
* offences leading to death;
* breach of Domestic Violence Orders;
* serious offences; or
* when the young person does *not* admit that they committed an offence.

These matters must go to court, except for traffic offences which can be dealt with by fine. The court can give a young person a caution or refer a matter to a YJC, even after the police have sent the matter to court.

* 1. ***CCAS workers at the Children’s Court***

CCAS workers provide referral and support services to children who attend the Children's Court. The presence and expertise of workers from the CCAS program facilitates the process of court list days, engaging and grounding young people in what may be an otherwise complex and overwhelming environment.

At the start of the day it is good practice to greet the court staff, Juvenile Justice Officers and duty solicitors. Wear your badge and identify yourself as a Support Worker to clients and anyone else you are dealing with. It is expected that a good working relationship with all Court stakeholders is maintained; this should include Court staff, Judicial Officers, the Children’s Legal Service, the Aboriginal Legal Service (NSW/ACT), Juvenile Justice, Prosecutors, Justice Health, private legal practitioners and referral agencies.

A CCAS worker coordinates a registration and information function at the Children's Court which contributes to the smooth operation of the justice system. This registration process generally involves CCAS workers:

* Approaching young persons appearing before the court and noting their presence on the 'Attendance List' (Appendix 1) or 'AVO Attendance List' (Appendix 2) as appropriate.
* If the young person does not have a solicitor, facilitating contact between Legal Aid NSW or the Aboriginal Legal Service NSW/ACT Ltd (ALS), as appropriate.
* Provide information to the young person about the court processes including court lists, which room number their matter will be heard in and the location of amenities, if required.
* Maintain statistical information on the 'Daily Data Form' (Appendix 5).

In addition to the registration function that CCAS workers provide in court, their role in providing referrals addresses individual young person's specific needs and can improve the outcomes they obtain from the legal system.

* 1. ***Making contact with Young People***

CCAS workers should endeavour to make contact with every young person attending court on the day the CCAS is in attendance, in relation to any matter except care and protection and matters where a young person is in custody. There are some young people that CCAS workers will be unable to speak to, particularly young people in custody, in which case the support workers should make an effort to support the young person's family or support people.

1. **The Law**
	1. ***Overview of the Laws as it relates to young persons***

All criminal proceedings brought against people under 18 will go to the Children's Court first. Most matters can be finalised at the Children's Court. However, some matters are so serious that they cannot be finalised by the Children's Court. These matters are serious children's indictable offences and are dealt with at the District or Supreme Court. These kinds of matters include:

* homicide;
* aggravated sexual assault in company; and
* armed robbery with a dangerous weapon (i.e. firearm).

Note that some parties may choose to have the matter dealt with at a higher court even if it can be dealt with to finality at the Children's Court. The Children's Court magistrate has the final say as to whether the matter is referred to a higher court.

It is a general principle of Australian law that all defendants (this means, those persons who are defending themselves against a criminal charge) are presumed innocent until they are proven guilty by a court. Naturally, this includes young people under the age of 18. Unless the defendant pleads guilty in court, it is the job of the prosecutor (usually part of the police) or, for more serious cases, the Department of Public Prosecutions (DPP) to prove to the court, beyond reasonable doubt, that the defendant is guilty of the offence.

Generally, a criminal offence is made up of:

* the act of physically committing an offence (this is called the *actus reus),* and
* the mental element of an offence (the *mens rea).* The mental element is usually composed of having the intention to commit an offence but can also include recklessness, negligence, dishonesty or malice.

This means that the prosecution has to prove both elements are present before the defendant will be found guilty of committing an offence. For example, if Kelly took a mobile phone from Ned's place but she thought it was her phone then she is not guilty of theft, because there is no *mens rea.* However, if she did exactly the same thing knowing that the phone belonged to Ned and knowing that he did not consent to her taking the phone then she is guilty of an offence because she actually and mentally committed the offence of theft.

A young person who is aged between ten and 14 has an additional protection in the law. This protection is referred to as *doli in capax'* (meaning 'incapable of doing wrong') and means that the prosecution has the additional burden of proving that the young defendant knew what they were doing was seriously wrong (and not just that they had the *mens rea* regarding an offence). The prosecution can rely on the circumstances surrounding the offence to prove the young person had knowledge that an act they committed was seriously wrong. The prosecution can also rely on psychologists' reports, letters from teachers, past criminal records and other independent evidence to prove the young person's knowledge that their action was seriously wrong. If the prosecution can't show that the young person knew that what they were doing was seriously wrong, the charges against them will not be proven beyond a reasonable doubt and the young person will be found to be 'not guilty'. It is important to note that it is the State government, not the Federal government in Canberra that makes most of the criminal laws that are applied in New South Wales.

* 1. ***Court Attendance Notices (CANs)***

There are four types of Court Attendance Notices:

1. Field CAN (free until first court appearance)
2. Bail CAN
	1. with bail refused (held in custody until court date)
	2. with bail granted (either conditional or unconditional bail)
3. No Bail CAN (held in custody until court date)
4. Future CAN (like a No Bail CAN but given/sent weeks or even months after the alleged offence)

For most offences, police commence criminal proceedings by way of a Field Court Attendance Notice (FCAN). This involves three steps:

1. issuing a CAN and allocating a court listing day;
2. serving the CAN on the defendant young person; and
3. filing the CAN in the Court Registry.

However, police are not required to use a FCAN for matters where:

* the young person is accused of committing specific serious (mostly indictable) offences;
* the person seeking to commence criminal proceedings against the young person reasonably believes the young person is unlikely to comply with a FCAN or is likely to commit further offences;
* the person seeking to commence criminal proceedings against the young person believes that the violent nature of the young person or the violent nature of the offence the young person has allegedly committed indicates that the young person should not be allowed to remain at liberty; or
* If the police do not commence proceedings by way of a FCAN, then proceedings will commence by way of a Bail CAN or a No Bail CAN.

A Bail CAN is used where the young person is arrested and then released until their court date but with strict conditions. A No Bail CAN is where the police decide that a young person is too high risk to be released on bail and should be detained until their court date.

* 1. ***Bail***

When a young person is arrested, or not able to be given a Field CAN, the police may decide to place specific obligations on them by releasing them on bail (which means having conditions and restrictions imposed on the young person's liberty until the matter is dealt with at court) to ensure that:

* the young person does not re-offend;
* the young person turns up to court; and
* the victim of the alleged crime is safe.

*How is bail decided?*

In deciding whether to grant bail, the following will be considered:

* *Is the young person likely to turn up at court?*

Factors which will influence this decision include whether or not the young person has a criminal record, the seriousness of the offence and how much evidence there is against the young person.

* *Does the young person have a particular interest in getting bail?*

For example, does the young person have a family or other ties to the community? Does the young person have stable accommodation? Does the young person have stable employment? Does the young person have particular health needs?

* *The protection and welfare of the community.*

The factors that will be considered in determining this include: How serious is the offence? Is the young person likely to be a danger to the community?

If the police refuse bail then they must take the young person to court on the day of the arrest or the next day if the court is closed at the time of the arrest. The magistrate or registrar must then decide whether to grant the young person bail. A Legal Aid NSW solicitor or a duty solicitor will be at court to represent the young person trying to get bail. If the young person is refused bail, they will be held in custody until either bail is granted or their matter is finalised.

* 1. ***Sentencing***

There are five main theories that explain the rationale behind sentencing. They are:

1. *Rehabilitation* - the aim is to help the offender address specific issues they are facing causing the offending so that they will not engage in criminal offending again. This is the core principle of sentencing in the Children's Court.
2. *Restorative justice* - in this case, the aim is for the offender to give something back to the victim with the aim of 'restoring' circumstances as if the crime never occurred.
3. *Specific deterrence* - the idea is that a particular penalty is required to prevent the actual offender from committing further offences and to provide some protection to the community.
4. *General deterrence* - the idea is that a harsher penalty is required to prevent other people from committing the same offence. In the Children's Court, the principle of general deterrence does not have a lot of weight.
5. *Punishment* - the idea that those who offend should pay some sort of price for what they have done. This principle is also of little bearing in Children's Court sentencing.

When a young person is to be sentenced, the court may ask that a background report be prepared by the Department of Juvenile Justice. The Children's Court cannot lock up a person unless a copy of the Background Report has been given to them. Young people have the right to see their own Background Report on the day it is presented to the court.

Normally a copy of the Report is made available to the young person's solicitor, and the solicitor should show this to the young person if the young person asks.

* 1. ***Penalties***

The Children's Court may deal with a young person under the following Acts:

* *Children's (Criminal Proceedings) Act* (NSW) 1987 (CCPA);
* *Young Offenders Act* (NSW) 1997; and
* *Children (Protection and Parental Responsibility) Act* (NSW) 1997.

The following sections refer to the CCPA which is the legislation that is mostly used in the Children's Court.

**Dismissal with a caution: section 33(1 )(a)**

* Matter is dismissed with or without a caution.
* Usually involves a lecture.

**Good behaviour bond: section 33(1)(b)**

* Promise to the court to be of good behaviour. The court can impose conditions such as supervision by a Juvenile Justice Officer. The bond can be for up to two years. If the bond is breached, the young person can be sentenced in relation to the new offence as well as the old matter for which the bond was given.
* The young person must inform the court of a change in address.

**A fine: section 33(1)(c)**

* Maximum fine is 10 penalty units (i.e. $1,100).
* There is usually 28 days to pay. If the young person cannot pay the fine within the allocated time, the young person can make arrangements with the court registry to pay by installments.

**Youth Justice Conference: section 33(1)(c1)**

* An order can be made that the young person be referred to a Youth Justice Conference under the *Young Offenders Act.*

**'Griffith's Remand': section 33(1)(c2)**

* The court can adjourn the sentence date for a maximum of 12 months for the purpose of assessing the young person's capacity for rehabilitation, allowing the young person to show that rehabilitation has taken place or for any other purpose that the court thinks is appropriate. What occurs in the time frame will largely determine the choice in sentence.
* Solicitors usually only opt for this if they believe the young person is facing a custodial sentence, and they believe that, given some time, they can show that they have the capacity to improve their situation and then avoid or reduce the custodial sentence they may have been facing if they were sentenced immediately.

**A fine and a good behaviour bond: section 33(1)(d)**

This combines section 33(1)(b) and section 33(1)(c)

**Probation: section 33(1)(e)**

This involves a promise to the court to be of good behaviour. The court can impose conditions such as accepting the supervision of a Juvenile Justice Officer. The probation order can be for up to two years. If the probation order is breached, the young person can be sentenced in relation to the new matter as well as the old matter where the bond was given. A probation order is a more serious version of a good behaviour bond.

**Community Service Order: section 33(1)(f)**

* If the young person is under 16, the maximum penalty is 100 hours.
* If the young person is over 16, the maximum is 100 hours if the maximum period of imprisonment possible for the offence is six months.
* If the young person is over 16, the maximum is 200 hours if the maximum period of imprisonment possible for the offence is greater than six months and less than one year.
* If the young person is over 16, the maximum is 250 hours if the maximum period of imprisonment possible for the offence is greater than one year.
* A community service order is a direct alternative to detention in a juvenile justice centre.
* If the community service order is not completed, the young person may be given extra hours or re-sentenced (with a high possibility of being sent to a juvenile justice centre)
* Community service can include graffiti cleanup, cleaning of park benches and other programs suitable for young people.

**Control order: section 33(1)(g)**

* Commonly referred to as 'lock up'.
* The young person is sent to a detention centre for a period of no more than two years.
* Sentences can be for more than one offence and can be cumulative (one after the other) or concurrent (running at the same time).
* The young person cannot cumulate more than two periods specified in a control order.
* This is the last resort of the court when it is wholly inappropriate to deal with the young person in any other way.
* For orders more than six months, the court must set a non-parole period.

**Suspended sentence: section 33(1 B)**

* The Children's Court may suspend a control order for a specified period of time on condition that the young person enters a bond. If the young person breaches the bond (e.g. re-offends), the bond will be generally be terminated and the control order has effect.
* An example of a suspended sentence is as follows. A young person receives a nine month control order on 1 January which is suspended. The young person commits a robbery on 25 September. This breach would probably not be considered trivial and the young person would be likely to have to serve a nine month control order. The court may decide to break the control order into a parole and non-parole period depending on the circumstances of the young people.
* For the court to *not* terminate the bond:
	1. the breach must be trivial (e.g. public transport fare evasion).
	2. there must be good reasons for not complying with the bond.

**Youth Conduct Orders: section 48A (Children (Criminal Proceedings) Act 1987**

Youth Conduct Orders (YCO's) purport to use a multi-agency approach to address the underlying causes of anti-social behaviour by young persons who have been charged with certain offences. A YCO may restrict the behaviour and movement of a young person and direct them to perform certain tasks or activities to reduce their risk of offending.

In effect, there is a temporary stay on the proceedings until the YCO is completed or revoked. If the young person has 'substantially complied' with the terms of the final YCO, the court may:

* 1. if the young person did not plead guilty to or had not yet been found guilty of a relevant offence – make an order directing that the charge be dismissed;
	2. if the young person pleaded guilty or was found guilty of a relevant offence – proceed to sentence having regard to the fact that the child has substantially complied with the order.
1. **The Support Worker**
2. 1. ***CCAS Guidelines***

The work of CCAS Co-ordinators and Support Workers are to be compliant with the CCAS Guidelines issued by Legal Aid NSW as the funding body in June 2012. These guidelines provide for eight operating principals:

1. Trained workers are available to all young people, on all criminal and AVO court list days.
2. Workers will provide clear and timely registration, information and referral assistance. They will not provide legal advice.
3. Workers will provide assistance in a culturally appropriate manner.
4. The assistance will be young person and child-centred, family-focused, strengths based and participatory.
5. Workers will understand and work within court processes to contribute to the smooth running of the Children's Court.
6. Workers will have experience and training in working with young people and the scheme will have good relationships with the local youth and community sectors.
7. The scheme will educate the community on issues experienced by young people in the juvenile justice system.
8. The scheme will provide statistical reports to the funding body (Legal Aid NSW).
	1. ***The role of the Co-ordinator***

The role of a CCAS Co-ordinator is to ensure that the work performed by the Support Workers is compliant with the eight *Operating Principals* outlined in the CCAS Guidelines. In order to provide an effective service, Co-ordinators are required to ensure that Support Workers have appropriate training in:

* the role of a CCAS worker;
* Court Processes;
* the difference between Legal Advice and Information and Referral;
* Aboriginal Cultural awareness specifically focussed on the provision of court support for Aboriginal young people; and
* engaging with young people and using a child-centred approach.
	1. ***The role of a CCAS workers***

CCAS workers provide a variety of functions at the Children's Court, one of which is a registration service. Support Workers will note on the 'Attendance Sheet' the name of all young person's at court and details such as:

* if they have a support person with them;
* if they have their papers; and
* if they have a solicitor.

If a young person has advised a Support Worker that they do not have a solicitor, a support worker will then provide an appropriate referral to either the Legal Aid NSW or Aboriginal Legal Service (ALS) duty solicitor.

A young person may also have disclosed that they are attending court without a support person; the CCAS Support Worker may then offer to support the young person throughout the court day.

Support Workers also provide referrals to welfare services such as accommodation providers, drug and alcohol rehabilitation programs and counselling services.

* 1. ***Who is CCAS designed to assist?***

The Children's Court Assistance Scheme is designed to assist young persons and their carers and families going through the court process in relation to criminal matters.

Unfortunately, there are some young people that the CCAS cannot and should not assist, particularly accused persons in custody and those who are in court for Care and Protection matters.

* 1. ***Solicitor Referrals***

If a young person indicates they are not happy with the solicitor they have seen, they should speak to the Senior Solicitor of the Children's Legal Service at the closest Legal Aid NSW Office or the Aboriginal Legal Service as appropriate. It is common practice for CCAS workers to provide contact details for these offices. Alternatively, the CCAS worker may refer the young person to the most senior CLS or ALS solicitor at court on the day to address this issue.

It is not the role of the CCAS worker to personally find an alternative solicitor for the young person or to get involved in the concerns about the solicitor.

* 1. ***Resources and Record Keeping at Court***

The law is very clear about protecting the identity of children who are involved in the court process. For this reason, the scheme has developed a set of templates to be used by support workers.

There are five approved templates which should be used by CCAS staff, if you do not have access to these documents, ask your Co-ordinator for a copy. It should be noted, the first four templates should never be removed from the Children's Court.

The only template which would leave the Children's Court at the conclusion of a list day is the 'Daily Data Form'. This form may be removed as there is only statistical information which is used to assist with the management of the scheme.

Each template is outlined at Table 1.1:

**Table 1.1**

|  |  |  |  |
| --- | --- | --- | --- |
| **App** | **Form** | **Purpose** | **Contents** |
| 1\* | Attendance List | To allow for 'registration' of young people attending court | Includes name of young person, whether they have attended, if they are accompanied and if they have seen a solicitor |
| 2\* | AVO Attendance List | 'Registration' of young people attending AVO matters | Name of accused and PINOP, whether they have attended |
| 3\* | Action Form | To note the attendance at court of a young person who is not on the court list | To be used by CCAS Co-ordinators, to record Registry staff details where a young person is not required in court that day, also when the next occasion is. |
| 4\* | Long Contact Sheet | To monitor trends and record Mandatory Reporting references. | Initials of the young person, date, reference number, referral details. |
| 5 | Daily Data Form | To collate data collected through the attendance list | Tallies up the number of young people (family/career's, friends) assisted, gender, Aboriginal status and first language spoken if not English. |

\* not to be removed from the Children's Court

Each CCAS should have access to a locked cupboard at the court where the appropriate forms can be stored.

* 1. ***Mandatory Reporting***

CCAS workers are considered Mandatory Reporters under the *Children and Young Persons (Care and Protection) Act 1998*. The law says that mandatory reporting is required when a person who:

* in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement wholly or partly, to young people, and
* holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to young people, and
* has reasonable grounds to suspect that a young person under the age of 16 is at risk of significant harm, and those grounds arise during the course of or from the person's work, the person must, as soon as practicable, report to the Department of Family and Community Services NSW (FaCS) the name, or description, of the young person and the grounds for suspecting that the young person is at risk of significant harm.[[1]](#footnote-1)
	1. *Meaning of 'risk of significant harm'*

A CCAS Worker has a statutory obligation to report to FaCS when a young person discloses something that indicates that they are at 'risk of significant harm'. This new statutory threshold has replaced 'risk of harm' in the *Children and Young Persons (Care and Protection) Act* 1998.

A young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the young person are present to a significant extent.

What is significant is not minor or trivial, and may reasonably be expected to produce a *substantial and demonstrably adverse impact* on the child or young person's safety, welfare or wellbeing.

* 1. *CCAS Support Workers and Mandatory Reporting Guidelines*

If you are working at the Children's Court and you suspect that a child is at risk of significant harm, you should speak to the Co-ordinator of the CCAS before a notification is made to FaCS. Special protection is afforded to people who make reports to FaCS. A person who makes a report in good faith shall not breach professional standards, not be liable for defamation and not be liable in civil proceedings for malicious prosecution or conspiracy. CCAS Coordinators and Workers, as either employees of, or volunteering for, Community Legal Centres (CLCs), are also expected to adhere to internal CLC policies on Mandatory Reporting.

The contents of any report is not admissible in any other proceedings other than Care Proceedings and the person making the report shall not be compelled to produce the contents of the report and will have their identity protected except by consent of the reporter or by leave of the court.[[2]](#footnote-2)

* 1. ***Case Studies Provided by Leah Cruickshank, former CCAS Co-ordinator at Parramatta Children’s Court***

*Case Study 1*

A 16 year old young man fronts the Children’s Court to deal with an Apprehended Domestic Violence Order where he is the defendant and his father is the PINOP (person in need of protection). The CCAS worker observes a level of hostility between the young person and his father. The CCAS worker begins talking to the young person about the process of the day at court. Whilst chatting, the young person describes to the CCAS worker that he feels his father picks on him all the time and that nothing is ever good enough for his father. The young person also talks about how he feels that his father "never listens' to him". The CCAS worker takes this opportunity to talk to the young person about mediation and explains to the young person 'what mediation is' and 'how it can help' and asks the young person if he feels that mediation would be of assistance. The young person indicates that would be helpful because "he might listen to me". The CCAS worker explains to the young person they are going to speak to the father about it. The father thinks it will be a good opportunity for him and his son to work things out. The CCAS worker refers the young person and his father to mediation. Three months later when everyone returns to court it is found that the mediation successfully resolved the situation and the mother reports that the relationship between father and son is a lot stronger and they actually have started doing things together.

*Case Study 2*

A young person comes before the court on charges.

The young person completes the legal aid application form and hands it to the CCAS worker; from this information the CCAS worker identifies the young person is homeless. The CCAS worker speaks to the young person about their situation and suggests to the young person that they are able to assist in finding accommodation. With the consent of the young person the CCAS worker assists the young person by referring the young person to the 'Youth Homeless Hotline' to identify which refuges have beds. The CCAS worker then assists the young person to contact these services and asks the young person to speak to the workers. Within a couple of hours the young person has secured emergency accommodation. The workers at the refuge will work with the young person to find more long term accommodation. The young person is then able to give the solicitor the details of the refuge they will be staying at. This also means it is easier for Legal Aid NSW to contact the young person and the court is satisfied because the young person is safe and has accommodation.

 

1. Children and Young Persons (Care and Protection) Act 1998 s27. [↑](#footnote-ref-1)
2. Children and Young Person (Care and Protection) Act 1998 s29. [↑](#footnote-ref-2)