

Commitment

This Policy sets out the Creche and Kindergarten Association Limited's (C&K) approach to Court Orders and contested family matters. In such matters C&K will act in the best interests of the child.

General Principles

Court Orders include any formal Sealed Court Orders issued by a court, including the Federal Circuit and Family Court of Australia Division 1 and 2, relating to the parenting arrangements and care of a child pursuant to the [Family Law Act 1975 \(Cth\)](#) attending a C&K centre, and Protection Orders regarding domestic violence.

Safety of Children and Staff Paramount

At C&K, we maintain a zero-tolerance policy when it comes to parents arguing or involving staff and children in their conflicts related to parenting matters. Additionally, any aggressive or disrespectful behaviour from a parent towards our C&K staff members is not acceptable.

Families are required by law to provide C&K with a copy of any such Court Orders.

C&K acknowledges that Court Orders are unique to the circumstances of the parties involved. C&K will review Court Orders on a case-by-case basis and apply the following general principles:

- Court Orders are binding only on the parties to the order (generally the parents of a child or any other person who has standing to seek an order for the care of a child).
- C&K cannot be bound by the terms of the Court Order, enforce a Court Order on behalf of a parent, or contravene a Court Order (unless in the unlikely event C&K is named as a party to the Court Order).
- Court Orders represent the legal terms specified for the parenting and care arrangements (including the dates and times during which children spend time with their parents) which is determined to be in the best interests of the child. While C&K is not legally bound to comply with or enforce Court Orders, C&K will take reasonable steps to respect the arrangements specified in a Court Order and follow the terms.
- The safety of a child attending C&K is paramount and it may be necessary for C&K to contact the police if a Protection Order is in place and a parent attempts to collect a child in contravention of that Protection Order, particularly if the Protection Order names the child enrolled in C&K.
- If a copy of the Court Order is not provided to C&K, C&K cannot meet its obligations under this Policy

and will not be responsible for any action taken that may be contrary to the Court Order.

Joint and equal parental responsibility

If there is no Court Order in place, there is no presumption of joint and equal parental responsibility to make long term decisions for a child.

C&K is under no legal obligation to make inquiries if a parent has consulted and has the consent of the other parent to enrol their child in C&K, whether there are Court Orders or not.

However, C&K may exercise its discretion in making decisions about a child's enrolment and education and consider any information relevant to that child's safety and wellbeing.

Joint decision making responsibility where there is a Court Order

Where a Court Order requires joint decision making, C&K can accept and maintain a child's enrolment, even if one parent doesn't agree.

Any dispute a parent has about a continued enrolment of a child in this matter, is not a matter C&K will discuss. C&K will advise the parents to seek legal advice and resolve the matter between themselves.

When a Court Order specifies that parents have joint decision making responsibility for the child's education, both parents will be listed in the enrolment booklet.

Joint decision making responsibility where there is no Court Order

If there is no Court Order in place, C&K may accept an enrolment from one parent unless C&K is advised that the parents are in dispute about the enrolment.

C&K requires parents to resolve any disputes as to their child's enrolment at a C&K centre before the enrolment can be finalised. This includes the child's emergency contacts nominated by each parent. C&K will make reasonable efforts to hold an enrolment open for the child while the dispute is resolved.

Enrolling a Child

Providing a copy of Court Orders to C&K

Parents/guardians must advise C&K of any Court Order regarding the child, or where any changes are made to a previously provided Court Order. A copy of the Court Order (and any subsequent change) must be provided to C&K for the child's file.

Attending at or visiting a C&K centre

Parents must only attend a centre on days on which they lawfully have care of the child under the Court Order. This will apply if:

- the Court Order authorises parents to make other arrangements, which they have communicated to C&K in writing;
- the Court Order specifies arrangements regarding events held at the centre that the parents are entitled to attend, such as extra-curricular activities. C&K will do our best to facilitate such Court Orders;
- if a Court Order provides a child spends no time or supervised time with a parent, C&K will not permit that parent on C&K premises and if that parent attends, C&K will ask them to leave.

Parents are requested to resolve any issues about attending C&K centres on days the child is not scheduled to be in their care between themselves. It is a matter for a parent to obtain their own independent legal advice about parenting or domestic violence issues involving their child or the other parent.

C&K will not provide legal advice, nor will we entertain discussions with parents about such parenting arrangements, this includes when a parent disagrees with enrolment at C&K or demands information about their child they are not entitled to.

Parents will be asked to leave a centre if they attend on a day on which they do not have lawful care of the child, without consent from both parents or if a parent attempts to collect a child inconsistent with the terms of a Protection Order.

Providing information to parents

Under the [National Law and Regulations](#) which governs how C&K operates, C&K must provide specific information to parents about its educational program, a child's participation in that program and other information relating to the child. In cases where parents have joint decision making responsibility for the education of the child, C&K will provide the information equally to both parents.

Court Orders affecting parental rights

If a Court Order exists in relation to a particular child that denies parental responsibility to one parent, the parent denied responsibility for the child is not entitled to access records or information about the child from C&K under this policy.

In such circumstances, a parent or their legal representative may only seek access to documents about the child through court procedures, such as the issuing of a subpoena.

However, in some Court Orders, despite denying a parent their parental responsibilities, the court will make an order authorising the parent who no longer has parental responsibility to obtain education records for the child. In such cases, C&K will provide the parent with access to the child's relevant records.

Under the [National Law and Regulations](#), if the requested information contains the personal information of any other adult, C&K must first obtain the written consent those persons before providing the requested information. If consent is not given, C&K will redact all affected personal information before providing the requested information.

The [Family Law Act 1975 \(Cth\)](#) defines decisions in relation to education as decisions in relation to major long term issues. If the Court Order requires these decisions to be made jointly, this requires parents to consult with each other in relation to such decision and make a genuine effort to come to a joint decision. However, C&K is not required, and will not, consult with both parents to determine whether the decision is made jointly, before C&K acts on communication with one parent. This is not C&K's role.

Requests for information to support court proceedings

C&K will not provide information to support court proceedings or contested family matters except:

- in response to a subpoena issued by the court;
- to a court appointed Independent Children's Lawyer;
- to a court appointed expert supporting the court;
- where C&K determines that the child's interests or safety will be jeopardised or compromised unless the information is provided.

Verifying identity

C&K may require a person to provide copies of documents to verify their identity. The following are examples of documents that may be sufficient for verifying a person's identity:

- a current passport;
- a copy of a certificate or extract from a register of births; or
- a current driver's licence or Adult Proof of Age Card.

Verifying parentage

C&K may require a person to provide copies of documents to verify they are a parent of, or have parental responsibility for, a child. The following are examples of documents that may be sufficient for verifying parentage or parental responsibility:

- a copy of a certificate or extract from a register of births for the child; or
- a Federal Circuit and Family Court of Australia (Division 1 or 2) Order or other Court Order concerning parental responsibility for the child.

Contacting parents when an incident occurs

If an incident occurs at a centre about which parents must be notified (for example if the child is injured in an accident) C&K will notify parents as follows:

- if the Court Order states that each parent is responsible for the care of the child while in their custody C&K will, in the first instance, call the parent in whose care the child is for that day;
- if that parent cannot be reached C&K will contact their emergency contact;
- if the emergency contact cannot be reached C&K will call the other parent;
- if the other parent cannot be reached C&K will call their emergency contact;
- if the Court Order is silent C&K may contact either parent in the first instance followed by their emergency contacts.

Amending this policy

C&K may change this policy at any time without prior notice. You will be notified of any changes by C&K posting an updated version of the policy on its website.