

Childrens Court of Queensland
Form 42
Childrens Court Act 1992
Childrens Court Rules 2016, r 123

Registry:
Number:

NOTICE OF APPEAL

Use this form to appeal a decision (an adoption decision or a child protection decision) of the Childrens Court constituted by a magistrate to the Childrens Court constituted by a judge. There are strict timeframes for lodging an appeal. We recommend you get legal advice before completing this form.

Do not use this form if you are appealing a criminal decision of the Childrens Court. Do not use this form if you are appealing the decision of the Childrens Court constituted by a judge to the Court of Appeal.

Child's details

You must make a separate application for each child (if there is more than 1).

Given name	
Family name	
Date of birth	
Gender	Click on the appropriate box <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Not stated/prefer not to say
Cultural identity	Click on the appropriate box <input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Aboriginal and Torres Strait Islander <input type="checkbox"/> Neither Aboriginal nor Torres Strait Islander <input type="checkbox"/> Not stated/prefer not to say

Appellant

The appellant is the person appealing the court's decision.

Appellant's name	
Relationship to child	

First respondent

You should include every person who has a right to appeal the decision as a respondent on this form. You should get legal advice if you are not sure who should be a party to the appeal.

Given name	
Family name	
Relationship to child	

Second respondent (if applicable)

Delete the below box if there is only one respondent. Add additional boxes if there are more than two respondents.

Given name	
Family name	

Relationship to child	
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Additional participants (delete if not applicable)

Sometimes additional people are included in a child protection proceeding as though they are a party (e.g.: a separate representative appointed for a child in a child protection proceeding under section 110 of the Child Protection Act). Put those people’s details here. Also, if you are serving a person’s guardian because the guardian has filed a notice of address for service under rule 23, put the guardian’s details here.

Add additional boxes if there is more than one additional participant in this proceeding. Delete this box if there are no additional participants in this proceeding.

Given name	
Family name	
Role in proceeding	(e.g.: separate representative, guardian for Ms Jones.)

Decision you are appealing

You must complete all fields in red by replacing the red text with the requested information. If you’re seeking to appeal multiple decisions, you should copy and paste this section below and complete the fields again for each decision.

For a child protection appeal: (delete if not applicable)

The appellant appeals against the decision of the Childrens Court to make:

- a temporary assessment order (section 117(1), Child Protection Act 1999)
- a temporary custody order (section 117(1), Child Protection Act 1999)
- a court assessment order (section 117(2), Child Protection Act 1999)
- a child protection order (section 117(2), Child Protection Act 1999)
- another order (provide details of the other order and the section of the Child Protection Act 1999 under which you are appealing): *insert here*

The decision was made at *insert court location* on *insert the date the decision was made*.

For an adoption appeal (delete if not applicable):

The appellant appeals against the decision of the Childrens Court to make an *insert details of order and the section of the Adoption Act 2009 under which the appeal is brought*. The decision was made at at *insert court location* on *insert the date the decision was made*.

Request for stay of decision

The appellant is seeking a stay of this decision:
 Check this box if you want the court to suspend the decision temporarily until your appeal is decided.

Details of your appeal

Insert the reasons why your appeal should be allowed (the ‘grounds’ of the appeal) and the facts that you are relying on. Be as specific as you can.

Orders you are seeking

Insert the decision you want the appeal court to make.

Respondents’ address for service

This application is to be served on (given to) the respondent(s) at the below address(es):

First respondent's details

You should include the respondent's last known address.

Full name	
Address	
Phone	
Mobile (if applicable)	
Fax (if applicable)	
Email (if applicable)	

Second respondent's details (if applicable)

Delete the below box if there is only one respondent. Add additional boxes if there are more than two respondents and fill in the additional respondents' details.

Full name	
Address	
Phone	
Mobile (if applicable)	
Fax (if applicable)	
Email (if applicable)	

Appellant's address for service

This is the address where you want the court and the other parties to send you documents about your appeal.

Full name	
Address	
Phone	
Mobile (if applicable)	
Fax (if applicable)	
Email (if applicable)	

Appellant's signature

Signed	
Full name	
Date	

Filed in the *insert court location* registry on *insert date of filing*:
 (to be completed by the registrar)

Registrar
 Signature and seal of registrar

Next steps for appellants

You must file this notice in the court registry where the appeal will be heard.

You can do this in person, or by post, email or fax.

You must serve (give) the respondent a copy of this notice as soon as possible.

You can give it to them in person, or by post, email or fax. This is also called serving the respondent.

If you are a parent, child or another person and you are serving this form on the Director of Child Protection Litigation (the Director), you can do this in one of the following ways:

Just pick one option. You can tick the one that you prefer when you are filling out this form if it helps you remember.

- delivering the application in person at the Director's office (*Level 1 State Law Building, 50 Ann Street, Brisbane QLD 4000*);
- posting it to the Director at the Director's postal address (*GPO Box 2939, Brisbane QLD 4001*);
- emailing it to the Director (enquiries@dcpl.qld.gov.au); or
- faxing it to the Director ((07) 3404 3577).

You can ring the Director's office on (07) 3404 3578 if you want to make sure that this notice has been received.

You must file an outline of your argument.

You must do this unless the court directs you otherwise. You must also give it to (or serve it on) each of the respondents within 28 days after filing this notice of appeal.

An outline of argument is a written statement of the issues and arguments in the appeal, including:

- a short statement of any conclusions you think the court should form;
- the reasons why the court should form these conclusions—include the evidence you are relying on to appeal the court's decision(s);
- a short summary of submissions—include the authorities, passages, legislation, previous decisions and other material you are relying on; and
- a list of all documents and exhibits you will rely on to appeal.

More information is in the *Childrens Court Rules 2016* (Rule 127(5)).

You must appear in court.

You can appear in court in person or seek the help of a lawyer to speak for you. If you don't appear in court on the date stated above, your appeal may not proceed.

Information for respondents

What to do if you want to participate in this appeal

If you want to participate in this appeal, you must file a notice of address for service. The court registry will use your address for service to tell you the date when you should come to court.

Next steps

You must file an outline of your argument.

The person appealing is called the ‘appellant’ or ‘appellants’ (if there is more than one). The appellant(s) is required to give (or serve) you their outline of argument about the appeal within 28 days of filing this notice of appeal.

Unless the court directs you otherwise, you must file an outline of your argument about the appeal and give it to (or serve it on) the appellant(s) within 28 days after receiving their outline of argument.

An outline of argument is a written statement of the issues and arguments in the appeal, including:

- a short statement of any conclusions you think the court should form;
- the reasons why the court should form these conclusions—include the evidence you are relying on to appeal the court’s decision(s);
- a short summary of submissions—include the authorities, passages, legislation, previous decisions and other material you are relying on; and
- a list of all documents and exhibits you will rely on to appeal.

More information is in the *Childrens Court Rules 2016* (rule 127(5)).

You must file and serve (give) a notice of address for service on each other party to this appeal

Filing the notice of address for service?

You must file **Form 43 – Notice of address for service** in the court registry. You can find this form at <http://www.courts.qld.gov.au/about/forms> or at the relevant court registry. This is a requirement under the *Childrens Court Rules 2016*.

You file a notice of address for service by giving it to the registrar of the court. The registrar will then stamp the form with the court’s seal. You must serve the notice of address for service to each other party to the proceeding. Serving just means ‘giving’ the notice to the other party.

Every copy of the notice that you serve must have the court’s seal stamped on it. So make sure you take enough of copies to the court when you file the notice so the court can stamp them all. (E.g. if there are 2 parties: you can give 4 copies of the notice to the registrar to stamp. 1 copy will be for the court’s records, 1 will be given to each party (so 2 in total to each party) and 1 you can keep for your records).

How do I serve (give) the notice on the other parties?

You can serve the stamped copy of the notice by:

- post to the other party’s postal address (the applicant’s has given their postal address above);
- email to the other party’s email address;
- fax to the other party’s fax number; or
- giving it to the other party’s legal representative when you attend court.

You are allowed to pick whichever one you prefer. You only have to choose one. Sometimes other parties have not filed a notice of address for service yet. This means that you might not know their current address for service. The Director of Child Protection Litigation (the Director) can always be served using the address above (in ‘next step for appellants’).

If you do not know the address for service of another party (other than the Director) you can serve them using their postal address that you are aware of. (But don’t send it to their last known postal address if you know that they are no longer receiving mail there.) If you do not

know a postal address to send the notice to, tell the judge or magistrate that you have been unable to serve the notice when you next attend court. The judge or magistrate can make directions about how you can give your notice to the other party when you attend court.

You must appear in court

You can appear in court in person or seek the help of a lawyer to speak for you. If you don't appear on the date you are told by the court registry, the court may make orders and directions even though you're not present.