

Child Welfare Committee

Module 5



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Abbreviations

| | |
|--------|--------------------------------------|
| CCI | Child Care Institution |
| CCL | Child in Conflict with Law |
| CNCP | Child in Need of Care and Protection |
| CrPC | Code of Criminal Procedure |
| CWC | Child Welfare Committee |
| CWO | Child Welfare Officer |
| CWPO | Child Welfare Police Officer |
| DCPU | District Child Protection Unit |
| DM | District Magistrate |
| FIR | First Information Report |
| ICPS | Integrated Child Protection Scheme |
| JJ Act | Juvenile Justice Act |
| JM | Judicial Magistrate |
| MM | Metropolitan Magistrate |
| NGO | Non-governmental Organisation |
| PO | Probation Officer |
| SAA | Specialised Adoption Agency |
| SIR | Social Investigation Report |
| SJPU | Special Juvenile Police Unit |
| SOPs | Standard Operating Procedures |



Child Welfare Committee

Overview

The State Government is legally bound to set up a Child Welfare Committee (CWC) in each district to address the issues of children in need of care and protection (CNCP). This module describes in detail the powers, functions and responsibilities of the CWC with respect to CNCP. Also given are the various rehabilitation measures prescribed for children under the Juvenile Justice (JJ) Act, for which the Committee can pass orders.

Note: Facilitator must pre-read documents mentioned in additional readings and references at the end of the module before facilitating this module. Standard Operating Procedures (SOPs) for CWC are also part of additional reading materials. Section II covers few exercises and case studies for the readers/participants along with a note for the facilitator.



Objectives

At the end of the module, participants will be able to:

- ◆ Define CWC
- ◆ Describe the structure and composition of CWC
- ◆ Describe the powers and functions of CWC
- ◆ Describe the procedure in relation to CNCP.

Definition, Structure and Composition of CWC



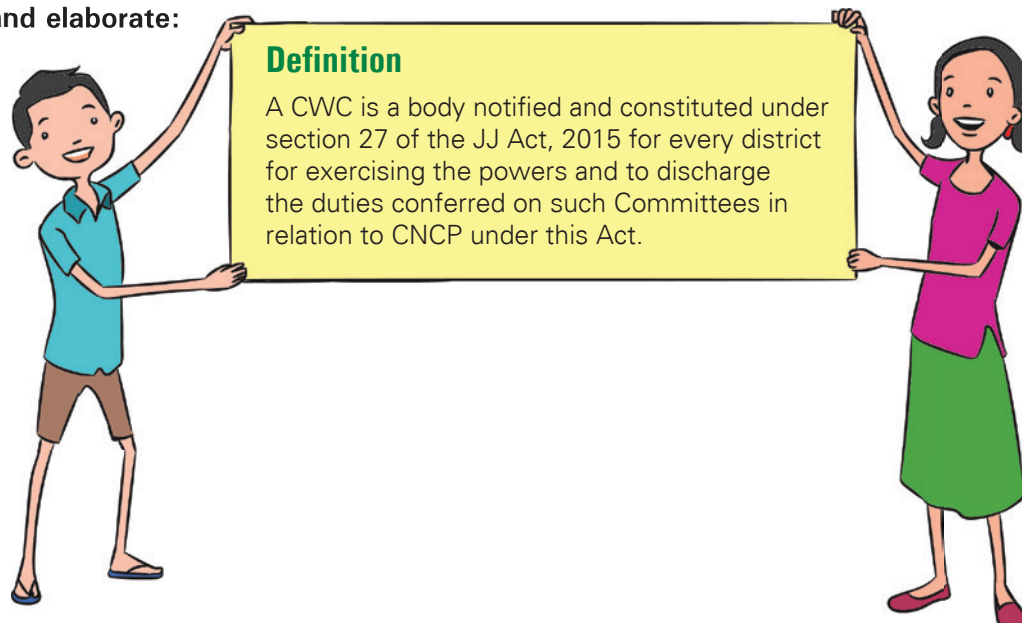
Time

45 Minutes



Step 1

Ask the participants what they understand by CWC. Listen to their responses and elaborate:



As per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (amended in 2006), the state governments are required to establish a CWC or two in every district. Each CWC should consist of a Chairperson and four members. The Chairperson should be a person well versed in child welfare issues and at least one member of the board should be a woman. The CWC has the same powers as a Metropolitan Magistrate (MM) or a Judicial Magistrate (JM) of First Class. A child can be brought before the committee (or a member of the committee, if necessary) by a police officer, any public servant, Child Line personnel, any social worker or public spirited citizen, or by the child himself/herself.

The CWC usually sends the child to a Children's Home while the inquiry into the case is conducted for the protection of the child. The CWC meets and interviews the child to learn his/her background information and also understand the problem the child is facing. The Probation Officer (PO) in charge of the case must also submit regular reports of the case. The purpose of the CWC is to determine the best interest of the child and find the child a safe home and environment, either with his/her biological parents or adoptive parents, foster care or in an institution.

A final order must be given within four months of the admission of the child before the CWC. The CWC also has powers to hold people accountable for the child, such as in the case of child labour. The employers are fined or made to give bonds to the children. CWC also has the power to transfer the child to a different CWC closer to the child's home or in the child's state to dispose of the case and reunite the child with his family and community.

As per the provisions of the Integrated Child Protection Scheme (ICPS), the Government of India provides two grants for setting up of CWCs: a Construction and Maintenance Grant of 9.9 lakhs and a Maintenance Grant of 6.19 lakhs. The cost of setting up CWCs is shared by the Central and State Governments at a 35:65 ratio except in Jammu and Kashmir and the North East where the ratio stands at 90:10.

Structure and Composition (Section 27, JJ Act, 2015)

- ◆ The State Government shall notify one or more CWCs for each district, as required.
- ◆ The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.
- ◆ For its effective functioning, the Committee shall be provided a Secretary and secretarial support by the District Child Protection Unit (DCPU).
- ◆ A member of the Committee shall be a person who has been actively involved in health, education or welfare activities pertaining to children for at least seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.
- ◆ A member shall be appointed for a period of not more than three years. A member can be terminated after an inquiry by the State Government for reasons as prescribed in Sec 27 (7) of the JJ Act, 2015.
- ◆ The Committee shall function as a Bench and shall have the powers conferred by the Code of Criminal Procedure (CrPC), 1973 on a MM or, as the case may be, a JM of First Class.
- ◆ The District Magistrate (DM) shall conduct a quarterly review of the functioning of the Committee.
- ◆ The DM shall be the grievance redressal authority for the CWC.



Step 2

Ask the participants about the working procedure of the CWC. Listen to the responses and add the missed out points.

Procedure in Relation to the Committee (Section 28, JJ Act, 2015)

1. The Committee shall meet at least 21 days in a month and shall observe such rules and procedures with regard to the transaction of business at its meetings, as may be prescribed.
2. A visit to an existing Child Care Institution (CCI) by the Committee, to check its functioning and well-being of children, shall be considered as a sitting of the Committee.





3. A CNCP may be produced before an individual member of the Committee for being placed in a Children's Home or Fit Person when the Committee is not in session.
4. In the event of any difference of opinion among the members of the Committee at the time of taking any decision, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairperson shall prevail.
5. The Committee may act, notwithstanding the absence of any member of the Committee. No order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding, provided that there shall be at least three members present at the time of final disposal of the case.

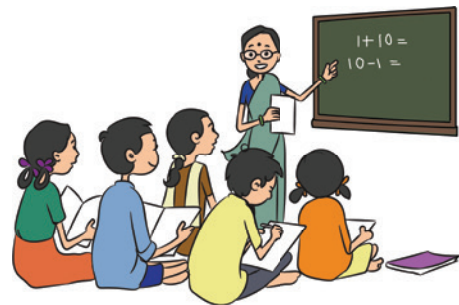


Step 3: What are the Powers and Functions of CWC?

Powers and Functions (Section 29 & 30, JJ Act, 2015)

Powers

1. The Committee shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of CNCP, as well as to provide for their basic needs and protection.



2. A Committee constituted for any area, notwithstanding anything contained in any other law in force, shall have the power to deal exclusively with all proceedings under this Act relating to CNCP.

Functions

The functions and responsibilities of the Committee in relation to CNCP shall include:

1. Taking cognisance of and receiving the children produced before it.
2. Conducting inquiry on all issues relating to and affecting the safety and well-being of children under this Act.
3. Directing the Child Welfare Officers (CWOs) or POs or DCPUs or non-governmental organisations (NGOs) to conduct social investigation and submit a report before the Committee.



4. Conducting inquiry for declaring fit persons for care of CNCP.
5. Directing placement of a child in foster care.
6. Ensuring care, protection, appropriate rehabilitation or restoration of CNCP, based on the child's individual care plan and passing necessary directions to parents or guardians or fit persons or children's homes or fit facility in this regard.
7. Selecting registered institution for placement of each child requiring institutional support, based on the child's age, gender, disability and needs, and keeping in mind the available capacity of the institution.
8. Ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process.
9. Declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry.
10. Taking action for rehabilitation of sexually abused children who are reported as CNCP to the Committee by Special Juvenile Police Unit (SJPU) or local police, as the case may be, under the Protection of Children from Sexual Offences (POCSO) Act, 2012.
11. Dealing with cases referred by the Board as CNCP.

Other functions and responsibilities

12. Conducting at least two inspection visits of residential facilities per month for CNCP and recommending action for improvement in quality of services to the DCPU and the State Government.
13. Certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together.
14. Taking suo motu cognisance of cases and reaching out to CNCP, who are not produced before the Committee, provided that such decision is taken by at least three members.
15. Co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the DCPU or the State Government.
16. In case of a complaint of abuse of a child in any CCI, the Committee shall conduct an inquiry and give directions to the police or the DCPU or labour department or Child Line services, as the case may be.
17. Accessing appropriate legal services for children.



Procedure related to CNCP



Time:
60 Minutes



Step 1: Group work

Divide the participants into four groups. Give them a situation of a CNCP and ask them to describe the procedure to be followed for that CNCP. The situations are given below:

1. Akhilesh is a 13 year old boy who works in a *dhaba*. He has to work for 12 to 14 hours a day. He is often belted, beaten, hit and kicked brutally and is subjected to the worst kind of physical abuse by his employer. He is often denied food also. He was rescued in a joint raid by police and support from an NGO working against child labour.



2. A newborn baby was found wrapped in a newspaper in a dustbin near a hospital. The hospital staff informed the police and the infant was brought before the CWC.
3. Manju is a 14 year old girl. She was brought to the city from her village by her 'uncle' with the promise of a lucrative job. Once in the city, she was denied salary, abused and made to work from morning till evening, and had no means to contact her family back in the village. She was later sold to a brothel.

4. Girish is a 15 year old boy. He has been living on a footpath after the death of his parents. He lives with a gang of people who drink alcohol, sniff glue and smoke drugs. He was rounded up one day by the police and brought before the CWC.





Step 2: Procedure in relation to CNCP

The JJ Act prescribes the process for CWC to deal with CNCP.

Production before the Committee (Section 31, JJ Act, 2015)

1. Any CNCP may be produced before the Committee by the following individuals:
 - ♦ Any police officer or SJPU or a designated Child Welfare Police Officer (CWPO) or any officer of DCPU or inspector appointed under any labour law for the time being in force
 - ♦ Any public servant
 - ♦ Child Line Services or any voluntary or NGO or any agency recognised by the State Government
 - ♦ CWO or PO
 - ♦ Any social worker or a public spirited citizen
 - ♦ By the child himself
 - ♦ Any nurse, doctor or management of a nursing home, hospital or maternity home

What is the reporting process of a child found separated from the guardian?

Reporting of children

1. Mandatory reporting of a child found separated from the guardian (Section 32, JJ Act, 2015)
 - ♦ Any individual or a police officer or any functionary of any organisation or a nursing home or hospital or maternity home, who or which finds and takes charge, or is handed over a child who appears or claims to be abandoned or lost, or a child who appears or claims to be an orphan without family support, shall within 24 hours (excluding the time necessary for the journey), give information to the CWC (or to the Child Line Services or to the nearest police station or to the DCPU, or hand over the child to a CCI registered under this Act).





- ♦ If information regarding a child as required under section 32 is not given within the period specified in the said section, then such act shall be regarded as an offence and shall be liable to imprisonment up to six months or fine of 10,000 rupees or both (Section 33 & 34, JJ Act, 2015).

2. Surrendered child (Section 35, JJ Act, 2015) - Parents or guardians who, for physical, emotional and social factors beyond their control, wish to surrender a child, shall produce the child before the Committee. After prescribed process of inquiry and counselling, if the Committee is satisfied, a surrender deed shall be executed by the parents or guardians.



3. The parents or guardians shall be given two months time to reconsider their decision and in the intervening period, the Committee shall either allow, after due inquiry, the child to be with the parents or guardians under supervision, or place the child in a Specialised Adoption Agency (SAA), if he or she is below six years of age, or a Children's Home if he is above six years.

If the biological mother/biological parents want to surrender her/their child, the mother/parents come directly to the CWC or through any agency:

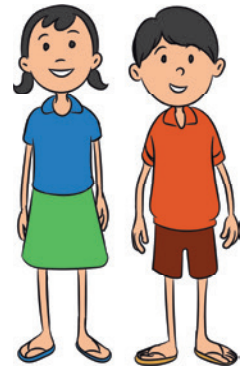
The CWC must interview the biological mother/parents and assess the reasons why the mother/parents want to give away the child. If the reason for wanting to surrender the child is due to a crisis that can be overcome through other forms of non-institutional support such as foster care, sponsorship or short term institutional care or other schemes of the Government, the CWC should not only provide this information, but also must make efforts to counsel parents to make it workable. If it is required, the CWC may refer her/ them to an agency for professional counselling to strengthen their coping capacities to deal with the crisis that they are facing. It may also be that parents are simply not willing to take responsibility of the child. Here too, counselling will prove useful. The CWC should not rush into a decision, but use counselling to support the child to remain with the biological family. The detailed assessment report by the counsellor should be taken on record and considered before final decision.



Step 3: What inquiry should be done on production of a child on receipt of a report?

Inquiry (Section 36, JJ Act, 2015)

1. On production of a child or receipt of a report, the Committee shall hold an inquiry on its own or on the receipt of the report and may pass an order to send the child to the Children's Home or a Fit Facility or Fit Person, and for speedy social investigation by a social worker or CWO or CWPO.
2. All children below six years of age, who are orphan, surrendered or appear to be abandoned shall be placed in an SSA, where available.
3. The social investigation shall be completed within 15 days so as to enable the Committee to pass final order within four months of first production of the child.
4. In case of orphan, abandoned or surrendered children, the Committee shall complete the inquiry as specified under section 38 and declare a child legally free for adoption.
5. After completion of the inquiry, if the Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may send the child to an SSA if the child is below six years of age, Children's Home or to a Fit Facility or person or foster family, till suitable means of rehabilitation are found for the child, as may be prescribed, or till the child attains the age of 18 years.
6. The situation of the child placed in a Children's Home or with a Fit Facility or person or a foster family shall be reviewed by the Committee, as may be prescribed.
7. The Committee shall submit a quarterly report on the nature of disposal of cases and pendency of cases to the DM in the manner as may be prescribed, for review of pendency of cases.
 - ◆ After review, the DM shall direct the Committee to take necessary remedial measures to address the pendency, if necessary, and send a report of such reviews to the State Government, which may constitute additional Committees, if required.
 - ◆ Provided that if the pendency of cases continues to be unaddressed by the Committee even after three months of receiving such directions, the State Government shall terminate the said Committee and shall constitute a new Committee.
 - ◆ In case of any delay in the constitution of a new Committee, the CWC of a nearby district shall assume responsibility in the intervening period.



CWC Orders related to CNCP



Time:
120 Minutes



Step 1: Orders passed by the Committee regarding a CNCP (Section 37(I), JJ Act, 2015)



Note for the facilitator

Actual formats of the orders as given in the Act and Rules are attached at the end of the module as handout. Facilitator must plan the session to carry out group work where the participants will identify which order formats are to be filled in which situation. This will be based on the four case scenarios given in Section II of the module.

The Committee on being satisfied through the inquiry that the child before the Committee is a CNCP may, after considering the Social Investigation Report (SIR) and taking into account the child's wishes, pass one or more of the following orders:

- ◆ Declaration that a child is in need of care and protection.
- ◆ Restoration of the child to parents or guardian or family with or without supervision of CWO or designated social worker.
- ◆ Placement of the child in Children's Home or Fit Facility or SSA for the purpose of adoption, either after reaching the conclusion that the family of the child cannot be traced or even if traced, restoration of the child to the family is not in the best interest of the child (see box 1).
- ◆ Placement of the child with Fit Person for long term or temporary care (see box 2).
- ◆ Foster care orders (see box 3).
- ◆ Sponsorship orders (see box 4).
- ◆ Directions to persons or institutions or facilities in whose care the child is placed, regarding care, protection and rehabilitation of the child, including directions relating to immediate shelter and services such as medical attention, psychiatric and psychological support including need-based counselling, occupational therapy or



behaviour modification therapy, skill training, legal aid, educational services, and other developmental activities, as required, as well as follow-up and coordination with the DCPU or State Government and other agencies.

- ◆ Declaration that the child is legally free for adoption (see box 5).

The Committee may also pass orders for:

- ◆ Declaration of fit persons for foster care
- ◆ Getting after care support
- ◆ Any other order related to any other function as may be prescribed.

Formats for various orders passed by CWC can be seen as in annexures 1-9

Box 1: Fit Facility

1. The Committee shall recognise a facility being run by a governmental or voluntary organisation or NGO registered under any law for the time being in force to be fit to temporarily take the responsibility of a child for a specific purpose after due inquiry regarding the suitability of the facility and the organisation to take care of the child.
2. The Committee may withdraw the recognition with reasons to be recorded in writing.

Box 2 : Fit Person

1. The Committee shall, after due verification of credentials, recognise any person fit to temporarily receive a child for care, protection and treatment of such child for a specified period.
2. The Committee, as the case may be, may withdraw the recognition granted with reasons to be recorded in writing.

Box 3: Foster Care – (Section 44, JJ Act)

1. CNCP may be placed in foster care, including group foster care for their care and protection through orders of the Committee, after following the procedure as may be prescribed, in a family which does not include the child's biological or adoptive parents or in an unrelated family recognised as suitable for the purpose by the State Government, for a short or extended period of time.
2. The selection of the foster family shall be based on family's ability, intent, capacity and prior experience of taking care of children.



3. All efforts shall be made to keep siblings together in foster families, unless it is in their best interest not to be kept together.
4. The State Government, after taking into account the number of children, shall provide monthly funding for such foster care through DCPU.
5. A child's parents may visit the child in the foster family at regular intervals, unless the Committee feels that such visits are not in the best interest of the child.
6. The foster family shall be responsible for providing education, health and nutrition to the child, and shall ensure the overall well-being of the child.
7. The Committee shall conduct inspection of foster families every month to check the well-being of the child and whenever a foster family is found lacking in taking care of the child, the child shall be removed from that foster family and shifted to another foster family as the Committee may deem fit.
8. No child regarded as adoptable by the Committee shall be given for long-term foster care.

Box 4: Sponsorship (Section 45, JJ Act)

1. State Government shall make rules for the purpose of undertaking various programmes for sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship.
2. The criteria for sponsorship shall include:
 - ◆ where mother is a widow or divorced or abandoned by family;
 - ◆ where children are orphans and are living with the extended family;
 - ◆ where parents are victims of life threatening disease; and
 - ◆ where parents are incapacitated due to accident and unable to take care of children both financially and physically.
3. The duration of sponsorship shall be such as may be prescribed.
4. The sponsorship programme may provide supplementary support to families, to Children's Homes and to Special Homes to meet medical, nutritional, educational and other needs of the children, with a view to improving their quality of life.

Box 5: Procedure for declaring a child legally free for adoption (Section 38, JJ Act)

1. In case of an orphan and abandoned child, the Committee shall make all efforts for tracing the parents or guardians of the child and upon completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption.



2. Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age.
3. Provided further that notwithstanding anything contained in this regard in any other law for the time being in force, no First Information Report (FIR) shall be registered against any biological parent in the process of inquiry relating to an abandoned or surrendered child under this Act.
4. In case of surrendered child, the institution where the child has been placed by the Committee on an application for surrender shall bring the case before the Committee immediately on completion of two months, for declaring the child legally free for adoption.
5. A child of mentally retarded parents or an unwanted child of victim of sexual assault, such child may be declared free for adoption by the Committee, by following the procedure under this Act.
6. The decision to declare an orphan, abandoned or surrendered child as legally free for adoption shall be taken by at least three members of the Committee.
7. The Committee shall inform the State Agency and the Authority regarding the number of children declared as legally free for adoption and number of cases pending for decision in the manner as may be prescribed, every month.



Step 2: Restoration of CNCP (Section 40, JJ Act, 2015)

Restoration and Protection of child:

1. The restoration and protection of a child shall be the prime objective of any Children's Home, SAA or Open Shelter. {Section 40 (1)}
2. The Children's Home, SAA or an Open Shelter shall take such steps as are considered necessary for the restoration and protection of a child deprived of his family environment temporarily or permanently where such child is under their care and protection. {Section 40 (2)}
3. The CWC shall have the powers to restore any CNCP to his parents, guardian or Fit Person, after determining the suitability of the parents or guardian or Fit Person to take care of the child and give them suitable directions.

Prohibition on disclosure of identity of children (Section 74, JJ Act, 2015)

- ◆ No report in any newspaper, magazine, news-sheet or audio-visual media or other forms of communication regarding any inquiry or investigation or judicial procedure shall disclose the name, address or school or any other particulars, which may lead to the identification of a child in conflict with law (CCL) or a CNCP or a child victim or witness of a crime, involved in such matter, under any other law for the time being in force, nor shall the picture of any such child be published.
- ◆ The Committee holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the best interest of the child.



Attendance of parent or guardian of child (Section 90, JJ Act, 2015)

The Committee, before which a child is brought under any of the provisions of this Act may, whenever it so thinks fit, require any parent or guardian having the actual charge of the child to be present at any proceeding in respect of that child.



Dispensing with attendance of child (Section 91, JJ Act, 2015)

- ◆ If, at any stage during the course of an inquiry, the Committee is satisfied that the attendance of the child is not essential for the purpose of inquiry, the Committee can dispense with the attendance of a child and limit the same for the purpose of recording the statement and subsequently, the inquiry shall continue even in the absence of the child concerned, unless ordered otherwise by the Committee.
- ◆ Where the attendance of a child is required before the Committee, such child shall be entitled to travel reimbursement for self and one escort accompanying the child as per actual expenditure incurred, by the Committee (or the DCPU).

Placement of a child suffering from a disease and requiring treatment (Section 92, JJ Act, 2015)

When a child, who has been brought before the Committee, is found to be suffering from a disease requiring prolonged medical treatment, the Committee may send the child to any place recognised as a Fit Facility as prescribed for such period as it may think necessary for the required treatment.



Procedure for transfer of a child to the place of residence (Section 95, JJ Act, 2015)

1. If during the inquiry it is found that the child hails from a place outside the jurisdiction, the Committee shall, if satisfied after due inquiry that it is in the best interest of the child and after due consultation with the Committee or of the child's home district, order the transfer of the child, as soon as possible, to the said Committee, along with relevant documents and following such procedure as may be prescribed.
2. Provided further that in case of inter-State transfer, the child shall be, if convenient, handed over to the Committee of the home district of the child, or to the Committee in the capital city of the home State.
3. Once the decision to transfer is finalised, the Committee shall give an escort order to the SJPU to escort the child, within 15 days of receiving such order.
4. Provided that a girl child shall be accompanied by a woman police officer.
5. Where a SJPU is not available, the Committee shall direct the institution where the child is temporarily staying or DCPU to provide an escort to accompany the child during travel.
6. Travelling allowance to the escorting staff for the child shall be paid in advance as per rules made by the State Government.
7. The Committee receiving the transferred child will process for restoration or rehabilitation or social re-integration, as provided in this Act.



Release of a child from an institution (Section 97, JJ Act, 2015)

1. When a child is kept in a Children's Home or Special Home, on the report of a PO or social worker or of Government or a voluntary organisation or NGO, the Committee may consider the release of such child, either absolutely or on such conditions as it may think fit to impose, permitting the child to live with parents or guardian or under the supervision of any authorised person named in the order, willing to receive and take charge, educate and train the child, for some useful trade or calling or to look after the child for rehabilitation.



2. If the person under whom the child is placed fails to fulfill such conditions, the Committee may, if necessary, cause the child to be taken charge of and to be placed back in the concerned home.

Leave of absence to a child placed in an institution (Section 98, JJ Act, 2015)

1. The Committee may permit leave of absence to any child, to allow him/her, on special occasions like examination, marriage of relatives, death of kith or kin or accident or serious illness of parent or any emergency of like nature, under supervision, for a period generally not exceeding seven days in one instance, excluding the time taken in journey.
2. The time during which a child is absent from an institution where s/he is placed, in pursuance of such permission granted under this section, shall be deemed to be part of the time for which s/he is liable to be kept in the Children's Home or Special Home.
3. If a child refuses, or has failed to return to the Children's Home or Special Home, the Committee may, if necessary, cause her/him to be taken charge of and to be taken back to the concerned home.



Step 3: What is the procedure for determination of age of a person brought before the CWC?

Presumption and determination of age (Section 94, JJ Act, 2015)

1. Where, it is obvious to the Committee, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry, without waiting for further confirmation of the age.
2. In case the Committee has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining:
 - ♦ the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof
 - ♦ the birth certificate given by a corporation or a municipal authority or a *panchayat*; and



- ♦ only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee.
3. Provided such age determination test conducted on the order of the Committee shall be completed within 15 days from the date of such order.



Note for the facilitator

Since the CWC members deal with cases where children may possibly be under varying degree of trauma, attitudinal aspects of dealing with such children is most important. Therefore, the facilitator must lay stress on active listening, empathy and highlight the need for hearing the child's opinion, especially where the child is old enough to decide on the best recourse. These activities have been covered in detail in the module on facilitation skills. Another activity on empathy has also been explained in SJPU module.

4. The age recorded by the Committee to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

Formats for orders: Annexure 1 to Annexure 9

References and additional reading: Roles and responsibilities of CWC members:

<https://ncpcr.gov.in/showfile.php?lang=1&level=1&&sublinkid=1609&lid=1548>

<http://justiceandhope.org/wp-content/uploads/2017/02/2.-SOP-for-CWC-Maharashtra.pdf?x95522>

<https://www.nls.ac.in/ccl/jjdocuments/powers.pdf>

<https://jhalsa.org/pdfs/juvenile/forms.pdf>

Annexure 1

FORM 25

[Rule 19(29)]

CERTIFICATE DECLARING THE CHILD LEGALLY FREE FOR ADOPTION

1. In exercise of the powers vested in the Child Welfare Committee.....under section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, child..... date of birth.....placed in the care of the Specialized Adoption Agency/Child Care Institution (name & address) vide order no.....dated..... of this Committee, is hereby declared legally free for adoption on the basis of the following:

- Inquiry report of the Probation Officer/ Child Welfare Officer / Social Worker / Case Worker/any other (as the case may be);
- Deed of surrender executed by the biological parent(s) or the legal guardian of the child before this Committee on (date);
- Declaration submitted by District Child Protection Unit and the Child Care Institution or Specialized Adoption Agency concerned to the effect that they have made restoration efforts as required under Section 40(1) of the Act, the Rules and Adoption Regulations, but, nobody has approached them for claiming the child as biological parents or legal guardian as on date of the said declaration.

2. This is to certify that:

The biological parent(s) / legal guardian, wherever available, has/have been counselled and duly informed of the effects of their consent including the placement of the child or children in adoption which would result in the termination of the legal relationship between the child and his or her family of origin;

The biological parents / legal guardian have given their consent freely, in the required legal form, and the consents have not been induced by payment or compensation of any kind and the consent of the mother (where applicable), has been given only after the birth of the child.

The Specialized Adoption Agency/ Child Care Institution to which the aforesaid child is entrusted shall post the photograph and other essential details of the child in the CARINGS and shall place such child in adoption as per the procedure laid down in the Act and Adoption Regulations.

Signature

Chairperson and Members of the Committee

(Seal of the Child Welfare Committee)

Date:

Place:

To: Child Care Institution /Specialized Adoption Agency/ District Child Protection Unit Concerned – for information and necessary action.

(Signature: & Seal)

Date:

Annexure 2

FORM 24

[Rule 19(22)]

DEED OF SURRENDER

Declaration by Person surrendering the child or children

Case No.....

In Re.....

I/We, the undersigned.....Family name/First name(s).....residing at, surrender the child (named).....Aged.....having date of birth.....for the reason:.....

- (ii) I/we are surrendering my/our child or children on our own and without any coercion, compulsion, threat, payment, consideration, compensation of any kind;
- (iii) I/we have been counselled and informed about the implication that I/we can withdraw our consent until 60th day of this surrender deed after which my/our consent will be irrevocable and I/we shall have no claim over the child or children.
- (iv) I/we have been made aware of the implications of surrender and are conscious of the fact that after the 60th day from date of the surrender deed, the legal parent-child relationship between my/our child or children and me/us will be terminated.
- (v) I/we understand that my/our child may be adopted by person(s) residing in India or abroad and give my/our consent for this purpose.
- (vi) I/we understand that the adoption of my/our child will create a permanent parent-child relationship with the adoptive parent(s) and then cannot claim back the child.
- (vii) I/we wish/ do not wish (please tick whichever is applicable) my/our identity and address to be disclosed to my/our child when he/she returns for root search.
- (viii) I/we declare that I/We have read the above statements carefully and have fully understood the same.

Done at on

[Signature or Thumb Impression of
surrendering person(s)]

2. Declaration by Witnesses

We the undersigned have witnessed the above surrender.

(a) Signature, Name and Address of the first witness

.....
.....

(b) Signature, Name and Address of the second witness

.....
.....

3. Certification of child welfare committee

We hereby certify that the person and the witness(es) named or identified above appeared before me this date and signed this document in our presence.

Done at on.....

**Signature & Seal of
Members/Chairperson
Child Welfare Committee**

Annexure 3

FORM 18

[Rules 18 (5), 18 (9) and 19 (26)]

ORDER OF PLACEMENT OF A CHILD IN AN INSTITUTION

(Children's Home/Fit Facility/SAA)

Case No.....

To,

The Officer-in-Charge,

Whereas on theday of20 (name of the child) son/daughter of agedresiding at being in care and protection under the Juvenile Justice (Care and Protection) Act 2015 is ordered by the Child Welfare Committee to be kept in the Children's Home/SAA/Fit Facility.....for a period of

This is to authorize and require you to receive the said child in your charge, and to keep him/her in the Children's Home/ Fit Facility /SAA..... for the aforesaid order to be carried into execution according to law. The concerned official shall upload the details in case of an orphan or abandoned child in the TrackChild/ relevant Web Portal.

Given under my hand and the seal of Child Welfare Committee.

This day of

(Signature)

Chairperson/ Member

Child Welfare Committee

Encl:

Copy of the orders, particulars of home and previous record, case history and individual care plan, as applicable:

Annexure 4

FORM 20

[Rule 18(8) and 19 (7)]

UNDERTAKING BY THE PARENT OR GUARDIAN OR 'FIT PERSON'

Iresident of House no.....Street Village/Town
.....District Statedo hereby declare that I am willing to take charge of
(name of the child) Aged..... under the orders of the Child Welfare
Committee..... subject to the following terms and conditions:

1. If his conduct is unsatisfactory I shall at once inform the Committee.
2. I shall do my best for the welfare and education of the said child as long as he remains in my charge and shall make proper provision for his maintenance.
3. In the event of his/her illness, he shall have proper medical attention in the nearest hospital.
4. I agree to adhere to the conditions that may be imposed by the Committee from time to time and also to keep the Committee informed about the compliance with the conditions.
5. I undertake to produce him/her before the Committee as and when required.
6. I shall inform the Committee immediately if the child goes out of my charge or control.

Date thisday of

Signature

Signed before Child Welfare Committee

Annexure 5

FORM 22

[Rule 19(8)]

SOCIAL INVESTIGATION REPORT FOR CHILD IN NEED OF CARE AND PROTECTION

Sl. No.....

Produced before the Child Welfare Committee.....

Case No.....

Social Investigation Report Prepared by: Child Welfare Officer/ Social Worker/Case Worker/ Person in-charge of Home/ representative of Non- Governmental Organization

Details of child in need of care and protection:

1. Name.....

2. Age/Date/Year of birth.....

3. Sex.....

4. Caste.....

5. Religion.....

6. Father's Name.....

7. Mother's Name

8. Guardian's Name.....

9. Permanent Address.....

10. Landmark of the address.....

11. Address of last residence.....

12. Contact no. of father/mother/family member.....

13. Whether the child is differently abled: Yes/ No

- (i) Hearing Impairment
- (ii) Speech Impairment
- (iii) Physically disabled
- (iv) Mentally disabled
- (v) Others (please specify)

14. Family Details:

| S.N. (1) | Name and Relationship (2) | Age (3) | Sex (4) | Education (5) | Occupation (6) | Income (7) | Health status (8) | History of Mental Illness (9) | Addictions (10) |
|-------------|---------------------------------|------------|------------|------------------|-------------------|---------------|-------------------------|---|--------------------|
| | | | | | | | | | |

15. Relationship among the family members:

| | |
|-----------------------|---------------------------------|
| i. Father & mother | Cordial/ Non cordial/ Not known |
| ii. Father & child | Cordial/ Non cordial/ Not known |
| iii. Mother & child | Cordial/ Non cordial/ Not known |
| iv. Father & siblings | Cordial/ Non cordial/ Not known |
| v. Mother & siblings | Cordial/ Non cordial/ Not known |
| vi. Child & siblings | Cordial/ Non cordial/ Not known |
| vii. Child & relative | Cordial/ Non cordial/ Not known |

16. If child is married, name, age and details of spouse and children.....

.....

17. History of involvement of family members in offences, if any:

| S. No. | Relationship | Nature of Crime | Legal status of the case | Arrest if any Made | Period of Confinement | Punishment awarded |
|--------|--|-----------------|--------------------------|--------------------|-----------------------|--------------------|
| 1. | Father | | | | | |
| 2. | Step father | | | | | |
| 3. | Mother | | | | | |
| 4. | Step mother | | | | | |
| 5. | Brother | | | | | |
| 6. | Sister | | | | | |
| 7. | Others (uncle/ aunty/ grandparents) | | | | | |

18. Attitude towards religion.....

19. Present living conditions

20. Other factors of importance if any.....

21. Habits of the child

A

- i) Smoking
- ii) Alcohol consumption
- iii) Drug use (specify)
- iv) Gambling
- v) Begging
- vi) Any other

B

- i) Watching TV/movies
- ii) Playing indoor/outdoor games
- iii) Reading books
- iv) Religious activities
- v) Drawing/painting/acting/singing
- vi) Any other

22. Extra-curricular interests.....

23. Outstanding characteristics and personality traits.....

24. The details of education of the child (tick as applicable)

- (i). Illiterate
- (ii). Studied up to V Standard
- (iii). Studied above V Standard but below VIII Standard
- (iv). Studied above VIII Standard but below X Standard
- (v). Studied above X Standard

25. The details of the school in which studied last(tick as applicable) :

- a. Corporation/Municipal/Panchayat
- b. Government/SC Welfare School/BC Welfare School
- c. Private management
- d. School under NCLP

26. Attitude of class mates towards the child.....
27. Attitude of teachers and classmates towards the child.....
28. The reason for leaving School (tick as applicable)
- a. Failure in the class last studied
 - b. Lack of interest in the school activities
 - c. Indifferent attitude of the teachers
 - d. Peer group influence
 - e. To earn and support the family
 - f. Sudden demise of parents
 - g. Bullying in school
 - h. Rigid school atmosphere
 - i. Absenteeism followed by running away from school
 - j. There is no appropriate level of school nearby
 - k. Abuse in school
 - l. Humiliation in school
 - m. Corporal punishment
 - n. Medium of instruction
 - o. Others (pl. specify)
29. Vocational training, if any.....
30. Employment Details, if any.....
31. Details of income utilization.....
32. Work record (reasons for leaving vocational interests, attitude towards job or employers).....
33. Majority of the friends are (tick as applicable)
- a) Educated
 - b) Illiterate
 - c) The same age group
 - d) Older in age
 - e) Younger in age
 - f) Same sex
 - g) Opposite sex
 - h) Addicts
 - i) With criminal background
34. Attitude of the child towards friends.....
35. Attitude of friends towards the child.....
36. observation about neighbourhood (to assess the influence of neighbourhood on the child).....
37. Mental condition of the child: (Present and past).....
38. Physical condition of the child: (Present and past).....

39. Health status of the child

- i. Respiratory disorders - present / not known / absent
- ii. Hearing impairment - present / not known / absent
- iii. Eye diseases- present / not known / absent
- iv. Dental disease- present / not known / absent
- v. Cardiac diseases- present / not known / absent
- vi. Skin disease-present / not known / absent
- vii. Sexually transmitted diseases- present / not known / absent
- viii. Neurological disorders- present / not known / absent
- ix. Mental handicap- present / not known / absent
- x. Physical handicap- present / not known / absent
- xi. Urinary tract infections –present / not known / absent
- xii. Others (pl. specify) -

40. Whether the child has any addiction

Yes/ No

41. With whom the child was staying prior to production before the Committee

- (i) Parent(s) – Mother / Father / Both
- (ii) Siblings / Blood relative
- (iii) Guardian(s) – Relationship
- (iv) Friends
- (v) On the street
- (vi) Night shelter
- (vii) Orphanages / Hostels/ Similar Homes
- (viii) Other (pl. specify)

42. History/ tendency of the child to run away from home, if any.....

43. Parents attitude towards discipline in the home and child's reaction.....

44. Reasons for leaving the family (tick as applicable)

- (i) Abuse by parent(s)/guardian(s)/step parents(s)
- (ii) In search of employment
- (iii) Peer group influence
- (iv) Incapacitation of parents
- (v) Criminal behaviour of parents
- (vi) Separation of Parents
- (vii) Demise of parents
- (viii) Poverty
- (ix) Others (please specify)

45. Whether the child is a victim of any offence

Yes/No

46. Types of abuse met by the child (tick as applicable)

- (i) Verbal abuse – parents/siblings/ employers/others (pl. specify)
- (ii) Physical abuse
- (iii) Sexual abuse parents/siblings/ Employers/others (Pl. specify)
- (iv) Others – parents/siblings/ employers/others (pl. Specify)

47. Types of ill-treatment met by the child(tick as applicable).

- i) Denial of food – parents/siblings employers/other (pl. specify)
- ii) Beaten mercilessly –parents/ Siblings/employers/other (pl. specify)
- iii) Causing injury –parents/ siblings/employers/other (pl. specify)
- iv) Detention -parents/ siblings/employers/other (pl. specify)
- v) Other(please specify)_____parents/siblings/employers/others(pl. specify)

48. Exploitation faced by the child

- i) Extracted work without payment
- ii) Little (low) wages with longer duration of work
- iii) Others (pl. specify)

49. Whether the child has been bought or sold or procured or trafficked for any purpose
Yes/ No

50. Whether the child has been used for begging Yes/ No

51. Whether the child is used by any gangs or adults or group of adults or has been used for drug peddling:
Yes/ No

52. Previous institutional/case history and individual care plan, if any:.....

53. Details of perpetrator: (such as Name, Age, Contact number, Address details, Physical Characteristics, Relationship with the family, middle men involved, is there any other child from the same village who is abused / harassed / taken / sent by the perpetrator, how the child came in contact with the perpetrator).....

.....

54. Attitude of the child towards the perpetrator.....

55. Whether the police have been informed.....

56. Action taken, if any against the perpetrator.....

57. Any other remark.....

OBSERVATIONS OF INQUIRY

- 1. Emotional factors.....
- 2. Physical condition.....
- 3. Intelligence.....
- 4. Social and economic factors.....
- 5. Suggestive causes of the problems.....
- 6. Analysis of the case, including reasons/contributing factors for the offence...
- 7. Reasons for child's need for care and protection.....
- 8. Opinion of experts consulted.....

9. Psycho-social expert's assessment.....
10. Religious factors.....
11. Risk analysis for the child to be restored to the family
12. Previous institutional/case history and individual care plan, if any:.....
13. Recommendation of Child Welfare Officer/Case Worker/Social Worker regarding psychological support, rehabilitation and reintegration of the child and suggested plan.....

Signature
(Of the Person assigned)

FORM 44

[Rule 82 (1)]

RELEASE CUM RESTORATION ORDER

(Name of the Child).....son/ daughter of..... residence.....
Case No./ Profile Number..... who was ordered to be placed in an observation home/place of
safety/ special home/Children's Home/ by the Juvenile Justice Board/ Children's Court/ Child Welfare
Committeeunder section..... of the Juvenile Justice (Care and Protection of
Children) Act 2015, for a term of..... on theday of.....20.....and
who is now in the Institution, at.....is directed to be released from the
said.....Institution and supervision and the authority of..... during the remaining period of stay
as.....reason for discharge).

This order is granted subject to the conditions hereon, upon the breach of any of which it shall be
liable to be revoked.

Dated

Signature

Juvenile Justice Board/ Children's Court/ Child Welfare Committee

Place:

Conditions:

1. The discharged person shall proceed to..... and live under the supervision and authority
of..... until the expiry of the period of his stay in Children's Homes or fit facility/ detention in
observation home/ special homes/ place of safety unless the remission is sooner cancelled.
2. He shall not, without the consent of the.....remove himself from that place or any other place,
which may be named by the said
3. He shall obey such instruction as he may receive from the saidwith regard to
punctual and regular attendance at school/vocation or otherwise.
4. He shall not get involved in any offence and shall lead a sober and industrious life to the satisfaction
of.....
6. In the event of his committing a breach of any of the above conditions the remission of the period of stay
in the Institution hereby granted shall be liable to be cancelled and on such cancellation he/she shall be
dealt with under section 97 of the Juvenile Justice (Care & Protection of Children) Act 2015.

I hereby acknowledge that I am aware of the above conditions which have been read over/ explained to me
and that I accept the same.

(Signature or mark of the released child)

Certified that the conditions specified in the above order have been read over/explained to (Name
of child).....and that he/she has accepted them as the conditions upon which his/her release
may be revoked.

Certified accordingly that the said child has been discharged on the.....

Signature and Designation of the certifying authority

i.e. Person-in-charge of the institution

Annexure 7

FORM 45

[Rules 82(4)]

ESCORT ORDER

Case No.....

In the matter of Boy/Girl Child

.....

Aged about.....year taken

The Parents of the boy/girl child are reported to be residing at.....

He/She therefore be sent under supervision of a proper police / recognized non governmental organization escort to the.....

For tracing and for handing over to the parents or close relatives of the said Boy Child/Girl Child residing at the aforesaid address or at other Place which may be shown by the Child, if no such parents or relative are traced or if traced but they are unwilling to take charge of the boy/girl be kept in the custody of the Superintendent.....Children's Home/ Place of Safety/ Observation Homes of the said district and the said Boy/Girl child be produced before the concerned Child Welfare Committee/ Juvenile Justice Board for further orders.

Orders

Pending Escort, the said Boy/Girl Child shall remain in Children's Home/ Place of Safety/ Observation Homes, residing at present at----- The State/District Child Protection Unit, or Police Department and recognized Non-governmental organization/ Childline shall positively make immediate arrangement not less than 15 days from the date of receipt of this order by him and send the said Boy Child/Girl Child at his/her aforesaid place of residence.

Dated this.....day of.....20

Chairperson/Member
Child Welfare Committee
Juvenile Justice Board

CC to:

- 1.The Person in charge, Child Care Institution.
 - 2.The District Child Protection Unit or non-governmental organization or Childline
- Ref.: 1. Order of admission of minor.....born on.....Profile No.....

Annexure 8

FORM 41

[Rule 69 (C) (1)]

PROTECTIVE CUSTODY CARD

1. Name of the child :
2. Age of the child :
3. Mother's Name :
4. Father's Name :
5. Address of parent/guardians :
6. Date of receiving by Organization/Institution:
7. Name & contact details of the person producing child:
8. Date of Inquiry:

This is to authorize and direct you to receive the above named child in your Child Care Institution and keep her/him in your charge for protective custody under the J.J. Act, 2015.

And to produce the child on

Next Date of hearing.....

(Signature)

**Principal Magistrate/ Member,
Juvenile Justice Board**

