

**FREQUENTLY ASKED QUESTIONS & ANSWERS
ON
CHILD WELFARE COMMITTEE (CWC)**

**UNDER
THE JUVENILE JUSTICE (CARE AND PROTECTION
OF CHILDREN) ACT, 2015**

INTRODUCTION

The Juvenile Justice (Care and Protection of Children) Act, 2015 is the principle law in the country for children alleged and found to be in conflict with law and children in need of care and protection. The Act provides for child friendly approaches in the adjudication and disposal of matters keeping best interest of children as paramount. The Act also provides for several institutional and non-institutional measures for rehabilitation and social re-integration of children.

The Act has come into force from 15th January, 2016 and the Model Rules under the Act were notified on 21st September, 2016. The provisions of the Act are guided by fundamental principles for care and protection of children which are detailed in chapter two of the Act. Some of these principles include: principle of presumption of innocence under which every child is to be presumed to be innocent of any criminal intent up to the age of eighteen years; principle of natural justice; principle of participation; principle of best interest; principle of equality and non-discrimination and principle of right to privacy and confidentiality.

Section 2(14) of the Act, provides a comprehensive list of children who can be declared as those in need of care and protection. These include:

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or
- (iii) who resides with a person (whether a guardian of the child or not) and such person—
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or
- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or
- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or
- (x) who is being or is likely to be abused for unconscionable gains; or
- (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

A child in need of care and protection is brought before a Child Welfare Committee (CWC) to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

The institutional and non-institutional measures for children in need of care and protection include:

1. Children's home: These are meant for placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation

2. Specialised adoption agencies: These are meant for the rehabilitation of orphan, abandoned or surrendered children, through adoption and non-institutional care.
3. After care: This is meant for any child who leaves a child care institution on completion of eighteen years of age with financial support in order to facilitate child's re-integration into the mainstream of the society.
4. Foster care: This can be individual foster care or group foster care. Under foster care, children are placed in a family which does not include the child's biological or adoptive parents or in an unrelated family, which is recognised as suitable for the purpose by the State Government, for a short or extended period of time.
5. Open Shelter: These function as a community based facility for children in need of residential support, on short term basis, with the objective of protecting them from abuse or weaning them, or keeping them, away from a life on the streets.
6. Sponsorship: Sponsorship can be individual to individual sponsorship, group sponsorship or community sponsorship. The sponsorship programme provides 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.

This handbook provides an exhaustive list of frequently asked questions on the structure and functioning of Child Welfare Committee.

1. What is the Composition of a Child Welfare Committee (CWC) in the Act?

The Committee consists of a Chairperson, and four other members of whom at least one is a woman and another, an expert on matters concerning children.

2. Is a CWC provided any additional support to help it function effectively?

The District Child Protection Unit provides a Secretary and other staff that may be required for secretarial support to the Committee for its effective functioning.

3. What are the provisions to ensure the CWC is sensitized on the provisions of law?

Under Section 27(1), the State Government is made responsible to provide induction training and sensitisation to all members including Chairperson of the Committee on care, protection, rehabilitation, legal provisions and justice for children, within a period of sixty days from the date of their appointment. Further, under Model Rule 89, the State Government is also required to organize regular training programmes for all stakeholders including JJB members on the implementation of the JJ Act, 2015.

4. What should be the qualification of the CWC members?

Person appointed as a member of the Committee should be actively involved in health, education or welfare activities pertaining to children for at least seven years or should have been a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.

5. What is the term of members of the Committee?

The term of the members of the committee is for a period of three years from the date of appointment. They are eligible for maximum of two terms which cannot be continuous.

6. What are the criteria's for terminating members of CWC?

Members of CWC are terminated if they are found guilty of misuse of power or they have been convicted of an offence involving moral turpitude and such

conviction has not been reversed or he has not been granted full pardon in respect of such offence. A member can also be terminated if he fails to attend the proceedings of the Committee consecutively for 3 months without any valid reason or he fails to attend less than three-fourths of the sittings in a year.

7. Who is the Grievance Redressal Authority in case of CWC?

The District Magistrate is the grievances redressal authority for the Child Welfare Committee. Anyone connected with a child, can file a petition before the District Magistrate, who is required to consider and pass appropriate orders.

8. What is the periodicity of review of the Committee by the District Magistrate?

The Committee is reviewed quarterly by the District Magistrate.

9. What is the Power of CWC?

The Committee has the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

10. Can Committee form subcommittees?

No, the Committee should function cohesively as a single body and cannot form any subcommittees.

11. How many times minimally the Committee needs to meet in a month and for how many hours?

The Committee is required to meet at least 20 days in a month. It is also required to sit for a minimum of six hours on all working days.

12. Is visit to a Child Care Institution by the Committee, considered as sitting?

Under Section 28(2), a visit to a child care institution by the Committee, to check its functioning and wellbeing of children is considered as a sitting by the Committee.

13. How many members need to be present at the time of final disposal of the case by the Committee?

At the time of final disposal of the case by the Committee, at least three members should be present.

14. What happens, if there is difference of opinion among the members of the committee at the time of taking decision?

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 prevails but if there is no majority, then the opinion of the Chairperson prevails.

15. Where does the Committee hold its sitting?

The Committee holds its sittings in the premises of a children's home or, at a place in proximity to the children's home or at a suitable premises in any institution run under the Act for children in need of care and protection.

16. The Committee is required to adopt child friendly approaches in dealing with children, what are these?

The child friendly approaches include ensuring:

- no person(s) un-connected with the case are present in the room during sitting
- only person(s), with whom the child feels comfortable, are present during the sitting
- premises do not look like a court room
- sitting arrangement is such to enable the Committee to interact with the child face to face
- chairperson and members do not sit on a raised platform
- No barriers, such as witness boxes or bars are kept between the Committee and the children
- Reaching out to children, who cannot be produced before them and hold its sittings at a place convenient for such children
- Usage of child friendly conduct and adoption of child friendly attitude with regard to body language, facial expression, eye contact, intonation and volume of voice while addressing the child

- Informed participation of the child and parent or guardian
- Interview of the child is conducted sensitively
- No usage of any adversarial or accusatory words that adversely impact the dignity or self-esteem of the child

17. If the Committee is not sitting, can a child be produced before a single member of the Committee?

Yes, a child in need of care and protection can be produced before a single member of the Committee. At least one member of the Committee is required to be always available to take cognizance on any matter of emergency and issue necessary directions to Special Juvenile Police Unit (SJPU) or local police of the district.

For this purpose the Chairperson of the Committee is required to draw up a monthly duty roster of the Committee members who are to be available and accessible every day, including on Sundays and holidays. The roster is to be circulated in advance to all the police stations, the Chief Judicial Magistrate/ Chief Metropolitan Magistrate, the District Judge, the District Magistrate, the Board, the District Child Protection Unit and the Special Juvenile Police Unit.

18. What happens if a child in need of care and protection cannot be produced before the Committee?

On receiving information about a child or children in need of care and protection, who cannot be produced before the Committee, the Committee is mandated to reach out to the child or children and hold its sitting at a place that is convenient for such child or children.

19. Does the JJ Act provide for any mandatory inspection of homes by the Committee?

Under Section 30(viii), the Child Welfare Committee is required to conduct at least two inspection visits per month of residential facilities for children in need of care and protection and make recommendations for improvement to District Child Protection Unit and the State Government.

20. Does the Committee receive cases referred by Board?

Under Section 17(2) when the Board feels that a child in conflict with law is also a child in need of care and protection then it can refer the child to the Committee for necessary action.

21. What happens if there is abuse of a child in children's home?

In case of a complaint of abuse of a child in a children's home or any child care institution meant for children in need of care and protection, the Committee can conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or Child line services and provides appropriate legal service to the Child. (Section 30(xvii)).

22. How does the Committee maintain records of children brought before it?

The Committee documents and maintains detailed case record along with a case summary of every child in Form 15. The Form includes the name of the child, his/her parents, date of production before the Committee, name of the person producing, orders passed by the Committee and other important documents like medical record, social investigation report, individual care plan, rehabilitation card, and Case history of the child.

23. Can children provide suggestions to the Committee?

A suggestion box or grievance redressal box is maintained at a prominent place in the premises of the Committee where children are encouraged to put forward their inputs. This box is operated by the District Magistrate or his nominee.

24. What information is submitted by the Committee to the District Magistrate every quarter?

The Child Welfare Committee is required to send quarterly information in Form 16 about children in need of care and protection received by it to the District Magistrate with all relevant details on nature of disposal of cases, pending cases and reasons for such pendency.

After review, the District Magistrate can direct the Committee to take necessary remedial measures to address the pendency and if necessary send a

report of such review to the State Government. However, if pendency of cases continues to be unaddressed by the Committee even after three months of receiving directions, the State Government can terminate the said Committee and constitute a new Committee.

25. What is a rehabilitation card?

Rehabilitation card is a tool to monitor progress of the child as per his individual care plan and the Child Welfare Committee may issue the same, which is Form 14 in Model Rules.

26. What are the different records that need to be maintained by the Committee?

The records to be maintained by CWC are listed below:

- Entries of the cases listed in a day and next date and the Committee shall prepare a daily cause list of the cases before it.
- Entries and particulars of children brought before the Committee and details of the Childcare Institution where the children are placed or the address where the children are sent.
- Execution of bonds.
- Movement including visits to institutions.
- Children declared legally free for adoption.
- Children recommended for or placed in sponsorship.
- Children placed in individual or group foster care.
- Children transferred to or received from another Committee.
- Children for whom follow up is to be done.
- Children placed in after care.
- Inspection record of the Committee.
- Record of Minutes of the meetings of the Committee.
- Correspondence received and sent.

27. Who can produce a child before the Committee?

Anybody can produce a child before CWC including:

- Any police officer or special juvenile police unit or a designated Child Welfare Police Officer
- Any officer of District Child Protection Unit or inspector appointed under any labour law
- Any public servant
- Child line Services
- Voluntary or non-governmental organisation
- Child Welfare Officer or probation officer
- Any social worker
- Public spirited citizen
- Child himself
- Any nurse, doctor or management of a nursing home, hospital or maternity home

28. Can the Committee take suo motu cognizance of children who are in need of care and protection?

Yes, the Committee can take suo motu cognizance of cases and reach out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members.

29. What is the time period for production of a child before the committee?

As per the Act, a child must be produced before the Committee within a period of 24 hours excluding the time necessary for the journey.

30. What is the procedure followed by the Committee for placing a child in an institution?

The procedure followed by Committee for placing child in an institution involves following steps:

- On receiving a child the CWC holds inquiry to understand the circumstances under which the child is produced and accordingly declares him/her as a child in need of care and protection

- Prima facie determines the age of the child in order to ascertain its jurisdiction
- Assign the case to a social worker or case worker or child welfare officer or to any recognised non-governmental organisation for conducting the social investigation through an order in Form 21
- If required, send the child to Children's home, fit facility, fit person or Specialized Adoption Agency during the process of inquiry
- On completion of inquiry –
 - if the Committee decides that the child has no family or other support then they send the child to a children's home , fit facility or person or foster family till suitable means of rehabilitation are found or till the child attains the age of 18 years.
 - Restore the child to parents or guardian or family after verifying reports including social investigation report, which provides an assessment of the family situation of the child
 - give dates for follow-up of the child not later than one month from the date of disposal of the case and thereafter once every month for the period of first six months and thereafter every three months for a minimum of one year or till such time as the Committee deems fit.

31. Who is responsible for conducting social investigation and why is it conducted?

When a child is brought before the Committee, the case is assigned to a social worker or case worker/child welfare officer from a child care institution or to any recognised non-governmental organisation for conducting the social investigation through an order in Form 21. The social investigation report (Form 22) provides an assessment of the child, his family, situation of the child in detail, and explain in writing whether it will be in the best interest of the child to restore him to his

32. In how many days the social investigation report should be completed?

The social investigation is to be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child.

33. What happens with the child if the Committee comes to know he has no family?

After the completion of the inquiry, if the Committee is of the opinion that the child has no family or ostensible support or is in continued need of care and protection, it may send the child to a Specialized Adoption Agency if the child is below six years of age, or to children's home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child.

34. What is the procedure for a parent or guardian to surrender a child before a Committee?

The procedure for surrender of child and declaring him/her as legally free for adoption

- Parent or guardian who wish to surrender a child to make an application to the Committee in Form 23
- Where parent or guardian is unable to make an application due to illiteracy or any other reason, the Committee is to facilitate the same through the Legal Aid Counsel provided by the Legal Services Authority
- Give parents or guardian who wish to surrender the child, a two months' time to reconsider their decision
- Conduct inquiry and provide counseling to parents to explain and understand the consequences of surrender
- Execute a surrender deed by the parent or guardian after completion of reconsideration period and declare the child as legally free for adoption

35. Can mentally retarded parents or victim of sexual assault surrender their child to the Committee?

Yes, as per Section 38(3), notwithstanding anything contained in any other law for the time being in force, a mentally retarded parents or victim of sexual assault, can surrender a child before the Child welfare Committee. The Committee after following the procedures under the Act can declare such child as free for adoption

36. What is the procedure followed for declaring an orphan or abandoned child as legally free for adoption by the committee?

The procedure for declaring an orphan or abandoned child as legally free for adoption includes:

- If abandoned or orphan child is received by a child care institution, he/she is to be produced before the Committee within twenty-four hours (excluding the time necessary for the journey) along with a report in Form 17 containing the particulars and photograph of the child as well as the circumstances in which the child was received
- A copy of the report is also to be submitted by the child care institution to the local police station within the same period
- Child Welfare Committee is to issue an order in Form 18 for short term placement and interim care of the child during pendency of inquiry
- Committee to use Trackchild portal to ascertain whether the abandoned child or orphan child is a missing child
- Committee may direct the publication of the particulars and photograph of the orphan or abandoned child in national newspapers with wide circulation within 72 hours from the time of receiving the child for the purposes of tracing out the biological parents or the legal guardian(s)
- After making inquiry, Committee is to issue an order in Form 25 declaring the abandoned or orphan child as legally free for adoption
- Decision to declare an orphan or abandoned child as legally free for adoption is to be taken by at least three members of the Committee.

37. What is the time period for conducting inquiry in case of declaring a child legally free for adoption?

A child is declared legally free for adoption 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.

38. Can the Committee, ask police to register an FIR

As per Section 8(3)(l) of the JJ Act, only Juvenile Justice Board can ask Police to register an FIR and not a Child Welfare Committee. Therefore, the Committee needs to write to the Board for filing an FIR.

39. What is after care?

After care is meant for those children who leave institutional care on attaining eighteen years of age. After care is available till twenty-one years and in exceptional circumstances can be extended for two more years on completing twenty-one years of age.

40. What are the different services provide under the aftercare program?

The services provided under the after-care programme include:

- Community group housing on a temporary basis for groups of six to eight persons.
- Provision of stipend during the course of vocational training or scholarships for higher education and support till the person gets employment;
- Arrangements for skill training and placement in commercial establishments through coordination with National Skill Development Programme ,& Indian Institute for Skill Training
- Provision of a counselor to discuss their rehabilitation plans.
- Provision of creative outlets for channelising their energy
- Arrangement of loans and subsidies for persons in after-care, aspiring to set up entrepreneurial activities.
- Encouragement to sustain themselves without State or institutional support.