

Children's Court of New South Wales

Practice Note 17

Designated agencies in Children's Court care proceedings

Issued 2 December 2022

Amended 17 March 2023

1. Commencement

1.1. This amended Practice Note commences on 20 March 2023.

2. Application

2.1. This Practice Note applies where a child is, or has been, the subject of care proceedings before the Children's Court and primary case responsibility for the care of that child has been transferred to a designated agency ('DA').

2.2. This Practice Note applies subject to any direction made by the Court.

3. Purpose

3.1. The purpose of this Practice Note is to ensure the Children's Court has the best available evidence when making decisions regarding the care and protection of children.

3.2. The Children's Court acknowledges that DAs with primary case responsibility for a child can provide the Court with information that will improve decisions regarding that child.

3.3. This Practice Note identifies the processes for a DA to access evidence filed in proceedings regarding a child for whom they have primary case

responsibility, to provide relevant information to the Court and to contribute to court proceedings where the DA is not a party.

4. Leave to provide information to the designated agency

- 4.1. Within fourteen days of the Secretary transferring primary case responsibility to the DA, the Secretary is to file and serve a notice stating:
 - the name of the DA
 - contact information for the DA's assigned caseworkers and
 - whether there is a confidentiality agreement between the Secretary and the DA that protects the confidentiality of information provided under this Practice Note.

- 4.2. If there is a change to the DA or to the DA's assigned caseworker during proceedings the Secretary is to file and serve an updated notice within five working days of the change.

- 4.3. No court documents are to be provided to the DA unless there is a confidentiality agreement between the Secretary and the DA.

- 4.4. The Secretary is to provide the DA's caseworkers with copies of any document filed in the proceedings, except for Clinic Assessments and Expert Reports, no earlier than five working days and no later than 10 working days after the document is served on the other parties. If a party objects to a DA receiving a document that party is to file and serve a **Notice of objection to release of documents to a DA** within five working days of being served with the relevant document.

- 4.5. The Secretary may release a document to a DA within five working days where all parties consent in writing to the release of the document.

- 4.6. If an objection to the DA receiving a particular court document is filed during the proceedings the Secretary must not provide the nominated

document to the DA until the Court hears the objection and determines the matter.

- 4.7 The Court will determine whether to release the Clinic Assessment or Expert Report to the DA at the time it releases the document to the parties. If the Court does not release the report to the DA at this time the Secretary may seek approval to provide a copy of the report to the DA.

5. The designated agency's involvement in court proceedings

- 5.1. The Secretary will file affidavits prepared and sworn by a person from the DA. The DA is not to file evidence directly unless the DA has been joined as a party to the proceedings.
- 5.2. Where practicable, a DA representative is to attend Court when requested by any party or the Court. The presiding judicial officer retains the discretion to determine whether a DA representative is to attend all or part of the proceedings.
- 5.3. The Secretary shall notify the DA's caseworkers of a referral to a Dispute Resolution Conference ('DRC') within seven days of the court referring parties to a DRC.
- 5.4. A Children's Registrar will determine who will be invited to participate in a DRC consistent with paragraph 4.2 of Practice Note no. 3. A representative of the DA will ordinarily be invited to participate in the DRC.
- 5.5. Prior to seeking a hearing date, the Secretary is to ascertain the availability of witnesses from the DA. Once a hearing date is confirmed, the Secretary is to notify the DA of the hearing date and the witnesses who will be required to attend Court to give evidence.

- 5.6. A DA that seeks to be joined to proceedings, pursuant to s 98(3), or be heard on matters that have a significant impact, pursuant to s 87, should seek legal advice prior to filing any application. An application should be filed at the earliest opportunity to reduce a delay that may adversely impact children, young people and their families.

6. Provision of information to the designated agency

- 6.1. Within three days of each court attendance, the Secretary is to provide the DA's caseworkers with the directions, orders and any judicial comments made about the matter.
- 6.2. After proceedings have finalised the Secretary may request access to documents on behalf of a DA.
- 6.3. The Secretary may seek approval to provide a copy of the transcript to the DA by notifying the parties and filing a request with the court.



Judge Ellen Skinner

President

Date: 17March 2023