

**Signs of Safety Pre-Hearing Conferences**

**1. Commencement**

- 1.1 These Practice Directions shall take effect from 6 February 2012 and replace Practice Direction No 3 of 2009 and all other Practice Directions relating to Signs of Safety pre-hearing conferences. They set out the procedures which shall apply to protection applications lodged by the CEO of the Department for Child Protection ("the DCP") which are referred by the Court to a Signs of Safety pre-hearing conference. The procedures set out in Practice Direction No. 6 of 2006 shall continue to apply to protection applications not referred to a Signs of Safety pre-hearing conference and, other than the referral to a conference, will continue to apply to matters referred to Signs of Safety pre-hearing conferences.
- 1.2 A reference in these Practice Directions to the DCP can be read as a reference to the DCP or to the CEO of the DCP depending on the particular context.

**2. Guiding Principles**

- 2.1 Signs of Safety pre-hearing conferences are intended to facilitate the early resolution of protection applications through a less adversarial dispute resolution conference process based on the Signs of Safety child protection framework, designed to include the family members involved in the matter as informally as practicable.
- 2.2 Signs of Safety pre-hearing conferences shall, as far as practicable, be held as early as possible in the proceedings in order to facilitate the early resolution of protection applications.
- 2.3 Referrals to Signs of Safety pre-hearing conferences shall be made in accordance with 7.1 and 7.2 of these Practice Directions which shall operate until the President of the Court otherwise directs.
- 2.4 The documents in the Signs of Safety pre-hearing conference process shall, as far as practicable, reflect the Signs of Safety child protection framework and should describe the following in terms that can be easily understood by all parties including, within reasonable expectations, the child:
- 2.4.1 what the DCP caseworker and other professionals are concerned about;
- 2.4.2 what is working well in the family; and

2.4.3 what needs to happen to minimize the risk of harm to the child.

2.5 The aim of the Signs of Safety pre-hearing conference is collaboration and future protection for the child. The Signs of Safety pre-hearing conference process does not require respondents to admit issues but instead, to set out how they will ensure the safety of the child in the future.

### **3. Compliance**

3.1 The Court may dispense with compliance with any requirement of these Practice Directions where it considers it necessary and appropriate. Where the Practice Directions make no adequate provision for a particular circumstance, the Court may give such directions as it considers necessary and appropriate.

### **4. Powers of the Court**

4.1 Sections 136 and 137 of the *Children and Community Services Act 2004* (“the Act”) govern the operation of pre-hearing conferences in the Court and, as such, will also govern the operation of Signs of Safety pre-hearing conferences.

### **5. Convenors**

5.1. The Signs of Safety pre-hearing conferences will be presided over by Convenors appointed by the President of the Court in accordance with the regulations made pursuant to section 136(4)(b) of the Act.

5.2 The Convenor shall make the final decision in relation to the arrangements, including participants, for the Signs of Safety pre-hearing conference taking into account any relevant information provided by the Court, the DCP, the respondents and/or their legal representatives, other parties and/or their legal representatives and/or the Child Representative and, in consultation with Legal Aid WA, shall decide whether it is appropriate for the Signs of Safety pre-hearing conference to proceed at the time and on the date specified or at all. In the event that the conference is not proceeding at all, Legal Aid WA shall liaise with the Court as appropriate to arrange an early mention date.

5.3 At the conclusion of the Signs of Safety pre-hearing conference, the Convenor shall produce a Convenor Report (Schedule 1 Form Conv Report). The Convenor's Report or a true copy of it shall be placed on the relevant Court file.

### **6. Confidentiality**

6.1 Section 137 of the Act governs the confidentiality of the Signs of Safety pre-hearing conference process. The application and affidavit filed by the DCP in support of the protection application, the section 143 proposal filed

by the DCP, the Convenor Report and the Agreed Next Steps column of the Signs of Safety planning form settled at the conference shall not be confidential. These documents shall be placed on the Court file and shall be part of the Court record of the matter. The Conference Outlines (11, 12, 13 and 14 below) prepared for the Signs of Safety pre-hearing conference shall be confidential and shall not form part of the Court record.

## **7. Court Referrals**

- 7.1. Referral to a Signs of Safety pre-hearing conference will be dependent on the availability of a Convenor to convene the conference within an appropriate time-frame as determined by the Court in consultation with the DCP and Legal Aid WA.
- 7.2 Protection applications shall be referred to a Signs of Safety pre-hearing conference at the discretion of the Court at any stage of proceedings but referrals will not be made in respect of matters which appear likely to resolve expeditiously or that the Court considers are not appropriate for such a conference. In the event of any disagreement, the Court shall determine whether the referral is to be made after hearing submissions from the DCP, the respondents and/or their legal representatives, other parties and/or their legal representatives and/or the Child Representative.

## **8. Referral Mention Date**

- 8.1 As far as is practicable, the legal representatives for the DCP, the respondents and/or their legal representatives, other parties and/or their legal representatives and/or the Child Representative, if appropriate, should be in attendance on the referral mention date.
- 8.2 As far as is practicable on or before the referral mention date the following shall occur:
  - 8.2.1 the appointment of legal representation of the parties (where requested and/or practicable);
  - 8.2.2 the appointment of a Child Representative (as appropriate, see 9);
  - 8.2.3 the Signs of Safety related information referred to in 11.1 be provided by the DCP to the parties and the Child Representative; and
  - 8.2.4 decisions as to who should attend the conference including key agencies and extended family members.
- 8.3 The Court shall:
  - 8.3.1 direct the respondents to obtain legal assistance as appropriate;

- 8.3.2 complete a Checklist for Directions (Schedule 2 Form PC Checklist) to be provided to the Signs of Safety administrator at Legal Aid WA:
- 8.3.3 provide all of the parties and the Child Representative with a Checklist for Directions for completion by each of them for their own reference.
- 8.3.4 set a date for the matter to come back to Court for mention after the Signs of safety pre-hearing conference for the making of consent orders, the withdrawal of the application or further programming, subject to 10 of these Practice Directions.

## **9. Child Representatives**

- 9.1 If the Court intends to refer an application to a Signs of Safety pre-hearing conference, it shall consider whether a Child Representative (if not already appointed) should be appointed and will set a referral mention date (see 8).
- 9.2 A Child Representative shall be appointed:

- 9.2.1 for all school age children;
- 9.2.2 for such other children as appropriate;

in matters referred to a Signs of Safety pre-hearing conference unless the DCP, the respondents and/or their legal representatives, other parties and/or their legal representatives agree or the Court determines that in the circumstances of the case, the appointment of a Child Representative is not appropriate.

- 9.3 The Court shall inform Legal Aid WA in writing of the Order for the Child Representative as soon as practicable after the Order is made. If a Child Representative is not appointed until the referral mention date referred to in 8, the letter to Legal Aid should include a copy of the Checklist for Directions, the date and time of the Signs of Safety pre-hearing conference, and the next Court mention date.

## **10. Second and Further Conferences**

- 10.1 If the Convenor and all parties agree at the conclusion of the conference that a second and further Signs of Safety pre-hearing conference is required and, if it can take place within a reasonable period, then:
  - 10.1.1 the mention date set by the Court pursuant to 8.3.4 can be replaced with another time and date known to be convenient to the Court, with the Convenor to advise the parties of the new time and date before they leave to avoid unnecessary attendance at the Court;

- 10.1.2 the Convenor shall cause the Registrar at the Court to be promptly informed by facsimile or email of any such relisting and the Court will administratively change the mention date and order that the matter come back before it on the new time and date; and
- 10.1.3 the second Signs of Safety pre-hearing conference can take place.
- 10.2 Nothing in these Practice Directions limits the number and timing of Signs of Safety pre-hearing conferences that can be ordered by the Court or arranged by the Convenor with the agreement of the parties and Legal Aid WA.

## **11. DCP Documents**

- 11.1 The DCP workers will use their best endeavours to complete a Signs of Safety planning form (Schedule 3 Form PCSoSPlan) prior to the commencement of a protection application. Where this document has been prepared, it should be attached to the affidavit filed with the protection application and otherwise, it shall be filed as soon as practicable together with the information referred to in 11.2.1 to 11.2.7 of these Practice Directions and by no later than the referral mention date (see 9 above).
- 11.2 The DCP documents, including the Signs of Safety Planning Form, filed in support of the protection application prior to the Signs of Safety Pre-hearing conference, should include the following information:
  - 11.2.1 a brief chronology of events leading up to the DCP's involvement/application for a protection order limited primarily to the matters referred to on the Signs of Safety planning form;
  - 11.2.2 a list of current danger statements/safety concerns for the child;
  - 11.2.3 a list of strengths the DCP understands currently exist in relation to the danger statements;
  - 11.2.4 the DCP's list of what it considers needs to happen before the DCP will be willing to reunify, increase contact or withdraw;
  - 11.2.5 the DCP's plan for the child in the immediate term as well as the longer term, including placement, reunification with parents, contact and how the child's educational, medical, counselling and social/extra curricular needs will be met;
  - 11.2.6 the names and birthdates of the child and the names of respondents; and
  - 11.2.7 the name of the caseworker, the DCP office and the DCP lawyer responsible for the carriage of the matter.

- 11.3 If the information referred to in 11.2 above is included in the affidavit that is filed in support of the protection application, in the Signs of Safety planning form and/or in a section 143 proposal filed by DCP prior to the referral mention date (see 8 above), it will not be necessary for the DCP to provide the other parties and the Child Representative with any further documents prior to the first Signs of Safety pre-hearing conference, other than any relevant written reports that may be available from other professionals working with the family and any important planning form updates. If any of the information referred to in 11.2 above is not included in the documents filed, that information shall be provided to the parties in a DCP Conference Outline (Schedule 4 Form Conf Outline) not less than 10 working days prior to the Signs of Safety pre-hearing conference.
- 11.4 The DCP shall provide a copy of the Application(s), Affidavit(s) in support and any Expert Report(s) obtained by the DCP which are to be discussed at the Signs of Safety pre-hearing conference to the Signs of Safety administrator at Legal Aid WA as soon as practicable after the referral mention date for the use of the Convenor who can provide the other parties with access to such documents or to copies as appropriate.

## **12. Parents (Respondents) Documents**

- 12.1 The parents (respondents) shall complete their own Signs of Safety pre-hearing conference outline document (Schedule 5 Form Conf Outline) in response to the DCP documents.
- 12.2 In preparing their Signs of Safety conference outline documents, parents should also respond to the DCP's plans for the child and include a list of people they would like the DCP to assess for caring for the child, supervising contact and involvement in any proposed safety network. This will help to clarify the matters to be discussed at the Signs of Safety pre-hearing conference.
- 12.3 The respondents' Signs of Safety conference outline documents and copies of any Expert Reports obtained by them that they intend to discuss at the Signs of Safety pre-hearing conference shall be provided to the DCP, the other parties and/or their legal representatives and/or the Child Representative not less than 3 working days prior to the Signs of Safety pre-hearing conference.

## **13. Other Parties' Documents**

- 13.1 The process for the preparation of a conference outline document for other parties, including applicants for special guardianship orders, other than the DCP and the respondents is the same as that set out for parents (respondents) documents at 12 above.
- 13.2 Each of the other parties' Signs of Safety conference outline documents (Schedule 5 Form Conf Outline) shall be provided to the DCP, the respondents and/or their legal representatives and/or the Child

Representative not less than 3 working days prior to the Signs of Safety pre-hearing conference.

#### **14. Child Representative's Documents**

- 14.1 In the event that a Child Representative is appointed, a Signs of Safety conference outline document (Schedule 6 Form Child Rep Conf Outline) shall be completed and provided to the DCP, the respondents and/or their legal representatives and the other parties not less than 3 working days prior to the Signs of Safety pre-hearing conference with copies of any Expert Reports the Child Representative has obtained that they intend to discuss at the Signs of Safety pre-hearing conference.
- 14.2 The Child Representative's conference outline document should include the following information:
- 14.2.1 the Child Representative's view of whether or not the child has sufficient maturity and understanding to provide instructions in relation to the orders sought and whether the child in fact wishes to provide instructions;
  - 14.2.2 if the child does have maturity and understanding and wishes to provide instructions, the detail of those instructions;
  - 14.2.3 the Child Representative's preliminary views about what plans are in the child's best interests;
  - 14.2.4 any safety plans or safety network the child would like to see implemented; and
  - 14.2.5 any views in relation to living arrangements, contact (including supervision), education, counselling and extra curricular/social activities that the child would like shared.

Dated this 31st day of January 2012



**JUDGE D J REYNOLDS**

**PRESIDENT OF THE CHILDREN'S COURT OF WESTERN AUSTRALIA**