



# Children's Court of Western Australia

## Practice Direction 3 of 2024

### Request for Access to a Court Record

#### 1 Application of Practice Direction

- 1.1 This Practice Direction applies to a request for access to a court record relating to a proceeding in the Children's Court.
- 1.2 For the purpose of this Practice Direction **court record** has the same meaning given by s 51A(1) of the *Children's Court of Western Australia Act 1988* (Children's Court Act).
- 1.3 For clarity:
  - (a) court record includes a transcript of proceedings (s 51A(1)(b)).
  - (b) an example of a document referred to in s 51A(1)(c) may include a psychological or specialist report ordered by the court in accordance with s 47 or s 48 of the *Young Offenders Act 1994*.
- 1.4 This Practice Direction does not apply to:
  - (a) a request for access to a court record made to a judicial officer during a court proceeding; or
  - (b) a request for access to a court record which is made through the eCourts Portal by a person entitled to access a record.
- 1.5 Practice Direction 1 of 2024 is revoked and replaced by this Practice Direction.
- 1.6 This Practice Direction has effect from 11 November 2024.

#### 2 Request for court record

- 2.1 Any person who requests access to a court record (**Request**) must complete a Request for Court Record form and submit it to the registry of the relevant Children's Court or if that is unknown to the Perth Children's Court registry.

2.2 The form can be accessed on the court's website: [www.childrenscourt.wa.gov.au](http://www.childrenscourt.wa.gov.au).

### **3 Request by a person entitled to access a court record**

A party to the proceedings and any other person who is entitled to access a court record pursuant to s 51A(3) of the Children's Court Act will be provided with access following:

- (a) a written Request in accordance with paragraph 2 above; and
- (b) payment of any applicable fee. See fees at [www.childrenscourt.wa.gov.au](http://www.childrenscourt.wa.gov.au) or contact the relevant Children's Court registry.

### **4 Other requests to access a court record**

4.1 Pursuant to s 51A of the Children's Court Act a person who is not a party to the proceedings or is not otherwise entitled to a court record may apply to the court to inspect or obtain a copy of a court record in accordance with paragraph 2 above.

4.2 The court will consider the Request and determine whether it is appropriate to provide a court record.

4.3 In determining such a Request, the court may consider a range of factors, including (but not limited to):

- (a) the reason why access is requested;
- (b) whether the young person to whom a court record relates objects or consents to the Request;
- (c) the nature of the court record sought;<sup>1</sup>
- (d) the best interests of any affected child;
- (e) the interests of any affected victim of crime;
- (f) the principles of open justice having regard to the confidentiality provisions of the Children's Court Act and any other applicable legislation;
- (g) whether granting the Request may place an undue burden on the court;
- (h) any relevant public interest considerations.

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<sup>1</sup> This will include consideration of whether the record has been admitted into evidence or read out in open court, whether it is confidential, restricted from publication, the subject of any privilege, or contains sensitive or defamatory material.

The court may require the applicant to provide further information before providing a response to a Request.

- 4.4 The court may approve a Request subject to any conditions that the court considers appropriate, including editing, de-identification or redaction of the record.
- 4.5 The court may require the author or agency that produced the record or the person that requests the record (for example a media organisation) to edit, de-identify or redact the record.
- 4.6 Where the court considers it appropriate to provide a copy of a court record, it will only be provided once the applicable fee has been paid.

## **5 Providing a court record**

Any court record provided by the court will be delivered by email unless:

- (a) the applicant does not have access to an email address; or
- (b) the court agrees to a paper version of the court record being made available.

## **6 Confidentiality**

- 6.1 The recipient of a court record provided in response to a Request must ensure that they comply with the confidentiality provisions of the Children's Court Act, the *Children and Community Services Act 2004*, the *Young Offenders Act 1994* and any other applicable legislation.
- 6.2 The recipient of a court record provided in response to a Request must ensure that they comply with all the conditions imposed by the court when providing the record.
- 6.3 The recipient of a court record provided in response to a Request must keep the court record secure and it is not to be shown, copied or circulated to any other person, without the leave of the court, except to a party to whom the proceedings relate or their lawyer or to another court.



Judge Hylton Quail

**President of the Children's Court of Western Australia**

5 November 2024