

# Practice Note DC (Civil) No. 5

## Children and Young Persons (Care and Protection) Act, 1998

The purpose of this practice note is to ensure the timely hearing of care appeals. The Court's policy is that these appeals are dealt with expeditiously.

### 1. Directions Hearings

- 1.1 The appeal will be listed for directions before the Child Care Appeals List Judge on the first available date after filing. The Court will notify the relevant Children's Court that the appeal has been lodged and request the Children's Court file and a transcript of the proceedings in the Children's Court be provided to this court.
- 1.2 In Sydney, Wollongong and Sydney West, appeals will be listed for directions approximately three weeks after commencement.
- 1.3 At all other centres the Directions Hearing will be conducted by telephone conference. The Registrar will note the time and date for the Directions Hearing on the originating process. The parties and/or their legal representatives should attend the Court house at which the originating process is filed at the time appointed for the Directions Hearing.

### 2. Evidence

- 2.1 For the efficient disposal of cases it is generally desirable to deal with appeals based on the transcript plus any new evidence. Any objection to this course should be notified to the Court well in advance of the hearing.
- 2.2 At the first directions hearing, the Court will make orders for the preparation of a tender bundle comprising relevant extracts from the

transcript plus the exhibits. The parties should attempt to agree on the contents of the tender bundle.

- 2.3 At the first directions hearing, the parties should be able to identify any new evidence they wish to rely on and to be able to tell the Court when it may be available.

### **3. Children's Court Clinic Reports**

- 3.1 An application for an assessment by an Authorised Clinician under sections 53 or 54 of the Children and Young Persons (Care and Protection) Act is to be made as soon as practicable using Assessment Order (District Court form 153) and Notice of Assessment Order (District Court form 152). The parties should attempt to agree on the nature of the referral required.

- 3.2 In some cases, parties will request that an Authorised Clinician from the Children's Court Clinic who prepared an Assessment be available to give evidence. A party who requests the attendance of the Authorised Clinician must prepare a Request to Court for Authorised Clinician to Give Evidence (District Court form 154) and Notice to Authorised Clinician to Attend Court to Give Evidence (District Court form 156) for the consideration of the Judge as soon as practicable.

- 3.3 Registrar to notify clinician to attend

If the Judge grants the request for the attendance of an Authorised Clinician, the Registrar of the Court will forward a *Notice to Authorised Clinician to give Evidence (the Notice)*, in duplicate, to the Authorised Clinician and forward a copy of the Notice to the Children's Court Clinic. The duplicate copy is to be signed by the Authorised Clinician and returned to the Court to acknowledge receipt of the *Notice* and confirm the attendance of the Clinician.

3.4 The *Notice* must state the way cross-examination is to take place, that is, by telephone, video link or personal attendance as directed by the Judge.

3.5 Confirmation of attendance

The Authorised Clinician should liaise directly with the Registrar of the Court regarding:

- I. Time of attendance.
- II. Expected duration of attendance.
- III. Where and to whom to report at court.
- IV. Any problems in attending Court on the date required.
- V. Any other issue relevant to the administration arrangements.

Registrars must liaise with the presiding Judge/Associate to assist in this regard

3.6 The Court will use telephone facilities or video-link facilities to take the evidence of the Authorised Clinician whenever possible.

3.7 Fees

Authorised Clinicians are entitled to remuneration as if the Authorised Clinician had given evidence before the Children's Court and shall submit an invoice to the Registrar of the District Court in which they appeared.

#### **4. Trial**

4.1 The Court aims that the appeal will be listed for trial within 3 months of filing. Appeals will be granted priority on the trial date allocated.

The Hon. Justice R.O. Blanch A.M.  
Chief Judge  
9 August 2005