

# The Children's Court of New South Wales

## Practice Note No. 4

### Short Term Care Orders Pilot Project and STCO Practice Sites

First Issued 20 June 2011

Amended 12 April 2013

#### 1. **Commencement**

- 1.1 This amended Practice Note commences on 12 April 2013

#### 2. **The Project**

- 2.1 Community Services is currently undertaking a pilot project called the Short Term Care Orders Pilot Project ("the Project") designed to increase the use of short term care orders with the aim of keeping children in the care of their families or restoring children to the care of their families in an expeditious manner and avoiding long term care orders wherever possible. The Project is part of a larger scheme of projects to support a conceptual shift in Community Services casework practice towards the preservation and restoration of families.
- 2.2 The Project operates in the following Community Services Centres: Bowral, Burwood, Campbelltown, Chatswood, Clarence Valley, Central Sydney, Eastern Sydney, Edgeworth, Epping, Gosford, Lakemba, Maitland, Mayfield, Raymond Terrace, St George, Sutherland and Wyong. Other centres may be subsequently nominated and notified to the Court.
- 2.3 Community Service Centres at which the Project operates or commences to operate are to be designated "STCO Practice Sites".

### **3. Application**

- 3.1 This Practice Note only applies to new care applications filed in the Children's Court (the Court) after the commencement of this Practice Note that emanate from any operative STCO site. It does not apply to applications for an emergency care and protection orders under s 46 of the *Children and Young Persons (Care and Protection) Act 1998* (the *Care Act*).
- 3.2 Community Services is to mark on the front of the application the words "Short Term Care Orders Project" to identify new care applications that fall within the Project.

### **4. Case Management of matters falling within the Project**

- 4.1 Prior to the determination under s72 of the *Care Act* that a child is in need of care and protection (establishment), applications falling within the Project will proceed in the same manner as for applications that do not fall within the Project.
- 4.2 Where a case has been established and Community Services is of the view that restoration is a realistic possibility, an application will be made to adjourn the case for a period of up to 3 months to allow Community Services to work with the family and to confirm whether, in their view, restoration should be pursued.
- 4.3 After hearing any submissions by other parties, the Children's Court (the Court) will grant the application for an adjournment for a period of up to 3 months unless it considers it inappropriate to do so in the particular circumstances of the case.
- 4.4 If the Court grants the application for the adjournment the Court will also refer the case to alternative dispute resolution under s 65 or s 65A of the *Care Act*. A conference under s65 or s65A is to be held within 2 to 3 weeks.

### **5. Dispute Resolution Conference following Establishment**

- 5.1 The purpose of the DRC or external ADR conference referred to in paragraph 4.4 above will be for the parties to jointly plan the assessment and initial intervention phase with the family during the adjournment period, and identify any further interim orders that the parties believe would be appropriate in the circumstances.
- 5.2 Community Services will file and serve a 'Summary of the Proposed Future Plan for the Child/Young Person' at least three working days prior to the DRC or external ADR conference (or within such other time as the Court directs) which will:

- (i) identify the risks and safety concerns which have led to the involvement of Community Services;
- (ii) indicate why Community Services has formed the initial view that restoration is a realistic possibility, and why an adjournment of up to 3 months would be appropriate to test this view;
- (iii) identify what Community Services considers the parents and/or the child/young person need to do to satisfy Community Services that it is safe for the child/ren to return home safely;
- (iv) identify what Community Services considers the parents and/or the child/young person need to change/ demonstrate during the adjournment period for Community Services to confirm its initial view that restoration is a realistic possibility; and
- (v) identify what resources/services Community Services proposes to arrange, or has arranged, to assist the parents and/or the child/young person achieve these changes, both during the adjournment period and thereafter.

5.3 If following the DRC the parties have agreed that further interim orders are necessary the Children's Registrar will arrange for the matter to be re-listed before the Court at the earliest opportunity.

5.4 If following the external ADR conference the parties have agreed that further interim orders are necessary Community Services will seek to have the matter re-listed before the Court at the earliest opportunity.

## **6. Further 3 month adjournment period**

6.1 If during the adjournment period circumstances arise where Community Services and/or another party forms the view that a further adjournment of up to 3 months will be required to assess whether restoration should be pursued the party should seek to re-list the matter as soon as practicable.

6.2 The party seeking the adjournment is to file and serve a short written submission outlining why the further adjournment is sought.

6.3 If the application is not opposed, and it is appropriate to do so, the Court will grant a further adjournment, in Chambers, of up to 3 months to allow for further assessment. If necessary a further DRC

or external ADR conference will be arranged for the parties to discuss how the matter might then proceed.

- 6.4 If the application is opposed the applicant party is to file and serve, prior to the re-listing of the case:
- (i) an affidavit outlining what progress has been made to date in addressing the risks and safety concerns initially raised by Community Services and
  - (ii) an updated 'Summary of the Proposed Future Plan for the Child/Young Person' which addresses the matters referred to at 5.2 (ii), (iii), (iv) and (v) above prior to the re-listing of the case.

## **7. Removal of cases from the Project**

- 7.1 If any party forms the view that restoration is no longer a realistic possibility or for any other reason the matter should no longer remain in the Project that party is to seek to re-list the matter as soon as practicable.

## **8. Care plan following 3 month adjournment**

- 8.1 At the conclusion of the adjournment period, or any extension of that period granted by the Court, Community Services will file and serve permanency plans and apply for final orders in the usual way.
- 8.2 If the parties agree on how the application should be determined consent orders are to be prepared and placed before the Court for consideration.
- 8.3 If the parties do not agree on how the application should be determined the case should be placed before the Court to make directions for the filing of affidavits and for the matter to be listed for hearing.



Judge Peter Johnstone  
**President**  
12 April 2013