



# *Government Gazette*

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Friday, 2 December 2022**

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# Children's Court of New South Wales

## Practice Note 17

### Designated agencies in Children's Court care proceedings

Issued 2 December 2022

#### 1. Commencement

1.1. This Practice Note commences on 9 January 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.

#### **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 and contact information of the DA's assigned caseworkers.
- 4.2. The Secretary will arrange for the DA's casework team to file a confidentiality agreement to accompany the notice. No court documents will be provided to the DA until the Secretary has filed the confidentiality notice.
- 4.3. If a party objects to the DA receiving court documents, an objection is to be filed within fourteen days of the date on which the notice was filed. If no objection has been filed the Secretary is to provide the DA's caseworkers with copies of all documents filed in the proceedings, and all documents filed throughout the proceedings except for Clinic Assessments and Expert Reports.
- 4.4. 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.
- 4.5. 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.

- 4.6. Access orders applicable to the Secretary made in relation to material produced under subpoena will apply to the DA, subject to an objection by any party.
- 4.7. The Secretary will ensure the DA receives documents as soon as practicable.

## **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 with casework responsibility for the child. 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: 2 December 2022



## LEGISLATIVE ASSEMBLY

### ACTS OF PARLIAMENT ASSENTED TO Legislative Assembly Office, Sydney 25 November 2022

It is hereby notified, for general information, that Her Excellency the Governor, has, in the name and on behalf of His Majesty, this day assented to the under mentioned Acts passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 70 — An Act to amend the *Crimes Act 1900* to extend offences protecting judges and persons connected with judicial proceedings from threats, intimidation and reprisals to also protect criminal defence lawyers; and to make consequential amendments to other Acts. **[Crimes Amendment (Protection of Criminal Defence Lawyers) Bill]**

Act No. 71 — An Act to establish a process for the extinguishment of certain liabilities of the operator of the Port of Newcastle in relation to the Port of Newcastle Port Commitment Deed; and for related purposes. **[Port of Newcastle (Extinguishment of Liability) Bill]**

Act No. 72 — An Act to amend the *District Court Act 1973* to increase the jurisdictional limits of the District Court. **[District Court Amendment Bill]**

Helen Minnican  
Clerk of the Legislative Assembly



## LEGISLATIVE ASSEMBLY

### ACTS OF PARLIAMENT ASSENTED TO Legislative Assembly Office, Sydney 28 November 2022

It is hereby notified, for general information, that Her Excellency the Governor, has, in the name and on behalf of His Majesty, this day assented to the under mentioned Acts passed by the Legislative Assembly and Legislative Council of New South Wales in Parliament assembled, viz.:

Act No. 73 — An Act to regulate activities involving scheduled substances and certain therapeutic goods to protect public health and safety; to repeal the *Poisons and Therapeutic Goods Act 1966* and certain instruments under that Act; and to make consequential amendments to other legislation. **[Medicines, Poisons and Therapeutic Goods Bill]**

Act No. 74 — An Act to amend the *Privacy and Personal Information Protection Act 1998* to introduce a mandatory notification of data breach scheme; to extend the Act's application to State owned corporations that are not subject to the *Privacy Act 1988* of the Commonwealth; and for other purposes. **[Privacy and Personal Information Protection Amendment Bill]**

Act No. 75 — An Act to amend the *Government Sector Audit Act 1983* and the *Local Government Act 1993* to enable the Auditor-General to conduct follow the dollar type performance audits of government funded activities of non-government entities carried out for or on behalf of State and local government entities; to amend the *Government Sector Audit Act 1983* and the *Local Government Act 1993* to provide for matters arising from the quadrennial review of the Audit Office; and for related purposes. **[Government Sector Audit and Other Legislation Amendment Bill]**

Act No. 76 — An Act to amend the *Government Sector Employment Act 2013* to make further provision relating to employment in the government sector. **[Government Sector Employment Amendment Bill]**

Act No. 77 — An Act to amend the *Constitution Act 1902* in relation to the disclosure of pecuniary interests and other matters; to amend the *Independent Commission Against Corruption Act 1988* to prescribe the Ministerial Code of Conduct as an applicable code of conduct in relation to Parliamentary Secretaries; and for related purposes. **[Integrity Legislation Amendment Bill]**

Act No. 78 — An Act to make miscellaneous amendments to the *Motor Accident Injuries Act 2017* and regulations under the Act following a statutory review of the Act. **[Motor Accident Injuries Amendment Bill]**

Act No. 79 — An Act to amend the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* in response to a review of the Act; and for related purposes. **[Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill]**

Act No. 80 — An Act to establish the NSW Reconstruction Authority; to provide for the Authority's functions and powers; to provide for other matters to assist NSW communities to recover from disasters and improve resilience for potential disasters; to make related amendments to the *Environmental Planning and Assessment Act 1979*, the *Government Sector Employment Act 2013* and the *State Emergency and Rescue Management Act 1989*; and for related purposes. **[NSW Reconstruction Authority Bill]**

Helen Minnican  
Clerk of the Legislative Assembly



## ACTS OF PARLIAMENT ASSENTED TO

**Legislative Council Office Sydney 25 November 2022**

IT is hereby notified, for general information, that Her Excellency the Governor has, in the name and on behalf of Her Majesty, this day assented to the undermentioned Acts passed by the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, viz.:

Act No. 66, 2022 - An Act to amend the Animal Research Act 1985 to make provision for the rehoming of cats and dogs used in animal research. [**Animal Research Amendment (Right to Release) Act 2022**]

Act No. 67, 2022 - An Act to amend the Children and Young Persons (Care and Protection) Act 1998 to provide for matters arising from particular recommendations of the Final Report of the Family is Culture: Independent Review into Aboriginal and Torres Strait Islander Children and Young People in Out-of-Home Care in New South Wales; and to amend the Advocate for Children and Young People Act 2014, the Children (Protection and Parental Responsibility) Act 1997 and the Ombudsman Act 1974 for related purposes. [**Children and Young Persons (Care and Protection) Amendment (Family is Culture) Act 2022**]

Act No. 68, 2022 - An Act to amend the Aboriginal Land Rights Act 1983 in relation to land dealings and community benefits, office holders of Aboriginal Land Councils, membership of Local Aboriginal Land Councils, conduct and disciplinary matters and other miscellaneous matters; and for other purposes. [**Aboriginal Land Rights Amendment Act 2022**]

Act No. 69, 2022 - An Act to amend animal protection legislation to prohibit persons convicted of certain offences from caring for or working with animals; and or for related purposes. [**Prevention of Cruelty to Animals Amendment (Prohibitions for Convicted Persons) Act 2022**]

David Blunt  
Clerk of the Parliaments