



**FAMILY COURT
OF
WESTERN AUSTRALIA**

**CASE MANAGEMENT
GUIDELINES**

1 January 2008

CASE MANAGEMENT GUIDELINES

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Part A: CASE MANAGEMENT PROCEDURES

1. Statement of Case Management Principles

- 1.1 The Court has a duty to facilitate the prompt, economical and just resolution of disputes.
- 1.2 A just resolution requires parties, their lawyers and the Court to deal with matters in a way that is proportionate to:-
 - (a) the importance of the case;
 - (b) the complexity of the issues; and
 - (c) the financial position of the parties.
- 1.3 The Court has primary responsibility for ensuring that cases progress at the appropriate pace, rather than allowing the parties or their lawyers to undertake that responsibility.
- 1.4 The Court has a duty to assist parties reach their own agreement by providing alternative dispute resolution procedures and giving parties the opportunity to be involved in informal negotiations. Parties are to be informed of the range of settlement options available and advised that there are other financial and emotional benefits in reaching agreement.
- 1.5 As the overwhelming majority of cases are resolved by agreement, parties should be informed of this fact and encouraged to believe that settlement of their matter is the likely outcome. However, if parties are unable to resolve their dispute by agreement, they are entitled to a judicial determination.
- 1.6 The Court, having regard to the interests of the parties and their children, must set, monitor and enforce realistic time limits for the conduct of cases so that the parties are fully prepared to participate at each stage of the proceedings.
- 1.7 The administration of family law and of the case management system requires the commitment and co-operation of the Court, parties, lawyers, legal professional associations and other relevant agencies.
- 1.8 These Case Management Guidelines are to be interpreted and applied so as to ensure these principles are maintained in all Court services.

2. Pre-Filing Procedures

- 2.1 In financial cases the Court will enforce and require compliance with the pre-action procedures set out in Schedule 1 of the Family Law Rules 2004.
- 2.2 In parenting cases where parties have applied for parenting orders before 1 July 2007, the Court will enforce and require compliance with the pre-action procedures set out in Schedule 1 of the Family Law Rules 2004.
- 2.3 In parenting cases where parties have applied for parenting orders after 1 July 2007, the Court will not enforce or require compliance with the pre-action procedures set out in Schedule 1 of the Family Law Rules 2004, but rather enforce and require compliance with the procedure set out in paragraph 3 of this document.

3. Filing Applications in Child-Related Proceedings Without a Certificate from a Family Dispute Resolution Practitioner

- 3.1 From 1 July 2007 applications starting a case in child-related proceedings will not be accepted for filing without:
 - (a) a duly completed certificate from a Family Dispute Resolution Practitioner; or
 - (b) an “Exemption Form”. A copy of the Form is “Attachment A” to this document.
- 3.2 If the Applicant is claiming to be exempt from filing a certificate on the grounds that:
 - (a) there has been abuse of a child by one of the parties to the anticipated proceedings; or
 - (b) there would be a risk of abuse of a child the subject of the proposed application if there was a delay in the filing of the application; or
 - (c) there has been family violence by one of the parties to proceedings; or
 - (d) there is a risk of family violence by one of the parties to the proceedings, the Applicant must file:
 - (i) a Form 4 Notice of Child Abuse or Family Violence; and
 - (ii) an affidavit setting out all facts relied upon to substantiate the allegations made in the Notice.
- 3.3 The application will not be accepted for filing if the affidavit filed for the purposes of paragraph 3.2 above contains material other than the

facts relied upon to substantiate the allegations made in the Notice of Child Abuse or Family Violence.

- 3.4 If the Applicant is claiming to be exempt from filing a certificate on either of the grounds set out in sub-paragraph 3.2(a) or 3.2(c) above, the Applicant must file an Acknowledgement Form -“Information from a Family Counsellor or Family Dispute Resolution Practitioner”. A copy of the Form is “Attachment B” to this document.
- 3.5 Court staff will have available the written information from a Family Dispute Resolution Practitioner required for the purposes of the Acknowledgment Form - “Information from a Family Counsellor or Family Dispute Resolution Practitioner” referred to in paragraph 3.4.
- 3.6 If the Applicant claims to be exempt from filing a certificate:
 - (a) due to urgency;
 - (b) due to inability to effectively participate in family dispute resolution; or
 - (c) because the application alleges contravention of an order less than 12 months old and alleges behaviour that shows a serious disregard of obligations under the relevant order, the application and supporting documents will be referred to a Registrar for decision as to whether it may be filed without a certificate.
- 3.7 An Applicant filing a Form 4 Notice of Child Abuse or Family Violence is required to provide the Court with an extra photocopy of the Notice and the affidavit.

4. Post-filing Procedures

4.1 Information Sessions

- 4.1.1 In all applications concerning parenting orders or property orders, parties are required to attend relevant information sessions. If practicable, parties should attend prior to the first occasion on which the application comes before the Court.
- 4.1.2 In the event that the parties have not attended an information session prior to that time, the Court will make appropriate orders.
- 4.1.3 The requirement of attendance at an information session may be waived by the Court for reasons of distance, physical disability, the terms of a recent order, family violence, the relationship between the parties or any other relevant circumstance.

- 4.1.4 The fact that a party resides more than 100 kilometres from a place where information sessions are conducted will generally be regarded as sufficient reason to waive attendance.
- 4.1.5 Information sessions will be conducted in the manner prescribed by the Chief Judge and will provide information concerning:
- (a) reactions to separation;
 - (b) options for primary dispute resolution;
 - (c) options for making enforceable agreements;
 - (d) Court processes and case management information including costs of litigation;
 - (e) children's issues;
 - (f) financial issues; and
 - (g) the Court's family violence policy.

5. Child-Related Proceedings

5.1 Filing of Documents Starting a Child-Related Proceeding Case

- 5.1.1 A Form 1 or Form 1A seeking parenting orders other than child maintenance or support is to be accompanied by a Client Information Form. A copy of the Form is "Attachment C" to this document.
- 5.1.2 If interim orders are sought a Form 2 is to be filed.
- 5.1.3 Affidavits in support of a Form 2 will not be accepted for filing unless the Court gives permission.
- 5.1.4 Permission to file an affidavit is to be sought by providing the affidavit and a letter addressed to the Duty Registrar setting out the reasons relied upon with reference to the affidavit sought to be filed. Permission will not usually be given unless the case is listed on an ex parte basis.
- 5.1.5 Affidavits are not to be filed with a Form 2A unless an affidavit has been accepted for filing in support of the Form 2 or permission to file that affidavit is given.

5.2 Listing Procedures

- 5.2.1 Applications starting a case seeking parenting orders will be listed to a case assessment conference as soon as practicable after 28 days from the date of filing.
- 5.2.2 A listing earlier than 28 days from the date of filing is to be sought by letter addressed to the Duty Registrar setting out the reasons relied upon.

Unless the case is listed on an ex parte basis, the case will usually be listed to an urgent case assessment conference.

5.3 Case Assessment Conferences

5.3.1 Except as set out in paragraph 5.7, case assessment conferences will be conducted by a Family Consultant.

5.3.2 Evidence of anything said to a Family Consultant is admissible in Court.

5.3.3 At the case assessment conference the Family Consultant will:

- (a) conduct a screening and assessment of the case;
- (b) where possible assist the parties to reach agreement on all or part of their case;
- (c) seek to identify the relevant issues in the case; and
- (d) consider appropriate case management options.

5.3.4 At the conclusion of the case assessment conference the case will be referred to a Magistrate for an immediate case assessment hearing.

5.4 Case Assessment Hearings

5.4.1 Case assessment hearings will usually take place in a courtroom. A Magistrate may however conduct the hearing in a conference room if it is considered appropriate.

5.4.2 At a case assessment hearing the Court may:

- (a) make consent orders;
- (b) receive evidence from the parties and/or the Family Consultant;
- (c) restrain the parties by injunction from filing any applications in the case without permission;
- (d) identify and record the relevant issues in dispute between the parties;
- (e) determine if an interim hearing is required and make appropriate procedural orders for that hearing;
- (f) make orders regarding the filing of affidavits and the issues to be dealt with in the affidavits;
- (g) make any appropriate orders regarding allegations of child abuse or family violence;
- (h) appoint an Independent Children's Lawyer;
- (i) allocate the case to the appropriate track in accordance with paragraph 5.5;
- (j) allocate a Case Co-ordinator to the case;

- (k) allocate the next Court event; and
- (l) determine whether parties have attended relevant information sessions.

5.4.3 Unless otherwise ordered, the parties shall sit at the bar table during a case assessment hearing.

5.4.4 Unless otherwise requested, the parties and their lawyers may remain seated whilst addressing or being addressed by the Court at a case assessment hearing.

5.5 Allocation of Case to a Track

5.5.1 A case may be allocated to the “Judge Track”, “Magistrate Track” or “Consultant Track”.

5.5.2 A case may be allocated to the Judge Track where it appears:

- (a) the estimated final hearing time for the case exceeds 2 days;
- (b) the case involves international or interstate relocation of a child;
- (c) the case involves international issues such as jurisdiction;
- (d) the case involves familicide or homicide;
- (e) a Magistrate does not have jurisdiction to hear the case; or
- (f) the issues in the case are of a nature that would otherwise make it appropriate to be heard by a Judge.

5.5.3 A case may be allocated to the Consultant Track where it appears that the intervention of a Judicial Officer is not required at that time.

5.5.4 A case may be otherwise allocated to the Magistrate Track.

5.5.5 A case may be allocated to a different track at any stage by order or direction of a Judge, Magistrate or Registrar.

5.5.6 As far as practicable:

- (a) the Family Consultant who conducts the case assessment conference will remain allocated to that case until it ends;
- (b) if the case is allocated to the Magistrate Track the Magistrate who conducts the case assessment hearing will remain allocated to that case until it ends; and
- (c) if the case is allocated to the Judge Track, the Caseflow Manager (acting in accordance with instructions from the List Judge) shall allocate a Judge to the case and that Judge shall remain allocated to that case until it ends.

5.6. Filing of Subsequent Applications

- 5.6.1 After a case has started, a party may not file an application in that case without permission.
- 5.6.2 Permission to file an application is to be sought by letter addressed to the Case Co-ordinator setting out the reasons relied upon together with a copy of the application sought to be filed.
- 5.6.3 If practicable the request for permission to file an application will be determined by the Judge or Magistrate allocated to the case upon referral of the request from the Case Co-ordinator.
- 5.6.4 Affidavits in support of subsequent applications will not be accepted for filing without permission. Permission will not usually be given unless permission is given for the application to be listed on an ex parte basis.

5.7 Applications for Child Support/Maintenance or Alleged Contravention of a Parenting Order

- 5.7.1 If no other child-related proceedings are pending, applications starting a case relating to:
- (a) child maintenance or support will be listed to a general list before a Magistrate as soon as practicable after 28 days from the date of filing;
 - (b) alleged contravention of a parenting order will be listed to a case assessment conference before a Registrar as soon as practicable after 14 days from the date of filing.
- 5.7.2 Paragraphs 5.1, 5.2, 5.3, 5.4 and 5.5 of these Case Management Guidelines do not apply to such cases.
- 5.7.3 An affidavit in support of an application referred to in paragraph 5.7.1 is required.
- 5.7.4 At the case assessment conference the Registrar may:
- (a) make any orders the terms of which are agreed;
 - (b) assist the parties to resolve all or part of the case;
 - (c) identify the issues relevant to the case;
 - (d) make directions as are appropriate to ensure the matter is ready for hearing on the relevant issues;
 - (e) limit the evidence to be relied upon and the time of any hearing; and
 - (f) allocate a hearing for the case.

6. Financial Cases

6.1 Procedural Hearings in Financial Cases

6.1.1 The primary purposes of a procedural hearing in financial cases are:

- (a) to ensure that parties have complied with their duty of disclosure and have provided all relevant documents to each other party;
- (b) to ensure that the relief and issues between the parties are appropriately defined;
- (c) to make orders to ensure that the parties are in a position to conduct meaningful negotiations;
- (d) to assign the matter to the appropriate case management track; and
- (e) to make such orders as will ensure the case is resolved in a timely, economical and just manner.

6.1.2 The Court expects that the requirements of the Family Law Rules 2004 as to service, filing of documents and any other matter will have been complied with by the first return date, although it is understood that this may not be practicable if the matter has been listed earlier than 28 days from the date of filing.

6.1.3 Unless there are special circumstances, a procedural hearing will not proceed until the parties have complied with relevant requirements in respect of the filing of documents and all other matters. If the procedural hearing does not proceed, the Court will re-list the matter in an appropriate list and may make orders as to costs.

6.1.4 At the procedural hearing the parties or their lawyers (in addition to being able to address the matters referred to in Rule 12.04 of the Family Law Rules 2004) must be able to advise the Court of the following matters:

- (a) the issues involved and those that have been resolved;
- (b) the extent of negotiations and primary dispute resolution procedures already undertaken, whether Court-based or otherwise; and
- (c) the estimated length of the trial if the matter cannot be resolved by agreement.

6.1.5 If the Court considers that a party or lawyer has not pursued or defended the application with due diligence, the Court may:

- (a) refer the application to the general list for consideration of dismissal of the application, or for the determination of the application on an undefended basis;
- (b) dismiss the application, determine the application on an undefended basis or adjourn the application to allow the applicant to file affidavit evidence; and/or
- (c) make such other orders as are appropriate, including an order for costs.

6.2 Differential Case Management in Financial Cases

6.2.1 In determining the case management options appropriate to each case, consideration should be given to the following factors:

- (a) what is needed to achieve a prompt and just resolution of the dispute;
- (b) the desirability of the parties being able to conduct the proceedings so far as possible on fair and equal terms;
- (c) informed participation by parties to the proceedings; and
- (d) the need to ensure that the conduct of the case does not unnecessarily impede the resolution of other matters by depleting Court resources.

6.2.2 Where practicable and appropriate, matters should be listed before a Judge or Magistrate who has previously heard matters involving the same parties and conferences should be listed before a Registrar who has previously conducted conferences between the parties.

6.2.3 At the procedural hearing each defended matter will be assigned to one of the following case management tracks:

- (a) Direct Track - matters where the estimated hearing time is not more than 2.5 hours;
- (b) Standard Track - matters that do not meet the criteria for allocation as either a Direct or Complex Track matter; or
- (c) Complex Track - matters in which the estimated hearing time is 6 days or more or matters involving complicated issues of fact, law or evidentiary material which would benefit from individual case management by a Judge.

6.2.4 Notwithstanding paragraph 6.2.3 and having regard to paragraph 6.6, a matter may be assigned to any track at any stage of the proceedings. If a matter has not been assigned to a track at the procedural hearing, the matter will be assigned to the Standard Track.

6.3 Direct Track

- 6.3.1 In cases allocated to the Direct Track the Court will order the parties to attend a conciliation conference or a pre-trial conference unless the Court determines that it would be appropriate for the matter to be listed for trial without such a conference being convened.
- 6.3.2 At the procedural hearing the Court will make orders to ensure the matter is ready for a conference or hearing. In particular, in addition to the matters referred to in Rule 12.04 of the Family Law Rules 2004, consideration will be given to:
- (a) the filing of affidavits of evidence of the parties and witnesses prior to the conference or hearing;
 - (b) the allocation of responsibility for payment of the hearing fee; and
 - (c) the allocation of a hearing date in the Direct Track list or a date for a conciliation or pre-trial conference.

6.4 Standard Track

- 6.4.1 In cases allocated to the Standard Track, the Court will allocate a date for a conciliation conference and make such orders as are necessary to ensure that the parties are able to conduct meaningful negotiations at the conference.
- 6.4.2 In appropriate cases the Court may request the Chief Judge to determine whether or not the conciliation conference should be conducted by a Judge.

6.5 Complex Track

- 6.5.1 In cases allocated to the Complex Track the Court at a procedural hearing shall make such procedural orders as are considered necessary and adjourn to a date to be fixed by the Judge assigned to manage the case.
- 6.5.2 The Court file is to be referred promptly to the List Judge after the matter is allocated to the Complex Track. The List Judge shall appoint a Judge to be responsible for the management of the matter with the assistance of a Magistrate or Registrar, if appropriate.
- 6.5.3 The managing Judge shall where practicable list the matter for a procedural hearing before himself or herself within 14 days of being appointed managing Judge.

6.5.4 The managing Judge is responsible for monitoring the progress of a case including:

- (a) determining which of the primary dispute resolution options are appropriate;
- (b) conducting a procedural hearing and making such orders from time to time as are necessary for the conduct of the proceedings;
- (c) hearing interim or procedural applications or referring to a Magistrate any interim or procedural issue appropriately heard by a Magistrate;
- (d) advising the List Judge and the Caseflow Manager when the matter is ready to be added to the defended list for hearing and the estimated length of the trial;
- (e) subject to paragraph 26.4, advising the List Judge and the Caseflow Manager from time to time as to the likely date when the matter will be ready for the allocation of a pre-trial conference; and
- (f) determining whether he/she should conduct the pre-trial conference or whether it should be conducted by another Judge or by a Registrar.

6.5.5 The Caseflow Manager will identify Complex Track cases and will refer the file to the managing Judge for monitoring not less frequently than once every 2 months.

6.5.6 The Associate to the managing Judge will endorse the file cover of each volume of the file with the name of the managing Judge and any Magistrate or Registrar appointed pursuant to paragraph 6.5.2.

6.6 Individual Case Management Directions

6.6.1 In addition to the procedures for differential case management set out above, the Court recognises that there are matters that may warrant individual attention or supervision by one Judge, Magistrate or Registrar. Such cases may possess one or more of the following features:

- (a) the potential for repeat hearings;
- (b) voluminous evidentiary material;
- (c) complicated psychological or emotional issues; and
- (d) complex social dynamics.

6.6.2 Identification of such matters for individual supervision may take place at any stage of the proceedings, and appropriate orders may be made assigning the matter to an individual Judge, Magistrate and/or Registrar for management and supervision.

6.7. Summary Procedures

6.7.1 Proceedings that are normally to be heard on the first return date include:

- (a) proceedings for enforcement of money orders; and
- (b) proceedings for the enforcement of child support.

6.7.2 If it considers it appropriate, the Court may at the first return date of such applications make such orders as are necessary to facilitate the proper hearing of the matter and adjourn the matter for further hearing.

6.8 The Conciliation Conference

6.8.1 A conciliation conference provides the parties with an opportunity to resolve their dispute. Parties are required to make a bona fide endeavour to reach agreement.

6.8.2 At the conciliation conference the Registrar will monitor compliance with previous procedural orders made, including checking the:

- (a) certificate of attendance at relevant information sessions;
- (b) cost notification letter; and
- (c) any other documents required.

6.8.3 Ordinarily there will be only one conciliation conference and parties are therefore required to prepare properly for the conference and comply with all orders and directions made at the procedural hearing. Second and subsequent conferences will generally only be convened in the event that a Registrar determines that:

- (a) there is a reasonable prospect that the matter will settle if a further conference is convened; and
- (b) it would be inappropriate to require the parties to await the allocation of a pre-trial conference before the Court provides a further opportunity for conciliation.

6.8.4 If it is not practicable for one or both of the parties or their legal representatives to attend for reasons such as distance or physical disability, directions may be made for the conference to take place by telephone.

6.8.5 Orders excusing a party or legal representative from personal attendance at a conciliation conference should ordinarily be sought at the procedural hearing but may also be sought from a Registrar in Chambers.

- 6.8.6 An appointment for a conciliation conference may be varied, on one occasion, to another date with the consent of all parties. The date for a conciliation conference may not be varied within 14 days of the appointed time unless with the approval of a Registrar. An appointment for a conciliation conference may not be varied without the fixing of a date for a further conciliation conference or procedural conference unless the dispute has been resolved by the making of consent orders or otherwise.
- 6.8.7 In the event that the financial aspects of the case are not resolved at the conciliation conference and there are pending child-related proceedings in the same case, the financial and child-related proceedings will ordinarily be heard concurrently. The Registrar conducting the conference will enquire of the parties as to whether they consent to the financial aspects of their case being dealt with as child-related proceedings.
- 6.8.8 If parties elect to have financial aspects dealt with as child-related proceedings they must file a “Consent to Conduct Proceedings as Child-Related Proceedings” Form. A copy of the Form is “Attachment D” to this document.
- 6.8.9 If consent is filed in the Form specified in paragraph 6.8.8:
- (a) the provisions of Division 12A of Part VII of the *Family Law Act* 1975 or Division 11A of Part 5 of the *Family Court Act* 1997 apply to the financial aspects of the case; and
 - (b) the Court may then control:
 - (i) the filing of applications, affidavits and subpoenas; and
 - (ii) the evidence that may be filed.
- 6.8.10 The Registrar conducting the conference shall make further orders:
- (a) assigning or re-assigning the case to the Judge Track or Magistrate Track; and
 - (b) adjourning the case for a procedural hearing before the managing Judge or Magistrate.
- 6.8.11 At the procedural hearing specified in paragraph 6.8.10(b), the managing Judge or Magistrate may make orders of the kind referred to in paragraph 6.8.12 or such other orders as they consider appropriate.
- 6.8.12 If there are no child-related proceedings pending, the Registrar shall make further orders:

- (a) fixing a date for trial in the Direct Track, unless the Registrar determines that the parties should attend a pre-trial conference before a trial date is allocated;
- (b) subject to the preceding sub-paragraph, adding the proceedings to the list of matters awaiting allocation of a pre-trial conference, or allocating a date for a pre-trial conference;
- (c) specifying the steps that need to be taken prior to the pre-trial conference or trial including:
 - (i) the filing of evidence of the parties and witnesses;
 - (ii) the procedures to be followed in the event of default in the filing of evidence;
 - (iii) the filing of a chronology pursuant to paragraph 10.8;
 - (iv) the disclosure and inspection of documents;
 - (v) the issuing of subpoenas for the production of documents; and
 - (vi) the convening of a conference of experts.

6.8.13 If there is a hearing listed before a managing Magistrate of a child-related proceeding subsequent to the conciliation conference and the Registrar assigns the case to the Judge Track, unless the determines otherwise, he/she shall vacate the hearing before the Magistrate and make arrangements for the case to be listed before the Judge.

6.8.14 In the event that the matter is not resolved by the making of consent orders the Registrar shall note on the record:

- (a) whether the conference formally convened in the presence of the parties;
- (b) whether the parties have complied with the costs notification requirements of Chapter 19 of the Family Law Rules 2004; and
- (c) whether each self-represented litigant has received a booklet in a form prescribed by the Chief Judge concerning preparation of the matter for trial.

6.8.15 In the event that a case is not resolved by the making of consent orders the Registrar, where practicable and appropriate (and with the consent of all parties), shall also note the following matters on the record:

- (a) any significant issues that are agreed;
- (b) the valuations that are agreed;
- (c) the significant issues that remain in dispute; and
- (d) the valuations that are not agreed.

6.8.16 Where the requirements of the Rules, orders or directions have not been sufficiently complied with, or if for any other reason realistic negotiations are unable to be held, the Registrar may:

- (a) list the matter in an appropriate list for further orders or for consideration of dismissal of the application or orders in default;
- (b) request that an explanation be provided; and/or
- (c) make an order as to costs.

6.8.17 If a party is represented by a lawyer at the conciliation conference the lawyer shall provide a copy of the Conference File Note to his or her client promptly following receipt of same from the Court unless the matter was settled and final orders made.

6.8.18 A Registrar who has conducted a conciliation conference may thereafter as a Magistrate hear and determine substantive matters with the consent of both parties.

6.9 The Pre-Trial Conference

6.9.1 The Registrar conducting the conciliation conference or the Caseflow Manager will appoint a time for a pre-trial conference 6 to 8 weeks prior to the time when it is anticipated that the matter could be listed for trial. Where practicable, parties will be given at least 8 weeks' notice of the date of the pre-trial conference.

6.9.2 In the event that a party fails to comply with orders or directions requiring the filing of documents in readiness for a pre-trial conference, the other party may request the listing of the matter for orders before the next available Duty Judge or Magistrate.

6.9.3 Where it appears to a Registrar that a party has not complied with orders relating to the readiness of a case for a pre-trial conference, the Registrar may vacate the pre-trial conference on his or her own motion, list the case in the next available Duty Judge list and provide written notification to the parties or their legal representatives of such.

6.9.4 In the event that a listing is allocated pursuant to either of the two preceding paragraphs the party in default and, if represented, their lawyer shall attend the hearing before the Duty Judge unless excused in writing by a Registrar or by the Duty Judge.

6.9.5 Subject to paragraph 6.9.6, an appointment for a pre-trial conference may be varied on one occasion only to another date with the consent of all parties. Requests for variation of dates should be made as far in

advance as possible so as to allow the time to be allocated to another matter.

- 6.9.6 The date for a pre-trial conference may not be varied within 21 days of the appointed time without the written approval of a Registrar.
- 6.9.7 In the event that the parties seek the variation of a pre-trial conference date on more than one occasion, the Caseflow Manager shall list the matter for a procedural conference before a Registrar to determine the further conduct of the matter. Save in exceptional circumstances, the Registrar shall direct that the matter be returned to the end of, or be removed from, the defended list.
- 6.9.8 Not later than 14 days prior to the pre-trial conference the party who filed the initiating application (“the applicant”) shall file and serve on the other party (“the respondent”) a chronology of significant events. The chronology shall not exceed 4 pages unless there are special circumstances.
- 6.9.9 The parties and, if represented, their lawyers, shall attend the pre-trial conference unless a Registrar excuses them from attendance for reasons such as distance or physical disability. A request for a party to be excused should ordinarily be made at the conciliation conference but may also be made to a Registrar in Chambers.
- 6.9.10 At the pre-trial conference:
- (a) a bona fide endeavour is to be made to resolve the issues in dispute;
 - (b) a trial or callover date may be allocated in accordance with paragraph 6.12 and further orders made to ensure that the matter is ready to proceed to trial;
 - (c) the parties, or if represented, their lawyers should be able to satisfy the Registrar as to the following:
 - (i) the issues of fact and law;
 - (ii) whether any amendment to an application is anticipated or required, including the consolidation of applications;
 - (iii) compliance with the relevant Rules, and any previous directions or orders of the Court;
 - (iv) completion of all necessary interlocutory matters, including disclosure and inspection;
 - (v) which of the other party’s witnesses will not be required for cross-examination;
 - (vi) the availability of counsel and of each witness;
 - (vii) whether the matter requires a fixed date for trial;

- (viii) the time likely to be taken in examination of any witness who has refused to swear an affidavit and the time likely to be taken in cross-examination of each other witness with a view to making an accurate estimate of the likely length of the trial.

6.9.11 If the conference is not able to proceed for any reason or realistic negotiations are unable to be held, the Registrar may:

- (a) make further procedural orders;
- (b) list the matter in the first available Duty Judge list for further directions or for consideration of dismissal of the application or orders in default;
- (c) request that an explanation be provided; and/or
- (d) make an order as to costs.

6.9.12 Save in exceptional circumstances, in the event that both parties have failed to comply with orders or directions requiring the filing of documents in readiness for a pre-trial conference, and the conference proceeds, the Registrar conducting the conference shall direct that the matter be returned to the end of, or be removed from, the defended list.

6.9.13 In the event that the matter is not resolved by the making of consent orders the Registrar shall indicate on the record whether or not:

- (a) the conference formally convened in the presence of the parties;
- (b) the parties have complied with the costs notification requirements of Chapter 19 of the Family Law Rules 2004;
- (c) the respondent agrees with the applicant's chronology.

6.9.14 If the chronology is not agreed upon and the matter is listed for trial, the Registrar shall direct the respondent to file and serve a Schedule within 14 days identifying those matters in the chronology with which the respondent does not agree and specifying any additional matters that the respondent considers should be included in the chronology.

6.9.15 If a case is listed for trial or to a callover at the conclusion of the pre-trial conference, the Registrar, where practicable and appropriate (and with the consent of all parties), shall also note the following matters on the record if there is any variation from the matters noted on the record at the conciliation conference:

- (a) any significant issues that are agreed;
- (b) the valuations that are agreed;
- (c) the significant issues that remain in dispute; and
- (d) the valuations that are not agreed.

6.9.16 If a party is represented by a lawyer at the pre-trial conference the lawyer shall provide a copy of the Conference File Note to his or her client promptly following receipt of same from the Court unless the matter has settled and final orders made.

6.10 Listing for Trial

6.10.1 These Case Management Guidelines do not apply to trial listings for country circuits. Trial dates in country circuits will be allocated in accordance with directions made from time to time by the List Judge.

6.11 Direct Track

6.11.1 Direct Track matters will usually be listed for hearing in a Duty Judge list.

6.12 Standard Track

6.12.1 Subject to any order or direction, all Standard Track matters placed in the defended list will be allocated a pre-trial conference by a Registrar or the Caseflow Manager in the order in which they were added to the list.

6.12.2 A trial or callover date will be allocated at the conclusion of the pre-trial conference if the Registrar determines that the matter is ready to proceed to trial. Generally a trial or callover date will not be allocated unless:

- (a) both parties have filed all of the evidence upon which they intend to rely at trial; and
- (b) a conference of experts has been convened in relation to any dispute on matters involving expert opinion.

6.12.3 The date allocated for the trial will ordinarily be about 6 to 8 weeks after the pre-trial conference or callover but earlier or later dates may be allocated at the discretion of the callover Judge or Registrar conducting the conference in order to suit the convenience of parties, witnesses, lawyers or the Court.

6.12.4 Trial dates will be allocated on the basis of a rolling list and matters will therefore usually be given "not before" starting times. Every effort will be made to ensure that the trial commences on the allocated date. However, the nature of a rolling list is such that there may be a delay in the commencement of the trial.

6.12.5 Trials will be assigned to individual Judges; however, in order to ensure that a case commences as close as practicable to the date allocated, it may be re-assigned to another Judge.

6.12.6 If for any reason it is not appropriate to allocate a trial date to a matter at a pre-trial conference, the Registrar may adjourn the conference to another pre-trial conference or a procedural conference.

6.13 Complex Track

6.13.1 Trial dates for cases in the Complex Track will be allocated by the List Judge after consultation with the managing Judge and where practicable will be given a fixed starting date.

7. Judicial Conferences

7.1 Judges of the Family Court of Western Australia are sometimes assigned to conduct “without prejudice” settlement conferences.

7.2 In order to assist the Judge, the parties and legal representatives to prepare for the conference, all parties are required to file and exchange the following documents no later than 7 days prior to the conference:-

- (a) An up-to-date chronology of significant events, which should not ordinarily exceed 4 pages;
- (b) A list of documents the Judge will ideally have read prior to the conference;
- (c) A minute of the orders being sought;
- (d) A summary of the issues in dispute, which should not ordinarily exceed 2 pages; and
- (e) In matters involving property :-
 - (i) A table setting out the assets, liabilities and resources held by or on behalf of each party and their value; and
 - (ii) A schedule setting out the percentage division sought by reference to contributions, any adjustments for s 79(4)(e) / s 205ZG(4)(e) factors and the proposed distribution of the assets, liabilities and resources held by or on behalf of each party to effect the percentage division sought.

8. Reserved Judgments

8.1 Judgments will normally be delivered no later than three months from the date on which they are reserved. If a party wishes to enquire about the delivery of a judgment, the request should be made by letter to the

Chief Judge in relation to the decision of a Judge, or the Principal Registrar in relation to the decision of a Magistrate or a Registrar.

Part B – DOCUMENTS AND ADMINISTRATIVE PROCEDURES

9. Files

- 9.1 Flat files are in use in the Registry. Any cover sheet required should be on the front of the document. Documents filed should be securely stapled in the top left-hand corner, without additional binding.

10. File Numbers

- 10.1 All proceedings between the same parties will retain the original file number. When filing a further application in the proceedings, the application and supporting documents should bear the file number previously allocated.

- 10.2 Proceedings in relation to costs between solicitors and clients will be placed on a separate court file and allocated a new file number.

11. Client Identification Codes

- 11.1 Practitioners whose firm is seeking to file documents must obtain a client identification code from the Executive Officer.

- 11.2 Any document filed must contain all information required by the prescribed form, together with the client identification code where applicable.

- 11.3 Firms changing name or address must advise the Executive Officer accordingly as soon as practicable in order that a new client identification code may be provided. Documents will not be accepted for filing unless they are endorsed with the current code.

12. Lodgment of Documents for Filing

- 12.1 Documents may be lodged for filing either by post, by personal attendance at the Registry of the Family Court between 9.00 am and 4.00 pm or by facsimile pursuant to Rule 24.06 of the Family Law Rules 2004.

- 12.2 If a document does not appear to be in order for filing in accordance with the Rules, Regulations or these Case Management Guidelines, requisitions may be issued drawing attention to the apparent discrepancy. On compliance with the requisitions, the document will be accepted for filing.
- 12.3 A document may be accepted for filing notwithstanding that it does not comply with the Rules, Regulations or these Case Management Guidelines, provided that the party seeking to file the document specifies in writing the nature of the non-compliance and the reason why it is considered appropriate that the document be filed. Documents so filed will be endorsed as having been filed at the request of the party.
- 12.4 The acceptance of documents for filing does not in any way constitute the granting of the leave or approval of the Court for late filing or other non-compliance with the relevant statute, Rules or Regulations, Court orders or directions of a Registrar.
- 12.5 Solicitors may "bulk file" documents for later collection of service copies. Where practicable (unless requested to the contrary), applications filed by solicitors in bulk, or simultaneously, will be listed for the same date.
- 12.6 Notwithstanding the Rules, electronic lodgement or filing of documents is not available.

13 Parenting Order Applications Regarding Christmas School Holiday Periods

- 13.1 Rule 5.01A of the Family Law Rules 2004 provides that applications regarding time to be spent with children during Christmas school holiday periods are to be filed before 4.00 pm on the second Friday in the November prior to the relevant school holiday.
- 13.2 Parties should be aware that applications filed prior to this date are not necessarily guaranteed to be listed or determined prior to the commencement of the relevant school holiday period. Such applications should be filed as early as practicable to ensure an appropriate listing date.

14. Affidavits

- 14.1 Handwritten affidavits will generally only be accepted for filing in circumstances of urgency, usually involving some immediate threat of harm to a child.

14.2 Where there are 5 or more annexures or exhibits to an affidavit, each must be clearly identified by tabbing or by numbering pages and making reference to the page number in the body of the affidavit.

14.3 If the signature of the person before whom an affidavit is sworn/affirmed is not legible, it must be identified by means of a rubber stamp, or by the printing of the name of the witness below the signature.

15. Prior Orders of Other Courts

15.1 Certified copies of orders of Courts other than the Family Court of Western Australia or Magistrates Court, 150 Terrace Road, Perth, must be registered when applying for further orders relating to those orders.

16. Electronic Recordings of Proceedings

16.1 The electronic recordings of all proceedings will be retained for 5 years from the date on which the recording is made, but may not be available beyond that time, unless a Judge, Magistrate or Registrar has directed the retention of the recording.

16.2 A person requesting a transcript should therefore ensure that the request is made within the 5 year period.

16.3 A person may apply for permission to inspect the electronic recording within the precincts of the court.

17. Transcripts

17.1 Copies of transcripts ordered by a Judge or Magistrate will not be distributed free of charge to parties or their lawyers unless the Judge or Magistrate so directs.

17.2 Subject to the following paragraph, a party may order a transcript through the Registry provided the transcript is paid for. Upon the transcript being supplied, one copy will be retained for the Court file. All other copies will be given to the requesting party who shall provide a copy to each other party if directed to do so by the Court.

17.3 Transcripts of proceedings are not provided free of charge for inclusion in appeal books. Requests for transcripts for use in appeals to the Full Court must be made to the Court Recording Contractor directly.

Part C – LISTING PROCEDURES

18. List Judge

- 18.1 The Chief Judge, or a Judge nominated by the Chief Judge, will carry out the duties allocated to the List Judge.
- 18.2 The List Judge will be responsible for:
- (a) the dissemination of guidelines to be observed by Registrars and the Caseflow Manager in the allocation and vacation of trial dates including matters being heard in country circuits;
 - (b) the supervision of the listing of trial dates by Registrars and the Caseflow Manager;
 - (c) the allocation of trial dates for matters in the Complex Track; and
 - (d) monitoring and re-assigning matters after a trial date has been allocated with a view to making the best possible use of available Judicial resources and minimising inconvenience to the parties.

19. Duty Judge

- 19.1 The Chief Judge will from time to time nominate a Judge to act as Duty Judge.
- 19.2 On Mondays of each week (or Tuesday following a long weekend) the Duty Judge will hear duty matters, applications under the Hague Convention on the Civil Aspects of International Child Abduction and such matters as listed by a Judge, Magistrate or Registrar.
- 19.3 The Duty Judge will be available on other days to hear such urgent matters as cannot be heard by a Magistrate. Such listings are to be authorised by the Duty Registrar in consultation with the Duty Judge.
- 19.4 Appeals from a Magistrate other than a Family Law Magistrate will be listed before the Duty Judge within 14 days from the date of filing. Generally, appeals will be listed for directions only and service copies of notices of appeal will be noted accordingly.

20. Duty Registrars

- 20.1 A Registrar will be shown in the daily court list as "Duty Registrar". Subject to commitments that may arise, it is intended that this Duty Registrar is the Registrar who is generally available to:
- (a) attend to more difficult enquiries from lawyers and parties as to practice and procedure;

- (b) attend to requests for urgent hearing;
- (c) consider applications for waiver of filing and hearing fees as may be referred; and
- (d) deal with any other matter that arises and pursuant to the Rules or Regulations requires determination by a Registrar and can conveniently be dealt with in Chambers.

21. Listing of General List Matters

- 21.1 Where practicable in Perth there will be at least one General List at 10.00 am each day. If there is no General List on a particular day a Duty Magistrate will be available to hear urgent matters.
- 21.2 A request in writing must be made to the Duty Registrar if a hearing is sought prior to the hearing date that would otherwise be given in accordance with the Rules or these Case Management Guidelines. Such request must set out:
- (a) the reasons for the necessity of an early hearing date;
 - (b) the estimated hearing time;
 - (c) whether the application will be served prior to the hearing; and
 - (d) any other relevant matter.

22. Listing of Interim Applications in the Complex Track

- 22.1 The Judge Manager (or in his or her absence another Judge or a Registrar) will allocate the hearing date for any interim or interlocutory application in proceedings that have been assigned to the Complex Track.
- 22.2 In addition to complying with the requirements of paragraph 12.2, a party filing such an application must (by letter addressed to the Principal Registrar and marked for the attention of the Associate to the Judge Manager) request that the application be referred to the Judge Manager for the allocation of a hearing date.

23. Listing of Maintenance and Child Support Applications

- 23.1 Applications for final orders seeking only:
- (a) child maintenance (including adult children);
 - (b) spousal maintenance (including de facto maintenance); or
 - (c) orders in relation to child support will be listed in a General List before a Magistrate for directions only, as soon as practicable 28 days after filing.

23.2 A Magistrate will conduct a procedural hearing and may make an order:

- (a) for the filing of further affidavit material;
- (b) for the issuing of subpoenas;
- (c) in regard to disclosure; and
- (d) fixing a time for a future hearing.

23.3 Where practicable the Magistrate who conducted the procedural hearing will hear and determine the application.

24. Listing of Enforcement Applications

24.1 Applications arising out of the failure of a party to comply with a Rule, direction or order requiring the filing of a document or the taking of a procedural step will, where practicable, be listed for hearing within 14 days in the General List.

24.2 Unless otherwise directed by the Principal Registrar, applications for enforcement filed by the Child Support Registrar, will be listed for hearing each fourth Thursday of the month at 10.00 am.

24.3 Subject to paragraph 5.7, applications alleging contravention of an order affecting children will be listed to a case assessment conference before a Registrar as close as practicable to 14 days from the filing of the application.

24.4 Unless otherwise directed by the Principal Registrar, proceedings otherwise instituted alleging contravention of an order not affecting children or for enforcement of such an order will be listed each third Wednesday of the month in an Enforcement List at 10.00 am. Urgent applications may be listed in a General List where authorised by the Duty Registrar.

25. Listing of Divorce Applications

25.1 To permit service and the filing of affidavits of service and any response, the date for hearing of a divorce application by one of the parties will be fixed as close as practicable to ten weeks from filing.

25.2 The date for hearing of a divorce application filed by both parties will be fixed as close as practicable to four weeks from filing.

26. Listing of Conciliation and Pre-Trial Conferences

26.1 Conciliation conferences will be listed at procedural hearings or at other times by order or direction of a Judge, Magistrate or Registrar.

26.2 Pre-trial conferences will not be allocated for matters in the Direct Track unless ordered or directed by a Judge, Magistrate or Registrar.

26.3 Pre-trial conferences for matters in the Standard Track will be listed by a Registrar or the Casflow Manager in order of inclusion in the defended list, subject to any direction or order of a Judge, Magistrate or Registrar for the expedition of a matter where the interests of justice or the welfare of children require a priority hearing.

26.4 Pre-trial conferences for Complex Track matters may be allocated if the managing Judge determines that such a conference should be convened.

27. Listing of Applications for Review of Decisions of Registrars

27.1 Applications for review of decisions made by Registrars will be listed before the Duty Judge within 14 days from the date of filing, or dealt with in Chambers by a Judge.

28. Removal of Proceedings from Court Lists

28.1 Parties filing a minute of consent orders should ensure that the minute vacates any court listings or conferences that are no longer necessary.

28.2 On request, matters may be taken out of multiple lists on the grounds of non-service and an appearance will then not be required.

28.3 If it is clear that service will not be effected by the hearing date, a request for vacation of the date should be made at least one day before the hearing. Vacating for non-service will not be permitted when there has been an order for service.

28.4 Where a matter has been removed because of non-service under the above procedure, the application concerned should be again presented to the Registry for endorsement of a new return date.

28.5 Matters adjourned to the defended list where no trial date has been given may not be removed from the list except by court order or direction of a Registrar.

Part D – PROCEDURES ON MAKING CERTAIN APPLICATIONS

29. Applications for Costs

- 29.1 Parties should generally expect in cases where judgment is reserved following a trial that any application for costs will be heard on the day judgment is delivered.
- 29.2 Parties should generally expect in cases where interim proceedings are heard before Magistrates that applications for costs will be heard by the Magistrate and will not be reserved to the trial Judge.

30. Applications for Orders to Compel Compliance

- 30.1 An affidavit need not be filed in support of an application arising out of the failure of a party to comply with a Rule, direction or order requiring the filing of a document, provided the application specifies the Rule, direction or order that has not been complied with.
- 30.2 Notwithstanding paragraph 30.1, the Court hearing the application may require evidence to be adduced by affidavit or otherwise before determining the application.

31. Applications Pursuant to Liberty to Apply

- 31.1 Subject to paragraph 5, a party seeking to re-list an application pursuant to liberty previously given shall file a Form 2 setting out the relief to be sought at the hearing and, if appropriate, an affidavit setting out the further evidence upon which the party intends to rely.

32. Applications under section 106A of the *Family Law Act 1975* or section 221 of the *Family Court Act 1997*

- 32.1 Parties seeking an order pursuant to section 106A of the *Family Law Act 1975* or section 221 of the *Family Court Act 1997* for the appointment of the Principal Registrar to execute documents should also seek an order permitting any other Registrar of the Court to perform that function on his or her behalf.
- 32.2 A consent order should not provide for the appointment of either the Principal Registrar or a Registrar to sign documents on behalf of a party, unless there is consent of the Principal Registrar to such appointment. Requests for such consent should be made only in exceptional circumstances.

Part E – APPLICATIONS FOR DIVORCE

33. Arrangements for Children

- 33.1 Where the arrangements or proposed arrangements for children have changed materially since the filing of the application for divorce, an affidavit setting out the varied arrangements and proposed arrangements is to be filed by not later than four clear days before the date of hearing. Service of the affidavit should usually be effected on the other party.
- 33.2 Where there has been no change in either the arrangements or proposed arrangements for the children, the applicant or his or her lawyer should be in a position to state to the Court that there has been no such change.

34. Resumption of Cohabitation

- 34.1 An applicant (or his or her lawyer) should be in a position to advise the Court on the date of hearing of the application for divorce whether or not there has been any resumption of cohabitation at any time between the date of filing of the application and date of hearing.

35. Parties Living under the Same Roof

- 35.1 In cases where it is claimed that parties have lived separately and apart under the same roof during any part of the period of twelve months immediately preceding the date of filing of the application for divorce the Court will ordinarily require corroboration of the claim by the filing of an affidavit by a witness. The witness should attend the hearing in case further evidence is deemed necessary.
- 35.2 Such applications must be listed for hearing in open Court and the applicant(s) should attend the hearing, notwithstanding that the parties may otherwise be entitled to have the matter determined in their absence.

36. Proof of Citizenship

- 36.1 Where an applicant wishes to rely on the Australian citizenship of one party to the marriage as the basis for jurisdiction:
- (a) if seeking to establish that a party to a marriage is an Australian citizen by birth, the birth certificate of that party should be filed with the application unless the marriage certificate that has been filed contains details of the place of birth; or

- (b) if seeking to establish citizenship by naturalisation of a party to a marriage, documentary evidence such as a naturalisation certificate should be filed with the application.

37. Corroboration of Service

37.1 Further evidence by way of corroboration of service of an application for divorce will usually be required if there is not already corroboration by:

- (a) the respondent appearing at the hearing;
- (b) a Form 8 Notice of Address for Service having been filed by or on behalf of the respondent;
- (c) the respondent being represented at the hearing by a lawyer who has filed a Form 8 Notice of Address for Service on behalf of the respondent (or who gives a suitable undertaking to file a Form 8);
or
- (d) an affidavit having been filed by or on behalf of the respondent setting out to the satisfaction of the Court that the respondent has been served.

37.2 The requirement of corroboration may be satisfied by an affidavit of the applicant or other person who is able to verify the signature on the Form 6 Acknowledgement of Service as being the signature of the respondent.

37.3 If the respondent has declined to sign a Form 6 Acknowledgement of Service or if evidence of proof of signature is not available, corroboration will usually be required by other means (eg. evidence from the process server that the person served was the person in a photograph and evidence from the applicant that the photograph is of the respondent).

38. Applications where Response Filed

38.1 In the event that a response to an application for divorce opposes the application on the basis that the grounds for divorce have not been established, the Court shall adjourn the application to a Magistrate in the general list.

Part F – PROCEDURES FOR THE ASSISTANCE OF THE COURT

39. Correspondence with the Court

- 39.1 All correspondence sent to the Court concerning proceedings should be addressed to the Principal Registrar but may be marked for the attention of a particular member of the Court staff. Correspondence concerning proceedings must not be addressed to, nor marked for, the attention of a Judge or Magistrate.
- 39.2 All correspondence sent to the Court concerning proceedings (other than requests for ex parte listings) must be copied to the other party or that party's lawyer and the original letter must show that this has been done. The request for an ex parte listing is to be served upon the respondent at the same time as service of the filed documents if an order for service is made.
- 39.3 Failure to comply with the requirements of the preceding paragraph will generally result in the correspondence being returned to sender with advice that the correspondence will be answered upon compliance with those requirements.

40. Advice of Appearance

- 40.1 Lawyers and parties must advise the floor officer of their attendance prior to the commencement of a hearing or the Court Officer once the Court is sitting.
- 40.2 Lawyers must announce their name and the firm by which they are instructed at the commencement of the hearing even if their identity is known to the presiding Judicial Officer.

41. Advance Notification of Settlements

- 41.1 In cases where a hearing is imminent and where the matter has been settled or is considered likely to settle, the parties have agreed to apply for an adjournment, or where only some of the matters apparently in issue are to be argued, the parties shall advise the Court forthwith.
- 41.2 Where the identity of the Judicial Officer who is to have the conduct of the hearing is known, the advice shall be provided direct by telephone to his or her Associate. If the identity of the Judicial Officer is not known the advice shall be given by telephoning the Caseflow Section [(08) 9224 8398].

42. Interim Hearings in Complex Track

42.1 Unless excused by the Judge Manager, the parties shall, not later than two days prior to the hearing date of an interim application in the Complex Track, file and serve:

- (a) a chronology which includes the dates of events during the course of the proceedings that are considered to be significant to the matter to be determined;
- (b) an outline of submissions, not longer than six pages; and
- (c) a list of authorities.

42.2. The time taken in oral submissions by counsel for each party on the hearing of such an application shall not exceed 30 minutes without leave of the Court.

43. Papers for the Judicial Officer

43.1 In the event that the Chief Judge prescribes a format for Papers for the Judicial Officer, they are to be provided in that (or a substantially similar) format.

43.2 Cover sheets need not be affixed to the documents required pursuant to this paragraph, provided they clearly show the relevant names and file number of the proceedings, and the date of hearing. All documents should be signed by the parties or, if applicable, their legal representatives.

43.3 All parties must file and exchange the following documents no later than fourteen clear days before trial in the Direct, Standard and Complex Tracks:

43.4 In matters involving children:

43.4.1 A statement in point form of the factors to be taken into account pursuant to Section 60CC of the *Family Law Act* 1975 or Section 66C of the *Family Court Act* 1997. The statement should not ordinarily exceed 4 pages.

43.5 In matters involving property:

43.5.1 A table setting out the assets, liabilities and resources together with their value, held by each of the parties as at the date of hearing. (In the event that there is a material change in the value of any asset since the date of separation, the table shall also identify the value of the asset as at the date of separation.);

- 43.5.2 A statement in point form identifying the respective contributions alleged under section 79(4)(a), (b) and (c) of the *Family Law Act 1975* or section 205ZG(4)(a), (b) and (c) of the *Family Court Act 1997*. (The statement should identify the contributions made by each party and, in addition, express such contribution as a percentage of the net value of the assets from the commencement of cohabitation to the date of final separation and to the date of hearing.);
- 43.5.3 A statement in point form of the factors under section 79(4)(e) of the *Family Law Act 1975* or section 205ZG(4)(e) of the *Family Court Act 1997* to be taken into account. (The statement should identify the factors as they relate to each party);
- 43.5.4 A statement of the adjustment, if any, expressed on a percentage basis, of the net value of the assets of the parties to be made to the contribution-based entitlement alleged, having regard to the factors in section 79(4) (d),(e),(f) and (g) of the *Family Law Act 1975* or section 205ZG(4) (d), (e), (f) and (g) of the *Family Court Act 1997*; and
- 43.5.5 A statement in point form, preferably signed jointly by the parties (or if applicable their legal representatives), setting out a summary of the issues for determination and those issues which are agreed, relating to (but not limited to) the following:
- (a) contributions;
 - (b) valuation of assets;
 - (c) existence and/or extent of liabilities;
 - (d) characterisation of assets, eg: property or financial resources;
 - (e) disposition of assets; and/or
 - (f) disclosure.
- 43.6 In all matters:
- 43.6.1 A list of all affidavits upon which they seek to rely at the hearing which, subject to any order of the judicial officer, will constitute the evidence being led by the parties;
- 43.6.2 A list of authorities; and
- 43.6.3 A chronology of significant events relating to the matters in issue, unless a chronology has been filed pursuant to paragraph 6.9.8. (The chronology should not ordinarily exceed 4 pages and in the event that the chronology is agreed, a joint chronology may be filed.)

43.6.4 In the event that the Papers for the Judicial Officer are not filed within 2 days of the due date, the case may be listed before the judicial officer, for further directions and for the making of an order for costs.

44. Lists of Authorities

44.1 Subject to paragraph 43, lists of authorities which counsel intend to cite to the Court during the presentation of any argument should be filed and served not later than two days prior to the hearing.

44.2 A copy of any unreported decision in the list of authorities should be provided to the Court and the other party at the time the list is filed.

44.3 Lists of authorities should:

- (a) identify the issue in relation to which each authority is to be cited; and
- (b) indicate those cases from which counsel intends to read to the Court (as distinct from those to which counsel proposes merely to refer) and the numbers of the pages of passages to be cited.

Part G – MINUTES AND ORDERS

45. Usual Form of Orders and Undertakings

45.1 Where an order is made or an undertaking is given “in usual form”, the full terms of the order or undertaking will be as set out in the Schedule.

45.2 Where parties file a handwritten minute of consent orders containing reference to an order or undertaking “in usual form”, the full terms of the order or undertaking are to be incorporated in any typed copy of the minute provided pursuant to paragraph 48.

46. Extraction of Orders

46.1 Orders will be extracted by Registry staff and parties are therefore not required to provide front sheets for orders.

46.2 Orders marked for “urgent extraction” where practicable will be available on the same day and orders marked for “prompt extraction” where practicable will be available within two working days of the date on which the order was made.

47. Minutes of Consent Orders

- 47.1 Minutes of consent orders should be legible and, where practicable, typewritten. If the minute is typewritten, two copies must be provided along with a further copy for any additional parties to the proceedings.
- 47.2 The front sheet of the minute should show the next date of hearing. The preamble to the minute should identify the application(s) and response(s) pursuant to which the orders are to be made.
- 47.3 Where appropriate, the minute should dismiss outstanding applications, vacate any future listings that are no longer required and remove the matter from the defended list.
- 47.4 If an undertaking is being given, a written undertaking must be filed with the minute.
- 47.5 If a hearing date is imminent, the minute of consent orders should be accompanied by a letter requesting that the matter be referred to a Judge or Registrar as a matter of urgency.
- 47.6 In the event that the party filing the minute does not wish the matter to be dealt with in Chambers, the minute should be accompanied by a letter requesting that the minute be dealt with on the next date of hearing. In all other instances the minute will be referred to a Registrar for orders to be made in Chambers unless the party filing the minute requests that it be referred to a Judge or Magistrate for orders to be made in Chambers.
- 47.7 Leave should generally not be sought to tender a minute in Court unless it would not have been practicable for the minute to have been filed earlier.
- 47.8 The party lodging the typed copy of the minute should provide a copy to each other party at the same time as the minute is provided to the Court.

48. Extraction of Consent Orders

- 48.1 Parties filing handwritten minutes of consent orders should anticipate being requested to provide to the Court a clean typed copy of the minute, together with a copy for each party to the proceedings.

48.2 In the event such a request is made, the typed copy need not be signed by all parties provided that its content corresponds with the signed copy and is certified by a party or their solicitor as follows:-

“I,, certify this to be a true and correct copy of the handwritten minute filed on”.

49. Consent Parenting Orders and Allegations of Abuse

49.1 Rule 10.15A of the Family Law Rules 2004 requires certain draft consent orders to have an annexure:

- (a) identifying various documents that allege abuse of a child the subject of proceedings; and
- (b) containing an explanation as to how the order attempts to deal with the allegations.

49.2 The Court will not require strict compliance with this Rule. It will be deemed sufficient compliance if the draft consent order contains an annexure setting out the allegations of abuse that have arisen in the proceedings (without reference to specific documents in which the allegations are contained); and either:

- (a) an explanation as to how the order attempts to deal with the allegations; or
- (b) an explanation if the orders do not specifically deal with the allegations.

49.3 The Principal Registrar has prescribed a “Consent Order Annexure” Form for use in cases specified in paragraph 49.2. A copy of the Form is “Attachment E” to this document.

Part H –SUBPOENAS

50. Notice to witnesses

50.1 A witness should be given as much notice as possible that his or her appearance will be required before the Court. A party should not therefore request the issue of a subpoena to a witness unless the time between issue of subpoena and hearing date (allowing time for service) would permit reasonable notice.

50.2 Whilst there should be very few occasions when as little as only one or two weeks' notice can be given to witnesses, any subpoena which will not allow at least 7 days' notice after service (in the case of a subpoena to give evidence) and at least 14 days' notice after service (in the case of a subpoena requiring production of documents) will be treated prima facie as unreasonable. In these circumstances, a request for the issue of a subpoena is to be supported by a letter setting out such information as will permit a Registrar or Judicial Officer to exercise discretion whether to issue the subpoena notwithstanding the short notice.

51. Subpoenas Returnable in General Lists

51.1 Subject to paragraph 52, no subpoena will be issued for return in a General List unless a Registrar is satisfied by written submission that the subpoena is being issued to compel evidence to be produced at the hearing that is necessary for that hearing.

51.2 Unless a Court or Registrar otherwise orders, subpoenas to produce documents shall not be issued to the Department for Child Protection for the production of documents for an interim hearing when a Form 4 Notice of Risk of Abuse or Family Violence has been filed and the Department has provided, or will provide, a written reply to that Notice.

52. Subpoenas for the Production of Documents at Trial

52.1 In the event that a party intends to issue subpoenas for the production of documents at trial, permission should be sought at the conciliation conference for such subpoenas to issue and the documents should be inspected prior to the pre-trial conference.

52.2 Subpoenas for the production of documents may only be filed after the pre-trial conference with leave of the judicial officer allocated to the trial or in his/her absence by a Registrar. Requests for the issue of subpoenas for the production of documents filed after the pre-trial conference must indicate why the subpoena was not issued prior to the pre-trial conference.

52.3 If leave is granted the subpoenas shall generally be made returnable before the judicial officer. If it is not practicable for such subpoenas to be made returnable before the judicial officer they are to be made returnable before a Registrar in a subpoena list.

52.4 Save in exceptional circumstances, the commencement of the trial will not be delayed to permit inspection of documents that could have been inspected earlier.

53. Inspection and Photocopying of Documents

- 53.1 Subject to paragraph 53.4, documents produced pursuant to subpoena will remain in the possession of the Subpoena Officer on the day of the hearing unless a Judge, Magistrate or Registrar directs that the documents be produced in Court.
- 53.2 Documents produced pursuant to subpoena may only be inspected in the designated rooms in the Registry or in such manner as may be directed by a Judge, Magistrate or Registrar who gave leave for the documents to be inspected, or otherwise in accordance with the Rules.
- 53.3 A party wishing to inspect documents on the return date may do so after first obtaining leave of the presiding Judge, Magistrate or Registrar and upon production to the Subpoena Officer of the prescribed Subpoena Sheet appropriately endorsed by a Judge, Magistrate or Registrar or their Associate or Secretary.
- 53.4 Inspection of documents produced pursuant to subpoena will be arranged by appointment with the Subpoena Officer. Priority will be given to those cases stood down for hearing that day. A party wishing to tender a document in evidence on the day of inspection must request the Subpoena Officer to arrange for the material to be taken into Court.
- 53.5 Unless express permission is given by the Judge, Magistrate or Registrar who authorised inspection, parties and their representatives may not photocopy documents produced pursuant to subpoena by:
- (a) the Department for Child Protection or any other Department or agency with responsibility for investigation of matters relating to the welfare of children;
 - (b) WA Police or any other agency with responsibility for investigation of crime and the maintenance of criminal records;
 - (c) hospitals or medical practitioners.
- 53.6 A party intending to seek leave to photocopy documents produced pursuant to subpoena by any of the agencies or persons mentioned in the preceding paragraph shall give written notice to that effect to the agency or person.

54. Management of Documents

- 54.1 The party who issues a subpoena for the production of documents shall on the return date seek an order or direction from the presiding Judge, Magistrate or Registrar concerning the retention of the documents. Unless an order or direction to the contrary is made, the Subpoena

Officer shall cause the documents to be returned to their source at the expiration of one month from the date of the hearing.

- 54.2 Parties should generally not seek the retention of documents produced by the agencies or persons mentioned in paragraph 53.5 for a period longer than 30 days unless the documents to be produced are photocopies.
- 54.3 Documents produced pursuant to subpoena may be returned to the source by the Subpoena Officer at any time, even though required for a later hearing, on the undertaking of the agency or person who produced the documents to deliver them to the Court when requested (provided that the approval of the Duty Registrar is first obtained if an order or direction has previously been made for the documents to be retained).
- 54.4 A party who causes a subpoena to be served for the production of documents should not represent to the person served that the documents may be provided to the party in lieu of production to the Court. If documents are produced direct to the party they should be promptly delivered to the Subpoena Officer.

55. Subpoena to Department for Child Protection

- 55.1 A party serving a subpoena seeking the production of a Department for Child Protection file or any part thereof shall provide to the Chief Executive Officer of the Department the following information with the service copy of the subpoena:
- (a) the full names of the parties to the proceedings and the full name of any children the subject of the proceedings, including any former names or aliases;
 - (b) if the parties and child(ren) are legally represented, the names and contact details of the lawyers;
 - (c) information as to whether the parties were or are married;
 - (d) the current address of each of the parties and the child(ren);
 - (e) the name of the person(s) with whom the child(ren) is (are) living at the time the subpoena is issued;
 - (f) information about the knowledge each party has regarding the current address of the other party and the child(ren);
 - (g) information regarding the existence of any restraining orders or family violence orders in respect of any of the parties or the child(ren) which are relevant to the proceedings; and
 - (h) a list of persons who have sworn affidavits in respect of the proceedings; and
 - (i) details of any identifying information in relation to a notifier which has already been disclosed in the proceedings.

55.2 A 'notifier' for the purpose of sub-paragraph 55.1(i) is a person who in good faith gives information, or causes information to be given, to the Chief Executive Officer of the Department for Child Protection or another officer, that raises concerns about the well-being of a child.

56. Requests by Self-Represented Litigants for the Issue of Subpoenas

56.1 Requests by self-represented litigants for the issue of subpoenas must be made in writing directed to the Duty Registrar and contain the following information:

- (a) the relevance of the evidence sought to be obtained by subpoena including a brief description of the nature of the case and the issues in dispute in the case;
- (b) the attempts, if any, made to obtain this evidence from the other party or by other means;
- (c) whether the person or entity sought to be subpoenaed has consented to the issue of the subpoena; and
- (d) any other matter which may assist in determining whether to grant leave for the issue of the subpoena.

Part I – ATTENDANCES UPON AND REPORTS BY FAMILY CONSULTANTS

57. Attendances upon Family Consultants by Telephone Link

57.1 Where attendance by telephone on Family Consultants has been ordered the parties or their solicitors must promptly advise the Family Court Counselling and Consultancy Service of the telephone numbers of the parties.

57.2 Save in exceptional circumstances, attendances by telephone link will not take place by mobile telephone.

58. Reports by Family Consultants

58.1 A party who wishes to cross-examine a Family Consultant must give notice in writing to the Director of the Family Court Counselling and Consultancy Service as soon as practicable but in any event not less than fourteen days prior to the hearing.

58.2 In the event that a party who gave notice no longer requires the attendance of the Family Consultant for cross-examination, they are to

give notice to the Director of the Family Court Counselling and Consultancy Service as soon as practicable.

Part J – COSTS AND FEES

59. Notification as to Costs

59.1 Copies of costs notifications provided pursuant to Chapter 19 of the Family Law Rules 2004 should not be sent to the Court unless in accordance with a specific order or direction.

60. Hearing Fees

60.1 A Judge, Magistrate or Registrar listing a matter for trial shall direct:

- (a) who is to pay the hearing fee or make an application for remission; and
- (b) the time within which the application for remission or payment of the fee is to be made.

60.2 If the fee is not paid within the time directed or an application for remission of the fee has not been approved, the Caseflow Manager shall refer the file to a Judge or Magistrate for the making of such directions as may be appropriate pursuant to the Regulations, including the vacation of the hearing date.

61. Application for Remission of Filing or Hearing Fees

61.1 Applications for the remission of filing or hearing fees shall be made in the form prescribed from time to time by the Principal Registrar.

62. Refund of Fees

62.1 Requests for the refund of filing and hearing fees pursuant to the Regulations must be made on the form prescribed from time to time by the Principal Registrar. The form should be submitted to the Principal Registrar with the original receipt of payment and, if appropriate, a remission of fee form.

Part K – FORMS

63. Approved Forms

63.1 The forms set out in “Attachment F - List of Approved Forms” are the Forms approved for use in Western Australia and may be designated by the corresponding Form number.

SCHEDULE

USUAL FORM OF ORDERS AND UNDERTAKINGS

1. Independent Children’s Lawyer

The child / children be independently represented at the further hearing of these proceedings and the Director of Legal Aid Western Australia (“LAWA”) be requested to arrange such representation.

Within 14 days from the date of this order, the parties or their lawyers, provide copies of all documents filed in these proceedings to the Solicitor in Charge, Assignments Section, LAWA, except the documents the Case Coordinator is to provide pursuant to these orders.

Within 14 days from the date of this order, each party file a Financial Statement and provide a copy to LAWA.

The Case Coordinator cause a copy of this order to be forwarded to LAWA together with copies of the following documents:

.....
.....

The question of contribution by the parties to the costs of the Independent Children’s Lawyer be reserved.

2. Non-molestation order

The be restrained and an injunction is hereby granted restraining from molesting, harassing or abusing the and from interfering with manner of living or attempting so to do.

3. Injunction for the personal protection of a party

The.....be restrained and an injunction is granted restrainingfrom causing or threatening to cause bodily harm to the

NOTICE TO: All Police Officers of the Australian Federal Police
 All Police Officers of the State and Territory Police Forces
 of Australia
 All Police Officers of the Western Australia Police

This injunction is for the personal protection of a party. To give effect to the injunction you are authorised to use the powers of arrest pursuant to section 114AA(1) of the *Family Law Act 1975* and/or section 236 of the *Family Court Act 1997* (WA).

4. Dispensation of consent for issue of a passport

The have liberty to remove the child(ren) from the Commonwealth of Australia for the period the day of 200.. until the day of 200.. and to that end, the necessity for the consent of the to the issue of a passport to the said child(ren) be dispensed with. Subject to any other requirements of the Department of Foreign Affairs and Trade, passports be issued to the said child(ren) to enable them to leave Australia.

5. Parentage testing

The Applicant, NAME OF APPLICANT, the Respondent, NAME OF RESPONDENT, and the children, NAME(S) and birthdate(s), undergo parentage testing procedures in accordance with the procedures set out in the *Family Law Act 1975 / Family Court Act 1997* and the Family Law Regulations 1984 / Family Court Regulations 1998.

6. Conciliation conferences involving financial issues

The parties attend a conciliation conference, with their counsel or solicitors if they are legally represented, on the day of 200 at in the presence of a Registrar of the Family Court of Western Australia.

Not later than 14 days before the conference each party shall complete and deliver to the Registry and to each other party a Conciliation Conference Document in the form prescribed by the Principal Registrar.

7. Party excused from attending conference

The be excused from personally attending the said conference provided that appears in lieu by counsel fully instructed to make a bona fide endeavour to resolve the matters in issue.

8. Conference of experts

If there is a dispute involving expert evidence, the experts shall confer by no later than 14 days before the Conference. Each party must provide to any expert they have instructed a copy of the document entitled "Experts' Conferences – Guidelines for expert witnesses and those instructing them in the Family Court of Western Australia."

The experts shall prepare and provide to the parties a joint statement setting out the issues that are agreed and not agreed, identifying the reasons for disagreement on any issue and identifying what action (if any) may be taken to resolve any outstanding issues. The report may be tendered to the Court as evidence of matters agreed upon and to identify the issues on which evidence will be called.

9. Undertaking as to damages

And on the undertaking of the given this day through that will pay to any person such compensation as the Court may in its discretion consider in the circumstances to be just, such compensation to be assessed by the Court or in accordance with such directions as the Court may make and to be paid in a manner directed by the Court.

10. Form of notice for publication in newspaper (substituted service)

Personal service upon the Respondent of the Application for Divorce filed by the Applicant be and is hereby dispensed with on the condition that within 14 days from the date hereof a notice of the application, in a form approved by the Principal Registrar of the Family Court of Western Australia (see attached), be published in one edition of "Name of Newspaper" newspaper. The Respondent has 28 days from the date of publication of the notice in which to file a response.

Instructions:

Arrange for the notice to be published in the public notice section of one issue of the newspaper specified by the Court (see Form of Notice below).

If the order requires publication in “The West Australian” newspaper, you may wish to arrange for publication on a weekday edition as this will be cheaper than publication in a Saturday edition.

If the order requires publication in “The Australian” newspaper, you should ask for the item to be included in the Legal Notices section as this is cheaper than publication in the Public Notices section.

When the notice is published, obtain the entire page of the newspaper in which the notice appears. File an affidavit at the Court confirming the notice was published, attaching as an attachment the relevant page of the newspaper.

Form of Notice


TO: Name of Party

TAKE NOTICE: Your husband/wife has applied to the Family Court of Western Australia for divorce.

Unless you file an answer within 28 days the application may proceed.

A copy of the application is available from the Registrar, 150 Terrace Road, Perth, Western Australia.

Attachment A: Exemption Form

 FAMILY COURT OF WESTERN AUSTRALIA EXEMPTION FORM For filing an application starting a case for parenting orders or an application alleging contravention of a parenting order after 1 July 2007	Client ID: File No (P)PTW Filed on: Court date: Time: am / pm
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------

APPLICANT'S NAME		
RESPONDENT'S NAME		
YOUR ADDRESS		
		State WA Postcode
YOUR OCCUPATION		

I claim to be entitled to file the accompanying application without a certificate from a Family Dispute Resolution Practitioner for the following reason/s:

[PLEASE TICK EVERY BOX THAT APPLIES]

- 1 An application for a parenting order has been made in these proceedings prior to 1 July 2007.
- 2 I claim there are reasonable grounds to believe that:
- (i) there has been abuse of a child the subject of the application by one of the parties to this case; or
- (ii) there would be a risk of abuse of a child the subject of the application if there was a delay in the filing of the application; or
- (iii) there has been family violence by one of the parties to this case; or
- (iv) there is a risk of family violence by one of the parties to this case.

Where you have ticked ANY boxes in 2 (above) you must also tick boxes 2.1.1 and 2.1.2 below

- 2.1.1 I seek to file a Notice of child abuse or family violence at the same time as this application; AND
- 2.1.2 I seek to also file an affidavit setting out the evidence on which the allegations contained in the above Notice of child abuse or family violence are based.

Where you have ticked box 2 (i) or 2 (iii), you must also tick box 2.2 below

- 2.2 I have received information from a Family Counsellor or Family Dispute Resolution Practitioner about the services and options (including alternatives to court action) available to me and seek to file an “Acknowledgment – Information from a Family Counsellor or Family Dispute Resolution Practitioner” Form.
- 3 The application alleges contravention of a parenting order that was made less than 12 months ago and alleges behaviour that shows a serious disregard of obligations under that order.
- 4 The application is of such urgency that I should not be required to obtain a certificate from a Family Dispute Resolution Practitioner.
(I attach a letter to the Duty Registrar setting out the basis of the urgency).
- 5 One of the parties to this case is unable to participate effectively in family dispute resolution (whether because of an incapacity of some kind, physical remoteness from dispute resolution services or for some other reason). That incapacity is as a result of:

[DESCRIBE REASON]

[Attach an extra page if you need more space]

Affidavit of applicant (to be signed in the presence of the witness)	
I swear/affirm that:	
1. I am the applicant.	
2. I have read this document.	
3. The facts in it and any attachment/s that are within my personal knowledge are true.	
4. All other facts are true to the best of my knowledge, information and belief.	

<u>Signature</u>	<u>Sworn/affirmed</u>
	Place: _____ Date: / /

<u>Before me (signature of witness)</u>	<u>Full name of witness (please print)</u>

- Justice of the Peace Notary public Lawyer

FCWA EXEMPTION 010707

Attachment B:

Acknowledgment - Information from a Family Counsellor or Family Dispute Resolution Practitioner

Family Law Act 1975 ~ s60J(1) and Family Court Act 1997 ~ s66I(1)

This form is used by the person applying for a Part VII(FLA)/Part V(FCA) order where it is alleged that there has been abuse of a child by one of the parties to the proceedings or there has been family violence by one of the parties to the proceedings.

YOU DO NOT NEED TO USE THIS FORM if you are able to satisfy the Court that there are reasonable grounds to believe that:

- (a) there would be a risk of abuse of the child if there were to be a delay in applying for the order; or
- (b) there is a risk of family violence by one of the parties to the proceedings.

Part A About the parties

APPLICANT 1

Family name as used now

Given names

RESPONDENT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

Part B Acknowledgement

I, _____
FULL NAME

have received information from a Family Counsellor or Family Dispute Resolution Practitioner about the services and options (including alternatives to court action) available in circumstances of abuse or violence.

Part C Signature

Signature

Place	Date	/	/
-------	------	---	---

Attachment C:

 FAMILY COURT OF WESTERN AUSTRALIA CLIENT INFORMATION FORM	Client ID File No (P)PTW Filed on Court date Time am / pm
----------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------

Each person who is a party to an application shall individually be required to complete this form. After filing, this information form shall be placed on your file at the Family Court of Western Australia.

Information that you provide on this form and / or tell to the Family Consultant is not confidential and may be used in evidence in Court.

This form is an 8 page document. It is not able to be extended beyond this, and you cannot attach anything to it, except as provided for on pages 1 and 4.

Please use your own words.

PART A - GENERAL DETAILS

1. FAMILY NAME *(as used now)*

GIVEN NAMES

DOB

RESIDENTIAL ADDRESS

STATE

POSTCODE

TEL

(You do not have to give your residential address, provided you have good reason)

Are you the **APPLICANT** or the **RESPONDENT**

What is your usual occupation?

Are you currently employed? **Yes** / **No**

If you are currently employed what are your weekly hours of work?

2. Have you had legal advice? **Yes** / **No**

What firm is representing you?

Tel

3. FAMILY NAME OF OTHER PARTY *(as used now)*

GIVEN NAMES

DOB

RESIDENTIAL ADDRESS

STATE

POSTCODE

TEL

(If there is more than 1 Applicant or Respondent, provide details in the same format)

PART B - ABOUT YOUR CIRCUMSTANCES NOW

4. Is the other party your **former husband** / **former wife** / **former *de facto***
 Other (*specify: i.e. your child, parent, brother, sister*)

5. What is your relationship with the *child/ren* the Court application is about?
 Father **Mother** **Granparent**
 Other relative (*state*)
 Other (*give details*)

6. Have you and the other party ever lived together? **Yes** / **No**
If yes, the date you commenced living together / /
Date of marriage / /
Date of final separation / /
Any previous separations? **Yes** / **No**
Date of divorce / /

7. Are both parents of the *child/ren* parties to these proceedings? **Yes** / **No**
If no, what is the other parent's name?

RESIDENTIAL ADDRESS

STATE

POSTCODE

TEL

Why are they not a party to the proceedings?

PART C - ABOUT SAFETY ISSUES

8. Has there been any Family and Domestic Violence between you and the other party to the proceedings? **Yes** / **No**

Is there a current Restraining Order between yourself and any other party to the proceedings?
 Yes / **No**

Are you worried or concerned about your safety while you are attending Court?
 Yes / **No**

(The Family Consultant will ask you about safety in more detail during the Case Assessment Conference)

PART D - OTHER COURTS / AGENCIES

9. Are there any Orders from any other Court about Family Law, Child Support, Family and Domestic Violence or Child Welfare that involve the parties or the children listed here?

Yes / No

Please set out below which Court and what specifically the proceedings were about.

10. Have you ever had assistance or contact with the Department for Community Development (“DCD”) or the Welfare Department in another State?

No

Yes Which office?

State:

PART E - ABOUT THE CHILDREN

11. CHILDREN'S DETAILS

Child 1

Family Name	Date of Birth / /
First Name	Gender <input type="checkbox"/> Male / <input type="checkbox"/> Female
Lives with <input type="checkbox"/> Mother <input type="checkbox"/> Each parent <input type="checkbox"/> Father <input type="checkbox"/> Other (<i>specify who</i>)	
Since	
How much time does the child spend with the other party to the proceedings?	
Date child last spent time with or communicated with the other party? / /	
Child's School	Year

Child 2

Family Name	Date of Birth / /
First Name	Gender <input type="checkbox"/> Male / <input type="checkbox"/> Female
Lives with <input type="checkbox"/> Mother <input type="checkbox"/> Each parent <input type="checkbox"/> Father <input type="checkbox"/> Other (<i>specify who</i>)	
Since	
How much time does the child spend with the other party to the proceedings?	
Date child last spent time with or communicated with the other party? / /	
Child's School	Year

Child 3

Family Name	Date of Birth / /
First Name	Gender <input type="checkbox"/> Male / <input type="checkbox"/> Female
Lives with <input type="checkbox"/> Mother <input type="checkbox"/> Each parent <input type="checkbox"/> Father <input type="checkbox"/> Other (<i>specify who</i>)	
Since	
How much time does the child spend with the other party to the proceedings?	
Date child last spent time with or communicated with the other party? / /	
Child's School	Year

Child 4

Family Name	Date of Birth / /
First Name	Gender <input type="checkbox"/> Male / <input type="checkbox"/> Female
Lives with <input type="checkbox"/> Mother <input type="checkbox"/> Each parent <input type="checkbox"/> Father <input type="checkbox"/> Other (<i>specify who</i>)	
Since	
How much time does the child spend with the other party to the proceedings?	
Date child last spent time with or communicated with the other party? / /	
Child's School	Year

(If there are more than 4 children, provide details in the same format)

12. How are the *child / ren* financially supported? (*eg income, a Centrelink benefit, child support payments etc.*)

13. Are there any other *child / ren* in your home who are not part of this application? (*Please state their name, age and relationship to yourself*)

14. Are there any other adults living or staying in your home on a regular basis? (*Please set out who they are and how often they stay*)

PART F - PARENTING ARRANGEMENTS

15. Are there current orders or parenting plans in place about the *child / ren* the Court application is about? **Yes** / **No**

When were they made?

16. Describe where handover happens and who is there when it happens.

17. If the *child / ren* are not spending time with each of their parents, in point form state why not.
18. What is the current dispute between yourself and the other party?
19. List any courses or programmes that you have attended, since separation, for separation or parenting help. Have the courses or programmes helped?

- 20.** What are the main issues and concerns in relation to the dispute? (*Set out the important facts that support your view*)

PART G - SETTLING THE MATTER IN DISPUTE

21. What have you done to try to settle the matter that you and the other party are disagreeing about? (eg talk to the other party, write a letter setting out proposals to the other party, mediation, etc.)

22. What services have you been to for mediation to assist you to resolve the dispute?

- | | | |
|--------------------------------------------|-----------------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Legal Aid ADR | <input type="checkbox"/> Family Relationship Centre | <input type="checkbox"/> Relationships Australia |
| <input type="checkbox"/> Centrecare | <input type="checkbox"/> Anglicare | <input type="checkbox"/> Community Legal Centre |
| <input type="checkbox"/> Private Solicitor | <input type="checkbox"/> Private Mediator | |
| <input type="checkbox"/> Other | | |

23. How do you think the Court can best assist you at this time?

24. What do you hope the arrangements for the *child / ren* will be like in the future?

Signed

Full Name

Date / /

Attachment D:

Consent to conduct proceedings as Child Related Proceedings

Family Law Rules ~ RULE 16A.01 and 16A.03

Please type or print clearly and mark [X] all boxes that apply.

Filed in:

Family Court of Western Australia

This consent is given by:

Applicant

Respondent

Independent children's lawyer

This form is used in a case where consent is required for Division 12A Part 7 of the *Family Law Act 1975* / Division 11A Part 5 of the *Family Court Act 1997* to apply to the case.

- Before signing and filing this form you are advised to take independent legal advice.
- In addition to the consent of all parties the permission of the court is required for Division 12A Part 7 of the *Family Law Act 1975* / Division 11A Part 5 of the *Family Court Act 1997* to apply where the Form 1 Application for Final Orders was filed before 1 July 2006 (see Rule 16A.04).

Client ID _____

File number/appeal number

Filed at _____

Filed on _____

Court location _____

Court date _____

Time _____

Part A

About the parties

APPLICANT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

Given names

RESPONDENT 1

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

Part B

About the independent children's lawyer (if appointed)

Family name

Given names

Part C

Consent

I consent to the Court hearing this case under Division 12A of Part 7 of the *Family Law Act 1975* / Division 11A of Part 5 of the *Family Court Act 1997*.

Signed

Date

Attachment E:

CONSENT ORDER ANNEXURE

Family Law Rules 2004, Rule 10.15A

This form must be attached to the back of certain draft consent orders. If you need more space add an extra page and ensure both parties and the Independent Children's Lawyer (where appointed) sign and date each page.

This form is not required in an Application for Consent Orders.

Part A Case name

[Full names of parties]

Part B Allegations of abuse

[tick the box that applies]

- There are no allegations of abuse; OR
- The allegations of abuse that have been made in this case are:

(a) and this draft consent order attempts to deal with those allegations by:

OR

(b) and this draft consent order does not attempt to deal with those allegations because:

Part C Signature

Signature (Applicant)	Date / /
Signature (Respondent)	Date / /
Signature (Independent Children's Lawyer)	Date / /

Attachment F – List of Approved Forms

Form 1	Application for Final Orders
Form 1A	Response to an Application for Final Orders
Form 1B	Reply
Form 2	Application in a Case
Form 2A	Response to an Application in a Case
Form 3	Application for Divorce
Form 3A	Response to an Application for Divorce
Form 4	Notice of Child Abuse or Family Violence
Form 5	Notice of Intervention by Person Entitled to Intervene
Form 6	Acknowledgment of Service
Form 7	Affidavit of Service
Form 8	Notice of Address for Service
Form 9	Notice of Ceasing to Act
Form 10	Notice of Discontinuance
Form 11	Application for Consent Orders
Form 12	Notice of Non-Party Production of Documents
Form 13	Financial Statement
Form 14	Subpoena
Form 15	Notice Disputing Itemised Costs Account
Form 16	Enforcement Warrant – Seizure and Sale of Property
Form 17	Third Party Debt Notice
Form 18	Application – Contravention
Form 19	Application – Contempt
Form 20	Notice of Appeal