

**YOUTH COURT OF SOUTH AUSTRALIA  
YOUTH COURT PRACTICE DIRECTIONS**

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# YOUTH COURT OF SOUTH AUSTRALIA

## PRACTICE DIRECTION No 3 CARE AND PROTECTION APPLICATIONS

We, Alan Peter Moss, Barry John Jennings, Stephen Kevin McEwen, Patricia Ann Rowe and Christopher Charles Vass the Judiciary of the Youth Court of South Australia, (“the Court”) pursuant to Rule 4.01 of the Youth Court Rules, issue this practice direction in relation to the listing and disposition of Care and Protection Applications.

### 1. Applications

1.1 For matters in which there is an existing Care and Protection order and the Minister requires continuity of orders, the Application shall be filed not less than 14 calendar days prior to expiration of the existing order.

1.2 Prior to service upon the parties the Registry shall endorse upon the Application, the proposed dates of:

- (a) the first return,
- (b) the pre-trial conference (if required), which shall be approximately 6 weeks from the date of the lodgement of the Application
- (c) the expiry of the 10 weeks pursuant to s.39(a) Children’s Protection Act 1993.

1.3 Form No 106 may be modified to facilitate compliance with this practice direction.

### 2. Supplementary Affidavits, Reports etc.

2.1 In an Application for Care and Protection, any documents upon which a party proposes to rely, shall be filed at the Registry and served at least 48 hours prior to the relevant hearing; and the Court expects that counsel will have taken instructions on those documents prior to that date.

3. Compliance with Children's Protection Act s.27

3.1 Applications for Orders pursuant to the Children's Protection Act s. 38 shall be endorsed with,

(a) the date upon which the Family Care Meeting was held,

or

(b) the relevant matter(s) pursuant to s.27(2) upon which the Applicant relies.

4. The Court may depart from these practice directions to achieve the objects and policies of the Act or if it is otherwise necessary to do so on the interests of the administration of justice but in doing so the Court shall make orders designed to preserve the spirit and intention of these practice directions.

5. This practice direction will come into operation on 3 April 2006

Dated this 10<sup>th</sup> day of February 2006

**ALAN PETER MOSS**

Senior Judge

**BARRY JOHN JENNINGS**

Judge

**STEPHEN KEVIN MCEWEN**

Acting Judge

**PATRICIA ANN ROWE**

Magistrate

**CHRISTOPHER CHARLES VASS**

Magistrate

**YOUTH COURT OF SOUTH AUSTRALIA**  
**PRACTICE DIRECTION No. 1 of 2009**  
**CARE AND PROTECTION TELEPHONE LINKUPS**

We, Stephen McEwen, Kelvyn Prescott, Penny Eldridge and Kym Boxall the Judiciary of the Youth Court of the South Australia, (“the Court”) pursuant to Rule 4.01 of the Youth Court Rules issue this practice direction in relation to Care and Protection cases under the Children’s Protection Act 1993 (“the Act”) where a telephone/video link is required to a Regional Court.

1. That the Crown/Families SA (FSA) file a notice identifying whether a phone/video link is required at time of filing any application for investigation and assessment or care and protection. FSA at the time of lodgement must advise the Court of any security concerns.
2. Upon receipt of notice and application from the Crown/FSA, the listings Manager immediately advise the Regional Court of the listings date and requirement for a telephone/video link and any possible security concerns.
3. That all care and protection applications via telephone/video link be held within a Court, and supervised by a Registrar or their delegate. If a security concern has been identified, and a Sheriff’s Officer cannot be present a telephone link may occur at the Regional FSA office. However, if a FSA office cannot be utilised, due to security concerns, a telephone link may occur with either or both of the parents or guardians provided that :
  - (a) approval is obtained from the presiding judicial officer; and
  - (b) the relevant contact telephone numbers are provided to the Court at least 24 hours prior to the hearing.
4. That a Sheriffs Officer be present at all care and protection hearings on telephone/video link where possible.
5. The Court may depart from this practice direction to achieve the objects and policies of the Act, or if it is otherwise necessary to do so, in the interests of the administration of justice but in doing so the Court shall make orders designed to preserve the spirit and intention of the practice direction.


6. This practice direction will come into operation on 1<sup>st</sup> July 2009.

DATED the 22nd day of June 2009.

**Stephen McEwen**  
Senior Judge



**Kelvyn Prescott**  
Judge



**Penny Eldridge**  
Magistrate



**Kym Boxall**  
Magistrate

**YOUTH COURT OF SOUTH AUSTRALIA**  
**PRACTICE DIRECTION No. 1 of 2015**  
**CRIMINAL JURISDICTION**

**Police Prosecutors: Leave to Appear at Trials**

Pursuant to Rule 4.01 of the Youth Court Rules, Senior Judge Stephen McEwen hereby issues the following Practice Direction regarding the criminal jurisdiction of the Youth Court.

1. This Practice Direction is in substitution of Practice Direction No. 1 of 2013.
2. This Practice Direction is to be read interpreted and applied in conjunction with the existing Rules, Practice Directions, and practices of the Youth Court.
3. The issue of whether to grant or refuse permission to a police prosecutor, (who is not an admitted legal practitioner) to appear at a trial, or other hearing of the Court, is a matter for the presiding judicial officer.
4. The Court will continue to routinely grant leave to suitably qualified and experienced police prosecutors to appear for the Informant or Complainant, at trial, in criminal matters other than those specified in paragraph 5.
5. Except in exceptional circumstances, the Court will not grant leave for police prosecutors to appear for the Informant at trial, in criminal matters where the charge is, or includes any of the following:
  - (i) Rape; or unlawful sexual intercourse with a person under 14
  - (ii) Aggravated robbery;
  - (iii) Cause death/serious harm/harm by dangerous driving; or
  - (iv) Matters of sufficient complexity to require the application of the Practice Direction.

For those matters, the Court will normally require the prosecution to be conducted by an admitted legal practitioner.

6. This Practice Direction is not intended to affect the current practice for applications pursuant to *Young Offender's Act, s17(3)*.
7. This practice direction will come into operation on 9<sup>th</sup> February 2015.

DATED the 9th day of February 2015.



**Stephen McEwen**  
Senior Judge

**YOUTH COURT OF SOUTH AUSTRALIA  
PRACTICE DIRECTION No. 3 of 2018  
CIVIL JURISDICTION**

**Revocation of Practice Direction Relevant to Surrogacy Fees**

Pursuant to Rule 10 of the Youth Court (General) Rules 2016, Judge Penelope Eldridge hereby issues the following Practice Direction regarding the civil jurisdiction of the Youth Court.

1. This Practice Direction is to be read, interpreted and applied in conjunction with the existing Rules, Practice Directions and practices of the Youth Court.
2. Practice Direction No. 1 of 2018 'Surrogacy Fees to be Charged at the Same Amount as Adoption Fee' is revoked with effect from 1 March 2018.

DATED: 21<sup>st</sup> December 2018



Penelope Eldridge

Judge of the Youth Court

**YOUTH COURT OF SOUTH AUSTRALIA  
PRACTICE DIRECTION No. 2 of 2019  
CARE AND PROTECTION JURISDICTION**

**Right of Interested Persons to be Heard in Care and Protection Proceedings**

Pursuant to Rule 10 of the Youth Court (General) Rules 2016, Judge Penelope Eldridge hereby issues the following Practice Direction regarding the care and protection jurisdiction of the Youth Court.

1. This Practice Direction is to be read, interpreted and applied in conjunction with the existing Rules, Practice Directions and practices of the Youth Court.
2. Section 66 of the *Children and Young People (Safety) Act 2017* provides that an interested person (as defined in the section) may apply to the Youth Court to make submissions in respect of a child or young person the subject of care and protection proceedings, despite not being a party to the proceedings.
3. At a hearing other than a trial, an interested person may make submissions to the Court in the following manner:
  - a. Providing written submissions via email or letter directed to the Youth Court Registry;
  - b. Making a written request to make oral submissions at the hearing via email directed to the Youth Court Registry; or
  - c. Attending at the hearing and requesting to make oral submissions
4. An interested person may apply to make submissions at a care and protection trial by completing and lodging the relevant care and protection form at the Youth Court Registry. A sealed copy of the form must be served on all parties to the application no later than two (2) business days before the date of the trial in accordance with the *Youth Court (Care and Protection) Rules 2018*.

DATED 31st July 2019



Penelope Eldridge  
Judge of the Youth Court



**YOUTH COURT OF SOUTH AUSTRALIA  
PRACTICE DIRECTION 3 of 2019  
CRIMINAL JURISDICTION**

**Family Conferences Division 3 of the *Young Offenders Act 1993***

Pursuant to Division 3 under the Young Offenders Act, Judge Penelope Eldridge hereby issues the following Practice Direction regarding the operations of Family Conferences.

**FAMILY CONFERENCES UNDER THE YOUNG OFFENDERS ACT**

In this practice direction references to “the Act” are to the *Young Offenders Act 1993* as amended and references to “the Court” are to the *Youth Court of South Australia*.

**1. NOTIFICATION**

- 1.1. A notification to a Youth Justice Co-ordinator by a Police Officer requesting that a Family Conference be convened shall comply with the SAPOL *Referral to a Youth Justice Co-ordinator* form.
- 1.2. In the case of a referral to Family Conference pursuant to section 17(2) of the Act the court registry shall transfer the court file or copy including the Court’s orders to the Youth Court Conferencing Unit. SAPOL shall then forward the supplementary file details including the names and addresses of parties specified under section 10(1) of the Act on the *Referral to a Youth Justice Co-ordinator* form to be appended to the court file.
- 1.3. As soon as practicable after receipt of the notification, the Youth Justice Co-ordinator shall fix a date, time and place for the Family Conference and issue such notices and invitations to the relevant persons as required by the Act.
- 1.4. The following forms shall comply with the corresponding forms as set out hereunder:
  - 1.4.1. *Notice to a Youth to Attend a Family Conference* form (formerly Form 62);
  - 1.4.2. *Invitation to Attend a Family Conference* form (formerly Forms 63a, 63b and 63c.);
  - 1.4.3. *Notice to Police of a Family Conference* form (formerly Form 64)
- 1.5. Notices or invitations to Family Conferences are sufficiently served if:
  - 1.5.1. served personally on the youth or otherwise in accordance with the directions of the Youth Justice Co-ordinator; and
  - 1.5.2. for other persons if posted by pre-paid post to the last known residential or business address of that person or otherwise in accordance with the directions of the Youth Justice Co-ordinator including email.

## 2. CONDUCT OF FAMILY CONFERENCES

2.1. At the Family Conference, the Youth Justice Co-ordinator shall:

- 2.1.1 ensure that the Representative of the Commissioner of Police provides full particulars and details of the allegations and the offences to which such allegations relate;
- 2.1.2 ensure that all participants are aware of the Family Conference expectations regarding conduct and safety and will advise the youth of the obligation to abide by requirements of the Family Conference including participation and behaviour;
- 2.1.3 encourage and enable (as far as practicable) the youth to participate fully in the Conference and be heard on all relevant issues;
- 2.1.4 ensure that the Conference does not proceed in relation to any offence which is not admitted by the youth;
- 2.1.5 encourage and enable (as far as practicable) the victim or the victim's representative to participate in the Conference and be heard on all relevant issues;
- 2.1.6 encourage and enable (as far as practicable) a person who has suffered loss or damage as a result of the offence or their representative to participate in the Conference and be heard on all relevant issues;
- 2.1.7 encourage the guardians of the youth, relatives and other persons who have accepted an invitation to attend the Conference to participate and be heard on all relevant issues;
- 2.1.8 subject to sub-rule 2.1.9 hereof ensure that the youth participates personally in the Conference and that representations are not made to the Conference by a legal practitioner or other person purporting to act on behalf of the youth;
- 2.1.9 allow the youth and any legal practitioner advising the youth, the guardians, youth worker, or other participant (if present or available by telephone) an opportunity to confer in order that the youth may be advised;
- 2.1.10 adjourn the hearing of the Conference at the discretion of the Youth Justice Co-ordinator for any purpose required in the interests of justice or for the due process of the case including for enquiries to be made outside of the Conference.
- 2.1.11 ensure that the Conference does not proceed if the youth disputes or changes his or her admission of the offence as recorded by SAPOL or the Youth Court and explore the necessity for the matter to be returned to SAPOL and afford the youth the opportunity to seek legal advice.

2.2. The Youth Justice Co-ordinator will:

- 2.2.1 encourage and facilitate discussion, and where necessary or appropriate mediate between the participants of the family conference;
- 2.2.2 provide and explore details of available services or options;
- 2.2.3 record the details of the outcome or undertakings agreed at the family conference.

## 3. FAMILY CONFERENCE OUTCOMES

3.1. If the Family Conference fails to reach a decision:

- 3.1.1. the Youth Justice Co-ordinator shall refer the matter to the Registrar of the Court by filing a *Referral to Court from Family Conference* form;
- 3.1.2. the Registrar shall notify the youth, the guardians of the youth, the representative of the Police Commissioner, the victim and any person who has suffered loss or damage as a result of the offence of the date and place of the Court

hearing of the matter. The notifications will comply with the *Notice to a Youth to Attend a Family Conference*, *Notice of a Family Conference Referred to Court* and *Notice to Police of a Family Conference Referred to Court*.

- 3.2. If a formal caution is administered at the Conference, the Youth Justice Co-ordinator shall file with the Registrar a ***Formal Caution Against Further Offending*** form.
- 3.3. Family Conference undertakings entered into by the youth shall comply with the ***Family Conference Agreement*** form and be filed by the Youth Justice Co-ordinator with the Registrar.
  - 3.3.1. The Youth Justice Co-ordinator shall explain to any youth who enters into an undertaking and to any person who agrees to supervise: the provisions of the undertaking; any undertaking conditions; and the consequences of non-compliance.
  - 3.3.2. Upon conclusion of the Family Conference the Youth Justice Co-ordinator shall provide a copy of the undertaking filed with the Registrar to the youth, the police representative, the guardians of the youth and, if they request, the victim and any person who has suffered loss or damage as a result of an offence.
  - 3.3.3. The Youth Justice Co-ordinator shall provide a ***Supervision of Family Conference Undertaking*** form to any person appointed to supervise an undertaking by the youth.
  - 3.3.4. The Supervisor shall complete and return the *Supervision of Family Conference Undertaking* form to the Youth Justice Co-ordinator upon completion of the undertaking by the youth, or non-compliance by due date.
  - 3.3.5. The Youth Justice Co-ordinator shall advise the Commissioner of Police in writing of completed undertakings.

#### **4. FAMILY CONFERENCE NON-ATTENDANCE, NON-COMPLIANCE AND INABILITY TO PROCEED**

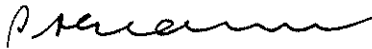
- 4.1. Upon the Youth Justice Co-ordinator being satisfied that a youth has:
  - 4.1.1. failed to attend at the time appointed for a Family Conference, or;
  - 4.1.2. not complied with a requirement or undertaking from a Family Conference;the Youth Justice Co-ordinator shall provide the Commissioner of Police with a ***Notice to Police from Family Conference*** form advising of the failure or non-compliance.
- 4.2. In the case of non-compliance with a requirement or undertaking from a Family Conference referred by the Youth Court pursuant to section 17(2) of the Young Offenders Act, SAPOL will advise the Court that the matter is to proceed in Court on the original charge with a new returnable date and a fresh summons to issue
- 4.3. At any stage of conduct of a Family Conference referral, upon the Youth Justice Co-ordinator forming the opinion based upon information received including expert assessment, report and legal advice, and not by reason of the youth's non-attendance at a Family Conference or failure to comply with a Family Conference undertaking or requirement, that the youth does not have the ability to participate in a Family Conference due to issues of capacity or other reason restricting or prohibiting that youth's participation, the Youth Justice Co-ordinator shall provide notice to the Commissioner of Police advising ***No Action Taken*** and the Family Conference outcome shall be noted accordingly for closure.

## 5. RECORDS

- 5.1. Records of Family Conferences shall be kept under the custody and control of the Registrar.
- 5.2. Records of Family Conferences shall be kept confidential and not disclosed to any person without the consent of the Youth Justice Co-ordinator and all persons present at the conference or the consent of the Judge of the Youth Court in accordance with this practice direction.
- 5.3. Records of Family Conferences including outcomes and certificates of court record may be released to requesting parties including but not limited to the Commissioner for Victims' Rights, solicitors acting for parties, the Crown Solicitor's Office, Department of Human Services and Australian Border Force in accordance with directions and rulings provided from time to time by the Judge of the Youth Court. In each instance, the release will be subject to a standing ruling provided by the Judge or an ad hoc determination made by the Judge on a case by case basis.

6. This practice direction will come into operation on 28/10/19.

DATED 25 October 2019



Penelope Eldridge  
Judge of the Youth Court

## **YOUTH COURT OF SOUTH AUSTRALIA PRACTICE DIRECTION 1 OF 2021**

### **REUNIFICATION COURT**

I, Penelope Eldridge, Judge of the Youth Court of South Australia pursuant to Rule 10 of the *Youth Court (General) Rules 2016* issue this practice direction in relation to the Reunification Court.

#### **1. FRAMEWORK FOR THE REUNIFICATION COURT**

- 1.1. In January 2019, the Youth Court of South Australia introduced the Reunification Court pilot program with the support and assistance of the Department for Child Protection (DCP) and Legal Services Commission (LSC).
- 1.2. The Reunification Court is a diversion court for matters where reunification between the child and the parent/s is actively being considered by DCP and pursued in timeframes which align with the child's developmental needs.
- 1.3. The Reunification Court oversees matters where the viability of reunification is being assessed by DCP, and if assessed to be viable, the process of reunification.
- 1.4. Matters referred to the Reunification Court are adjourned with interim orders made for periods of 6, 9 or 12 months pursuant to section 53(2) of the *Children and Young People (Safety) Act 2017 (the Act)*.

#### **2. CONSTITUTION OF THE COURT**

- 2.1 The Reunification Court when sitting must be constituted of a member of the Judiciary of the Youth Court (Judicial Officer).
- 2.2 A lawyer appointed by LSC to represent the child or young person (Child Representative) must be present at all hearings of the Reunification Court.

#### **3. ELIGIBILITY**

- 3.1. Eligibility for participation is based on the following criteria:
  - a. DCP identifies in the case plan that an assessment of the viability of reunification is to be undertaken;
  - b. The parent/s being assessed accept there is a need for intervention and consent to the matter being referred to the Reunification Court;

- c. The relevant parent/s agree to participate in the assessment and in the Reunification Court.

#### **4. REFERRAL & AVL LINKS**

- 4.1 The Youth Court Registry will notify DCP of the referral of a matter to the Reunification Court by attaching the hearing outcome to an email to the Family and Youth Court Liaison Unit.
- 4.2 The email referral should contain in the subject of the email “Referral to Reunification Court, the last name of the child and his or her date of birth”.
- 4.3 The Youth Court Registry will book any audio-visual links that have been recorded on the hearing outcome.
- 4.4 If the AVL was not requested in the Court Order, DCP will telephone or email the Youth Court Registry at least two business days prior to the Reunification Court hearing to check that the audio-visual link has been confirmed. DCP can complete the request for AVL as required.

#### **5. PROCEEDINGS**

- 5.1 Proceedings in the Reunification Court will be conducted at the bar table in a courtroom at the Adelaide Youth Court.
- 5.2 It is preferred that parent/s, DCP, the Child Representative and any support persons attend in person. Where this is not possible a telephone appearance or audio-visual link appearance may be arranged with the consent of the Judicial Officer.

#### **6. CASE FLOW**

- 6.1 Reunification Court hearings occur regularly every 6 to 8 weeks. Where parent/s are located in the APY Lands a longer period may be permitted to allow time for services to be put in place to work with the parent/s.
- 6.2 Reunification Court hearings will be listed for either 15 minutes or 30 minutes depending on whether parent/s are being jointly assessed for reunification or separately assessed.

## **7. PARTICIPATION**

- 7.1 Participants in the hearing are limited to the parent/s being assessed as viable for reunification, the Child Representative and the DCP caseworker.
- 7.2 Other parties, such as a support person or service provider working with the parent/s, may seek approval from the Judicial Officer to be present at and observe the hearing of the Reunification Court. Parent/s are to seek consent by emailing the registry at [youthcourt@courts.sa.gov.au](mailto:youthcourt@courts.sa.gov.au) at least 2 business days prior to the hearing or by asking the Sheriff's Officer to seek permission from the presiding Judicial Officer on the day.
- 7.3 Legal representatives for the parent/s do not attend hearings.
- 7.4 An Aboriginal Youth Justice Officer (AYJO) may also attend the hearing, where appropriate, in accordance with clause 11.
- 7.5 If any issues arise that may affect the legal rights of the parent/s, the hearing will be adjourned to enable the parent/s to obtain legal advice, and the matter will be listed in the Care and Protection List.

## **8. ROLES AND RESPONSIBILITIES**

- 8.1 The role of the Judicial Officer is to monitor the implementation of the case plan and the progress of the parent/s in meeting the outcomes stated in the case plan.
- 8.2 DCP determines the case direction and updates the Court with respect to the case plan and the progress being made by the parent/s.
- 8.3 The parent/s update the Court with respect to their progress and their engagement with service providers and raise any concerns with the Court.
- 8.4 In accordance with the Act, the child or young person is entitled to have their views and wishes considered by the Court and to participate in proceedings. Their participation in the Reunification Court may involve the Judge meeting with them. The child or young person will be represented by the Child Representative in the Reunification Court.

## **9. REFERRAL TO PROGRAMS AND SERVICES**

- 9.1 Referrals to programs and services are not the responsibility of the Court.

## **10. FILING AND SERVICE OF CASE PLAN AND REPORTS**

- 10.1 Clear, concise and easily understood information for all parties participating in the Reunification Court is critical.
- 10.2 Reunification Case Plan must be filed by DCP prior to the first Reunification Court hearing.
- 10.3 DCP is to prepare addendum court reports for each hearing, reporting on the progress of the parent/s in meeting the outcomes stated in the case plan.
- 10.4 Reports and case plans must be filed by emailing [CAAPMYouthCourtELodgement@courts.sa.gov.au](mailto:CAAPMYouthCourtELodgement@courts.sa.gov.au) at least 3 business days prior to the hearing.
- 10.5 DCP must file and serve any Case Plans, Addendum Report or any other report on the Child Representative and parent/s at least 3 business days before the scheduled Reunification Court hearing.
- 10.6 Any report filed by a parent/s, support person or service provider must be filed and served on DCP and the Child Representative in accordance with paragraphs 10.4 and 10.5.
- 10.7 Parties can serve via email where there is a nominated email address.

## **11. CULTURAL SAFETY**

- 11.1 To improve outcomes for Aboriginal and/or Torres Strait Islander children and their families, additional supports may be provided to an Aboriginal parent/s.
- 11.2 Where an application identifies a child as an Aboriginal and/or Torres Strait Islander, a referral will be made for the parent/s to the AYJO, and the Registry will notify the AYJO of files adjourned to the Reunification Court.
- 11.3 The AYJO may, with the consent of the participants, attend the Reunification Court. The role of the AYJO is to provide cultural support and information to the parent/s and, if requested, provide the Judicial Officer with relevant cultural information.
- 11.4 Where possible, Aboriginal and/or Torres Strait Islander matters will be listed in a separate Aboriginal and/or Torres Strait Islander list.



## **12. CONCLUSION OF PERIOD OF INTERIM ORDER**

- 12.1 Should reunification be achieved during the period of the interim order, the order may be revoked or alternatively lapse when the period has expired.
- 12.2 The Judicial Officer can extend an interim order if proper reason exists to do so, with the consent of the parties participating in the Reunification Court.

## **13. REUNIFICATION ASSESSED TO BE NOT VIABLE**

- 13.1 If DCP determines reunification to be not viable, the matter will be referred out of the Reunification Court to enable DCP to file an amended application seeking long term orders.
- 13.2 The Judicial Officer will adjourn the matter for approximately six weeks to a date and time in the Care and Protection list and recommend to the parent/s that they obtain legal advice prior to that hearing.
- 13.3 No admissions or other statements made by the parent/s in the course of a hearing in the Reunification Court will be admissible in subsequent proceedings.

This practice direction will come into operation on 23 August 2021.

DATED 23<sup>rd</sup> August 2021



Penelope Eldridge  
Judge of the Youth Court

**YOUTH COURT OF SOUTH AUSTRALIA PRACTICE DIRECTION 1 OF 2023**  
**CARERS PROCESSES**

I, Penelope Eldridge, Judge of the Youth Court of South Australia pursuant to Rule 341.2 of the *Uniform Special Statutory Rules 2022* issue this practice direction in relation to the right of foster and kinship carers (Carers) to make a submission or representation to the Youth Court.

**1. Carers right to be heard in the Youth Court.**

- 1.1 The *Children and Young People (Safety) Act 2017* (the *Act*) acknowledges the right of Carers to make a submission or representation to the Youth Court.
- 1.2 Carers play an important role in the lives of children and young people and the Youth Court recognises the significance of the voice of Carers in proceedings under the *Act*.

**2. Procedure to be followed by Carers wishing to make a submission or representation to the Youth Court**

- 2.1 Carers wishing to make a submission or representation to the Court prior to trial can either appear in person or alternatively provide a written submission or representation to the Court.
- 2.2 If appearing in person, it is appropriate that the Carer contact the Youth Court Registry by email or telephone, preferably at least two (2) business days before the hearing, to advise of their proposed appearance.
- 2.3 In the case of the Carer making a written submission or representation, this should be emailed to the Registry at least two (2) business days prior to the hearing. The submission or representation will be filed prior to the hearing for perusal by the presiding judicial officer.

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- 2.4 It is also open to the Carer to express their views to the Department for Child Protection and request that the Department inform the Court of their views.
- 2.5 If the Carer wishes to make a submission or representation to the Court at trial, the Court requires a written application to be filed in accordance with Form CP5.
- 2.6 Once the Carer has provided their submission or representation to the Court, a copy will be provided by the Court to the other parties to the proceedings.

This practice direction will come into operation on 19 April 2023.

DATED 18 April 2023.



Penelope Eldridge  
Judge of the Youth Court

**YOUTH COURT OF SOUTH AUSTRALIA**  
**PRACTICE DIRECTION CASE FLOW MANAGEMENT**  
**NO. 2 OF 2023**

I, PENELOPE ELDRIDGE, Judge of the Youth Court of South Australia pursuant to Rule 12.1 (3) of the *Joint Criminal Rules 2022*, issue this Practice Direction in relation to the case flow management of criminal cases under the *Young Offenders Act 1993* (“the Act”) and the *Joint Criminal Rules 2022*.

1. Practice Direction 1 of 2003 ‘Case Flow Management’ is revoked with effect from 18 April 2023.
2. On the first return of an Information the Court shall advise the youth, if not legally represented, of his/her rights to be legally represented and of such other information as may be necessary to satisfy the requirements of s30(2)(b) of the Act.
3. If the youth does not plead guilty on the first return of the Information, then the proceedings may be adjourned/remanded for a period not exceeding 6 weeks, to enable the youth to seek and obtain legal aid and to be legally advised and represented.
4. On the second return of the Information the youth shall advise the Court whether he/she intends to plead guilty or not guilty.
5. If, on the second return of the Information the youth advises the Court that he/she intends to plead guilty, the proceedings may be adjourned/remanded for such period as may be necessary to enable the Court and the youth to obtain all such information, evidence and reports as may be required for consideration of penalty.
6. When a youth has advised that he/she intends to plead guilty but the proceedings have not been finalised on the second return then the Court shall, if reasonably possible, finalise the proceedings and impose penalty upon the third return of the Information.
7. If, on the second return of the Information, the youth advised the Court that he/she intends to plead not guilty or does not indicate a plea, then the Court shall adjourn/remand the proceedings for a further 8 weeks for a pre-trial conference. The parties shall, during that 8-week adjournment/remand period comply with Chapter 3, Parts 8 and 9 of the *Joint Criminal Rules 2022*.
8. When the Court sets a date for trial the proceedings shall be listed to continue as follows: -

(a) Adelaide Youth Court

After the completion of the initial day, further successive days will be allocated to enable completion of the sworn evidence.

(b) Regional (suburban) Courts

On successive weekdays until the sworn evidence is completed.

(c) Circuit Courts

On such successive days as may be available during the circuit week.

9. The Court may depart from these directions to achieve the objects and policies of the Act, or if it is otherwise necessary to do so, in the interests of the administration of justice, but in doing so the Court shall make orders designed to preserve the spirit and intention of this Practice Direction.

DATED 18 April 2023.



**Penelope Eldridge**  
Judge of the Youth Court of South  
Australia

**YOUTH COURT OF SOUTH AUSTRALIA**  
**PRACTICE DIRECTION COURT SITTINGS**  
**NO. 3 OF 2023**

I, PENELOPE ELDRIDGE, Judge of the Youth Court of South Australia pursuant to Section 15 of the *Youth Court Act 1993*, Rule 15.1 of the *Joint Criminal Rules 2022* and Rule 341.2 (1) of the *Uniform Special Statutory Rules 2022*, issue this Practice Direction:

1. Practice Direction 1 of 2003 ‘Case Flow Management’ is revoked with and replaced with this Practice Direction effective 19 April 2023.
  
2. The Youth Court shall sit at the following places –

**Adelaide**

Clare, Mount Barker

**Berri**

Waikerie

**Christies Beach**

Victor Harbor, Kingscote

**Elizabeth**

Tanunda, Ceduna, Yalata

**Mount Gambier**

Millicent, Naracoorte, Bordertown

**Murray Bridge**

**Port Adelaide**

**Port Augusta**

Roxby Downs, Leigh Creek, Coober Pedy, Marla, Amata, Pipalyatjara, Fregon, Ernabella, Indulkana, Mimili

**Port Pirie**

Peterborough, Kadina, Maitland

**Port Lincoln**

**Whyalla**

and at such other places as may be necessary according to the circumstances.

Sittings shall be between the hours of 9.30am and 4.30pm or at such other times as are practical.

A Registry of the Court must be open between the hours of 9 am and 5 pm on any business day, not being a public holiday, except where exceptional circumstances exist and the approval of the Principal Registrar, Youth Court, or in the absence of the Principal Registrar, the Deputy Registrar has been given.

DATED this 19<sup>th</sup> day of April 2023



**Penelope Eldridge**

Judge of the Youth Court of South  
Australia

**YOUTH COURT OF SOUTH AUSTRALIA**  
**PRACTICE DIRECTION DEPARTMENT OF HUMAN SERVICES**  
**No 4 of 2023**

**Department of Human Services (DHS) – Youth Justice Officers Leave to Appear in  
prosecuting certain Youth Justice matters**

Pursuant to Rule 12.1 of the *Joint Criminal Rules 2022*, I, Judge Penelope Eldridge hereby issue the following Practice Direction regarding the criminal jurisdiction of the Youth Court.

1. The Practice Direction 1 of 2017 issued on 25 September 2017 is revoked.
  
2. The Youth Court will continue to routinely grant leave to suitably qualified and experienced DHS Youth Justice workers to appear for the Informant to prosecute an alleged failure to comply with:
  - A community service order;
  - A condition of a home detention order or if the specified residence is no longer suitable for the period and no other suitable residence is available;
  - A condition of a suspended sentence obligation that does not arise from further offending.
  
3. This practice direction will come into operation on 26<sup>th</sup> April 2023.

DATED 26 April 2023



**Judge Penelope Eldridge**



## **YOUTH COURT OF SOUTH AUSTRALIA PRACTICE DIRECTION 5 OF 2023**

### **YOUTH ABORIGINAL COMMUNITY COURT ADELAIDE**

I, Penelope Eldridge, Judge of the Youth Court of South Australia pursuant to Rule 12.1(3) of the *Joint Criminal Rules 2022* issue this practice direction in relation to the Youth Aboriginal Community Court Adelaide.

#### **1. FRAMEWORK FOR THE YOUTH ABORIGINAL COMMUNITY COURT ADELAIDE**

- 1.1. The Youth Aboriginal Community Court Adelaide (“YACCA”) is a specialist therapeutic court for Aboriginal and/or Torres Strait Islander young offenders. It provides an opportunity for an Aboriginal and/or Torres Strait Islander young offender to participate in a four month (and up to six-month) intensive treatment program where the young person, and their family are offered support and program services to address identified issues and to support the young person from engaging in further offending.
- 1.2. The YACCA includes Aboriginal Elders and Respected Persons in the court process and by doing so provides YACCA proceedings with a cultural authority. The YACCA is a sentence delayed court model; the young person’s sentence is delayed while they work to address issues that contribute to their offending behaviour.
- 1.3. The young person works with a service provider agency to address criminogenic factors while they are participating in the court process. The young person returns to YACCA at short intervals (determined by need), and their progress and engagement with the service provider agency is monitored.
- 1.4. The YACCA aims to:
  - Provide a youth centric and culturally responsive court process to Aboriginal and/or Torres Strait Islander youths and their offending.
  - To engage the young person with an appropriate therapeutic service provider agency who will:
    - Address trauma, dynamic criminogenic needs and improve social, education and psychological outcomes for youth;
    - Implement relevant protective factors for young people; and
  - Reduce the frequency and severity of offending.
- 1.5. The YACCA will operate initially for two years and be evaluated.

#### **2. CONSTITUTION OF THE COURT**

- 2.1. The YACCA when sitting must be constituted of a Judicial Officer.

#### **3. CULTURAL AUTHORITY**

- 3.1. There will be a Cultural Authority who is present at all hearings of the YACCA.
- 3.2. A Cultural Authority is someone who is active in community, respected and this is not age restrictive. This person can be an Elder/Respected Person that sits with the Judicial Officer as part of YACCA proceedings and at the sentencing of the young person.
- 3.3. There is a Youth Court Panel of Elders and Respected Persons supported by the Manager Aboriginal Programs CAA and the Youth Court Aboriginal Youth Justice Officers.

- 3.4. The Elder/Respected Person will participate in CAA education for Elders and Respected Persons facilitated by the CAA.

#### **4. ELIGIBILITY**

- 4.1. Eligibility for participation is based on the following criteria:
  - a. The young person is Aboriginal or Torres Strait Islander or identifies as Aboriginal or Torres Strait Islander;
  - b. The young person has been charged with an offence;
  - c. The young person has admitted the offence;
  - d. The young person is not eligible for diversion to a Family Conference;
  - e. The young person is assessed as being of high risk of reoffending;
  - f. The young person has an issue that relates to criminogenic factors for which services are available;
  - g. The young person has agreed to participate in YACCA including agreement to engage in program services;
  - h. The young person has agreed to defer sentencing and to submit to drug testing where required; and
  - i. The young person is eligible for bail.

#### **5. REFERRAL AND ASSESSMENT**

- 5.1. A referral form (YAC 1) must be lodged with the Youth Court 48 hours before a General Court hearing or as soon as practicable.
- 5.2. If a young person is identified as possibly being eligible for the YACCA, the matter is adjourned for 5 weeks to the YACCA to allow for an assessment.
- 5.3. The Aboriginal Youth Justice Officer will discuss the YACCA with the young person, their family and legal representation.
- 5.4. The Aboriginal Youth Justice Officer will provide a date for the assessment to the young person.
- 5.5. The young person will be assessed by the YACCA Coordinator and with the Aboriginal Youth Justice Officer present.
- 5.6. The YACCA Coordinator will prepare the assessment report and provide it to the Court one week before the hearing.
- 5.7. The YACCA assessment form (YAC 2) will be emailed to the parties.
- 5.8. To ensure expedient management of the young person's matter, if the YACCA assessment does not recommend the young person participating in the YACCA, the Judicial Officer will administratively refer the matter back to the General Court for the matter to be dealt with.

#### **6. ACCEPTANCE ON PROGRAM**

- 6.1. If appropriate the Judicial Officer will accept the young person in the YACCA.
- 6.2. A Griffiths remand is ordered, and proceedings are adjourned for four months.
- 6.3. The matter is adjourned for 2 weeks to allow for the YACCA Coordinator to facilitate a referral to the YACCA Service Provider.
- 6.4. A week before the first YACCA review hearing, the service provider agency will provide the Court with the case plan.

## **7. PROCEEDINGS**

- 7.1. Hearings for the YACCA are to occur in a Conference Room at the Adelaide Youth Court.
- 7.2. Hearings are to be recorded.
- 7.3. It is intended that the lawyer representing the child or young person, the representative from SAPOL prosecution, the young person and any support persons will attend in person.
- 7.4. All parties will have access to progress reports in relation to the young person.

## **8. ATTENDANCE**

- 8.1. The Judicial Officer, the Elder/Respected Person, SAPol prosecution (without uniform), the young person, the young person's lawyer, the young person's family, the YACCA Coordinator, the service provider agency and the Aboriginal Youth Justice Officer can attend the YACCA.
- 8.2. A support person can attend at discretion of the Judicial Officer in consultation with the AYJO. A support person is to seek consent by emailing the registry at [youthcourt@courts.sa.gov.au](mailto:youthcourt@courts.sa.gov.au) at least 2 business days prior to the hearing or by seeking permission from the Judicial Officer on the day.

## **9. PARTICIPATION AND INCENTIVES**

- 9.1. The Judicial Officer will speak directly to the young person and their family about their engagement and participation with the service provider agency.
- 9.2. The Elder/Respected Person may speak directly to the young person or their family.
- 9.3. The Elder/Respected Person provides advice to the Judicial officer about the young person, their family, local, social and cultural issues.
- 9.4. The service provider agency will provide the young person with an opportunity to address areas of concern and support the young person to use their voice in all proceedings.
- 9.5. The young person is to be encouraged to speak throughout proceedings (not his/her lawyer), supported by the Aboriginal Youth Justice Officer.
- 9.6. Successful engagement with the program will provide opportunity for a young person to identify a relevant incentive for them to work towards.

## **10. SUBSEQUENT ALLEGED OFFENDING AND BAIL VARIATIONS**

- 10.1. Any subsequent alleged offending relating to a young person who has been accepted onto YACCA must be at first instance listed into the YACCA. This is regardless of the location of the offence.
- 10.2. The Judicial Officer presiding will consider the nature of the alleged further offending and whether it is admitted or contested and will hear submissions from SAPol prosecution, the young person's lawyer and any recommendation of the YACCA Coordinator and the Elder/Respected Person about whether the young person can remain on the YACCA or should be removed and referred back to the General Court.
- 10.3. An application to vary bail in relation to a young person accepted on the YACCA must be listed in the YACCA and, if not opposed by SAPol prosecution, can be heard in chambers.

## **11. MATTERS REMOVED FROM YOUTH ABORIGINAL COMMUNITY COURT ADELAIDE DUE TO NON-ENGAGEMENT**

- 11.1. If a young person is not engaging with the service provider agency the Judicial Officer can remove the young person from the YACCA and refer the matter back to the General Court.
- 11.2. In considering whether the young person should be removed the Judicial Officer will hear submissions from SAPol prosecution, the young person's lawyer and any recommendation of the YACCA Coordinator and the Elder/Respected Person about whether the young person can remain on the YACCA or should be removed.
- 11.3. If a young person is removed from the YACCA this does not exclude the young person being eligible in the future.

## **12. ROLES AND RESPONSIBILITIES**

- 12.1. The young person is to attend an assessment related to the YACCA, attend all hearings and participate in the programs (unless excused).
- 12.2. The lawyer representing the young person must be present at all hearings and can advocate for the young person if the legal rights of the young person are affected.
- 12.3. SAPol must be present at all hearings and can participate where there is a need to respond to an application from the young person.
- 12.4. The Aboriginal Youth Justice Officer will support the young person and their family in the assessment and attendance at the YACCA. The Aboriginal Youth Justice Officer will provide cultural advice to the Court and liaise with the YACCA Coordinator, Elder/Respected Person, Department for Human Services and, if the youth is under guardianship, the Department for Child Protection.
- 12.5. The YACCA Coordinator assesses the young person, liaises with the AYJO and the young person and their family, provides information to the court, makes referrals, monitors progress of the young person and coordinates multi agency approach regarding young person's needs.
- 12.6. The Department of Human Services – Youth Justice will supervise the young person while on bail.
- 12.7. The service provider agency provides therapeutic programs to the young person. The program works with the young person, their family and provide a flexible wrap-around service that is culturally safe and attends court to provide updates.
- 12.8. The service provider agency is a third-party organization determined by tender processes – managed externally to the Youth Court.

## **13. REFERRAL TO PROGRAMS AND SERVICES**

- 13.1. Referral to programs and the service delivery agency rests with the Manager Intervention Programs rather than the Court.

## **14. FILING AND SERVICE OF REPORTS**

- 14.1. Clear, concise and easily understood information for all parties participating in the YACCA is critical.
- 14.2. Assessment reports must be provided to the Court within 4 weeks.
- 14.3. The service provider agency will provide progress reports to the Court one week prior to the YACCA hearing.

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- 14.4. Reports must be filed by emailing [youthcourt@courts.sa.gov.au](mailto:youthcourt@courts.sa.gov.au)
- 14.5. Any party to the proceedings can obtain a copy of a report. SAPol, Legal Services Commission and Aboriginal Legal Rights Movement are to obtain the report via email. A young person can request a copy of a report at the Youth Court Registry.

### **15. CONCLUSION OF GRIFFITHS REMAND**

- 15.1. Successful completion of the program and/or efforts to participate in the program will be taken into account during sentencing of the young person.
- 15.2. The Judicial Officer will encourage the young person to remain engaged with the service provider agency even after completion of the program.

This practice direction will come into operation on 14 September 2023.

DATED 14 September 2023.



Penelope Eldridge

Judge of the Youth Court

## OFFICIAL

### YOUTH COURT OF SOUTH AUSTRALIA PRACTICE DIRECTION 1 of 2024

#### YOUTH OVERNIGHT ARRESTS

I, Penelope Eldridge, Judge of the Youth Court of South Australia pursuant to Rule 12.1(3) of the *Joint Criminal Rules 2022* issue this practice direction in relation to youth overnight arrests in regional and suburban courts. This Practice Direction replaces the memorandum issued by former Senior Judge Stephen McEwen dated 27 May 2011 regarding Youth Bail Applications.

#### 1. LISTING OF OVERNIGHT ARRESTS

- 1.1. All young people arrested overnight in suburban and regional areas should have their matter listed at first instance in the Adelaide Youth Court.
- 1.2. When a suburban or regional court receives notice of an overnight arrest the suburban or regional court will undertake the administrative function of accepting the lodgment and contact the Adelaide Youth Court for a time to list the overnight arrest before a Judicial Officer in the Adelaide Youth Court.
- 1.3. The suburban or regional court will then list a hearing before the Judicial Officer in the Adelaide Youth Court.
- 1.4. If there are adults held in police cells at the same time as a young person, the regional or suburban court will give priority to the youth court matter being heard over any adult matter as per s 12(2) of the *Bail Act 1985*.
- 1.5. The young person will be heard via Audio Visual Link (AVL) from the police cells or Kurlana Tapa.
- 1.6. The matter will be heard in the Adelaide Youth Court and if the young person receives bail, they will be remanded for any future hearings at the suburban or regional location.
- 1.7. The Adelaide Youth Court will follow the procedures to send to the suburban, regional court or Kurlana Tapa any bail documents to be signed by the youth.
- 1.8. An exception to 1.1 is that if there is a member of the Principal Judiciary of the Youth Court sitting on that day at the suburban location where the young person is being held, the matter should be listed at that location before that judicial officer.

#### 2. APPEARANCES

- 2.1. The young person will appear via AVL.
- 2.2. The young person's solicitor may appear via AVL if at the location where the young person is being held (i.e., the police cells), or in person at the Adelaide Youth Court if able. The young person's solicitor may seek leave to appear by telephone.

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2.3. DHS Youth Justice and SAPOL prosecution will appear in person in the Adelaide Youth Court.

2.4. The suburban or regional court listing the matter must ensure the AVL link between the Adelaide Youth Court and police cells is booked.

This practice direction will come into operation on 17 June 2024

DATED this 21 day of May 2024



Penelope Eldridge

Judge of the Youth Court