

## JUDGES' GUIDELINES – DISCUSSIONS WITH CHILDREN

1. These guidelines are intended to outline the procedure and establish recommended standards of Judicial practice to assist the Court in fulfilling its function pursuant to s.6(2)(a) of the Care of Children Act 2004, namely, to enable children to be given reasonable opportunities to express any views on any matters affecting them.
2. The extent to and the manner in which these guidelines, or any of them, shall be implemented will be at the sole discretion of the Judge. Accordingly, they are not intended to have the force of a Practice Note.
3. Definitions:
  - “the Act” refers to each of the Care of Children Act 2004 and the Children, Young Persons and Their Families Act 1989;
  - the term “child” includes “young person”;
  - unless the context otherwise requires, the term “hearing” includes “mediation conference”;
  - the term “Judge” means the Judge who shall be presiding over the hearing of any contested application under the Act covered by these guidelines;
  - the term “lawyer for the child” includes both lawyer for the child appointed under the Care of Children Act and counsel for the child appointed under the Children, Young Persons and Their Families Act.
4. The Judge will be guided by the age and maturity of the child when deciding whether or not to adopt any of these guidelines.
5. The Judge shall be entitled to expect that the lawyer for the child will –
  - advise the Court whether or not the child wishes to meet with the Judge;
  - meet with the parties and advise the Court whether or not they consider the Judge should meet with the child;
  - recommend to the Court whether or not the Judge should meet with the child;
  - advise the purpose of any proposed meeting between the Judge and the child.

6. It is recommended that the Judge records in his or her judgment the reason or reasons why he or she has decided not to meet with the child in any given case.
7. If the Judge decides that he or she shall meet with the child the following provisions in these guidelines shall apply.
8. Prior to the conclusion of the mediation conference or delivery of the judgment following a contested hearing, the Judge shall decide whether or not to meet with the child and if he or she decides to do so, he or she shall determine:
  - 8.1 What the time the meeting is to take place (e.g. prior to, during or following the hearing);
  - 8.2 Where the meeting is to take place (e.g. the Judge's Chambers, the Courtroom or elsewhere);
  - 8.3 In the case of a contested hearing, whether or not a record of the meeting is to be taken and, if it is, how it is to be made (e.g. by note taking, tape or digital recording or by any other means);
  - 8.4 How any record of that meeting is to be conveyed to the parties (e.g. by audio recording, by typed transcript or by way of oral summary).
9. The meeting should take place in the presence of the lawyer for the child and such other persons (if any) as the Judge decides.
10. Prior to the meeting starting the Judge will make it clear to the child that a record may be taken of the meeting and that (subject to paragraph 12) such may be conveyed to the parties.
11. It is recognised that there will be occasions when the welfare and best interests of the child may outweigh the requirements of natural justice so that the content of any meeting between the child and the Judge (or any part thereof) shall be kept confidential.
12. Notwithstanding paragraphs 8.3, 8.4 and 10, the meeting or any part thereof may be treated as being confidential as between the child and the Judge.
13. If it becomes apparent that the child is wanting confidentiality –
  - The Judge is to advise the child that such request will be considered; and
  - The Judge may decide that the record (or the confidential part of it) shall not be made available to the parties.

14. The parties shall be able to respond to the content of the meeting, such to be by way of oral evidence or submission.
15. The Judge may decide that he or she will tell the child the outcome of the hearing.

Dated this 2nd day of July 2007

A handwritten signature in black ink that reads "Peter Boshier". The signature is written in a cursive style with a small dot above the 'i' in "Boshier".

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P F Boshier  
Principal Family Court Judge