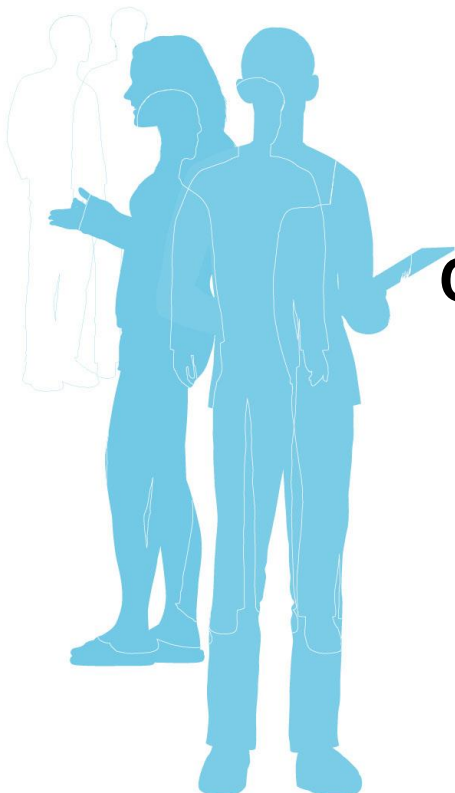


Court ordered Child Protection Conference Guidelines



**Court ordered Child Protection
Conference Unit**

Dispute Resolution Branch

Department of Justice and

Attorney General



**Queensland
Government**

Court Ordered Conference Guidelines

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1. Introduction

Child protection court ordered conferences (conferences) are held when:

The Office of Director of Child Protection Litigation (ODCPL) is making an application seeking a child protection order from the court and the parents and / or the child contest the order sought; and the court orders that a conference between the parties be held to decide the matters in dispute or try to resolve the matters. See sections 59(1)(c) and 68(1)(e) Child Protection Act 1999.

If contested by the parents, an order cannot be made without a conference being held or reasonable attempts have been made to do so. Conferences provide an alternative dispute resolution process to allow the matter to be settled before proceeding to a hearing of the matter.

NADRAC¹ defined Alternative Dispute Resolution (ADR) as a process, ‘...other than judicial determination, in which an impartial person assists those in a dispute to resolve the issues between them ...’² In line with this definition, conferences are chaired by an impartial person, (the convenor) who provides an impartial process which facilitates informal discussions to identify issues in dispute, consider alternatives and provide opportunity to reach agreements with regards to the best interests of the child without the need for a contested hearing.

The expertise of the participating professionals is acknowledged, and it is recognised that this adds significant value to the conference process. These guidelines are designed to assist all participants to develop further understanding of the ethos and collaborative approach of court ordered conferences and to identify approaches and behaviours that are consistent with fostering best practice in this specific area.

2. Central concerns

The central concerns of conferences are to:

- Comply with the Child Protection Act 1999 and the court’s order that a conference between the parties be held before the proceeding continues
- Maintain a clear and consistent focus on the safety, wellbeing and best interests of the child
- Create a collaborative, inclusive, confidential and constructive environment for parents, ODCPL, Child Safety departmental officers and other participants to discuss and negotiate issues around the future care of the child
- Promote a productive ongoing relationship between Child Safety departmental officers and the parents

¹ NADRAC (National Alternative Dispute Resolution Advisory Council) was the advisory council that assisted the Attorney General in developing a dispute resolution culture in Australia.; Accessed April 2013

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- Recognise the roles of the parents and provide them with the opportunity to contribute to discussion around the child's wellbeing and remain engaged in the child's protection process
- Clarify for parents the type of child protection order ODCPL is seeking; why such an order is being sought and what the parents can do to work towards re-unification with their child
- Increase parents' understanding of the issues of concern to ODCPL thereby enabling the parent/s to make an informed decision regarding the protection order application
- Provide a report to the court stating whether the parties have reached agreement in relation to the protection order application (s.72 Child Protection Act 1999) as soon as practicable after the conference is finished
- Provide the report to the participants of the conference.

3. Use of terms

For the purpose of this document:

Child refers to the child (or children) who is the subject of the child protection application and is a party to the application.

Convenor refers to the independent and impartial chairperson of the conference.

Parents refers to one or both parents of the child or someone else (other than the chief executive) having or exercising permanent or long-term parental responsibility for the child.

Professionals refers to any person who is present in a professional role as opposed to a familial role.

Participants refers to the child, the parents and the professionals or anyone else identified by the convenor as having a participatory role in the conference.

Applicant refers to Office of Director of Child Protection Litigation (ODCPL) who is bringing the application before the Court

Section 113 participant refers to a person with an interest in the child / children as directed by the Court

Conference refers to the intake and preparation process, the actual conference and any associated debrief process.

4. Referral process

A conference will be held when it is ordered by the Magistrate when a child protection application is contested. The ordering of a conference is a matter for the court and may be ordered to occur at any time from the first mention of the application until the court decides on the matter.

1. The following processes are required before proceeding to a Court Ordered Conference (COC):

- The ODCPL has completed its Duty of Disclosure
- Affidavits in support of ODCPL's application for a protection order have been filed.
- A family group meeting to develop or revise a case plan has occurred within six months of the COC and the plan has been filed in the court.
- The family group meeting has given consideration to making recommendations about, or otherwise deal with, any other matter relating to the child's wellbeing, protection and care.
- Consideration has been given to whether a separate representative and / or an officer of the Office of the Public Guardian (OPG) for the child should be appointed.
- If a written Social Assessment Report (SAR) about the child and the child's family is sought, then it has been prepared, and filed in the court prior to the COC.
- Any SAR that has been prepared, is distributed to the parents and professionals to the conference with the appropriate notice to consider the report; ten (10) business days prior to the COC.

2. When a conference is ordered the court will, while all parties are still present:

- Schedule a date for the conference from available conference dates as negotiated with the Child Protection Conference Unit (CPCU). (This practice varies between CPCU and Courts who have agreements in place to allocate COCs to specific days and times in that location). When setting the COC date a minimum of a three (3) week referral time frame is to be observed.
- Ensure all parties fill in the 'Conference Contact Details' recording up-to-date contact details and other requested information.

3. The ODCPL ensures all participants fill in 'Conference contact details' recording up-to-date contact details and other requested information and will email completed 'Conference contact details' and the contextual Case information form to the CPCU within 3 working days after the court mention, (and three (3) weeks prior to a COC) to advise, a conference has been ordered and providing current contact details of all the participants.

Email: CPCUMailbox@justice.qld.gov.au

The ODCPL will email the 'Conference contact details' to the Court.

4. Upon receipt of the completed 'Conference contact details' from ODCPL the Court Registrar will then send out the Form 19 Notice prior to a Court Ordered Child Protection Conference to all relevant participants for the session. Correspondence to the parents will include a Child Protection Conferencing Information Brochure.

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5. If Domestic Violence issues constitute part of the child protection concerns, then the Form 19 should include reference to a 'Split' Court Ordered Conference, whereby separate sessions will be held for the respective parents to ensure parents feel safe.


CPCU will split conferences into separate sessions in the circumstances where Domestic Violence is present or a risk, or when multiple parents are party to the proceedings or any other matter that needs to be managed by separating the parties to the COC to ensure conference sessions are effective and risks are managed.

6. If a parent is incarcerated, the CPCU will contact the correctional facility and book phone linkups to conduct an intake interview and for the parent to attend the conference.
7. The CPCU is to be notified immediately by ODCPL, other professionals or Registrar if:
 - A conference cannot proceed as planned. (It is understood that if the court registry is advised by the ODCPL that a COC cannot proceed they will copy in the Court Registry in the email sent to the CPCU).
 - If a conference is potentially at risk of not proceeding, due to new emerging information.
 - They become aware of any new safety risk to convenor or participants, not previously communicated to the CPCU.
 - A request for an adjournment of the COC has been made to the Court.
 - If an adjournment is granted the Court will provide a formal email / letter advising all parties that the conference has been adjourned or delisted.

The CPCU is to be advised by:

- Email if it occurs before the day of the conference.
(CPCUMailbox@justice.qld.gov.au)
 - Phone if it occurs on the day of the conference. (Phone 07 37387018)
8. If an unacceptable level of risk to any participant or convenor is identified at any stage of the referral, the CPCU may facilitate one of the following:
 - Organise separate, telephone or shuttle conferences;
 - Undertake a conference with only one parent present and notify the court of the circumstances of this decision;
 - Notify the court that reasonable efforts have been made to hold a conference and the reasons why this has been unsuccessful

5. Intake



Intake is an essential part of the conference process and refers to preparatory discussions that take place between the CPCU and the conference participants before all the participants and the convenor meet together for the conference.

The Intake process enhances the effectiveness of the conference by ensuring participants understand the aims of the conference, how it is structured, and assists them to prepare to speak about the child protection application in a constructive way. As part of the conference process, discussions are confidential.

5.1 Intake with parents

The CPCU will make every effort to speak by phone directly with all parents.

Discussions will include:

- the parents' understanding of the application before the court
- the purpose and process of conference
- who will be present at the conference meeting and their roles
- the responsibilities of participants
- whether parents have or need legal representation
- confidentiality parameters and what is reported to court
- commitment to participate in the process
- how the parents can prepare, including reference to the CPCU Child Protection Conferencing Brochure
- how parents might be able to settle without a court hearing
- identification of any safety concerns
- the circumstances or behaviors under which a conference meeting might end early
- whether non-parties under CPA s 113 and other than participants should be present e.g. support person, interpreter. Noting s.70(5) of the CPA which states that no-one else (other than the parties, chairperson, recognised entity or legal rep) can attend without the chairperson's approval.
- how the parents can get more information (e.g. website, brochure)

Where a parent is in a correctional facility the intake phone call will take place as arranged during the referral process.

5.2 Intake with the child

Under the Child Protection Act 1999, a child is recognised as a party in child protection proceedings and therefore has a right to participate in the conference should they wish to do so. Although a child is a party, and the Act provides that the

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parties must attend the conference, a child cannot be compelled to attend a conference.

Separate Representative or representative of the Office of the Public Guardian (OPG)

A child's participation in a conference can be facilitated by the appointment of a separate representative for the child or an Officer from OPG. The court has the power to make an order that the child be separately represented by a lawyer if the court considers such an appointment is necessary and in the best interests of the child: s.110 Child Protection Act 1999

The appointment of a separate legal representative is at the discretion of the court and is not made in all cases.

The role of the separate representative is to represent the child's best interest regardless of any instructions from the child; and as far as possible, present the child's views and wishes to the court, s.110(3).

Direct Representative

A child's participation in a conference can also be facilitated when a child directly engages a lawyer to represent them. Unlike a separate representative, a direct representative must act in accordance with any lawful instructions provided by the child and their legal obligations. Accordingly, in this circumstance, the child needs to have sufficient maturity and focus so as to provide instructions to the lawyer.

Participation in person

A child can also participate in person with or without the assistance of legal representation. The child should be made aware they can seek legal assistance from a variety of sources such as Legal Aid Queensland.

When a child indicates that they would like to attend the conference in person, Child Safety departmental officers and / or the child's lawyer (if they have one) should inform the child about the possible impacts of their attendance including the fact that they may hear things that could impact upon them. The child should also be informed that participation does not mean their wishes are going to be granted.

If the child still wishes to participate, with or without the support of the OPG, CPCU will conduct a Conference Participation Readiness Assessment to minimise any potential negative impacts that could affect the child by revisiting traumatic issues and experiences.

Generally, children will only attend the first part of the conference to allow for their views and wishes to be heard. How the child participates in the COC should be flexible and tailored to the individual situation. Options for the child's participation may include (but are not limited to) any or all of the following:

- visiting the conference location on a day prior to the conference
- speaking to the convenor before the conference
- attending a separate or shuttle conference

- attending for part of the conference (generally the beginning)
- participating via telephone or audio-visual link
- remaining only as long as the child feels comfortable
- identifying a physical or other sign that indicates the child wishes to leave the conference without having to say so
- expressing their viewpoint via a letter, picture or a pre-recorded message, which may be presented in their presence or absence, usually by the OPG.
- having a support person present.

In addition to identifying suitable safeguards, the CPCU, in collaboration with ODCPL and the child's lawyer (if any), will also ensure an age appropriate discussion takes place with the child before the conference about:

- the purpose and process of the conference
- who will be present and their roles
- how the child's viewpoint may be taken into consideration in relation to the conference
- confidentiality conditions and reporting to the court
- the nature of the application before the court
- how the child can prepare
- what will happen if the convenor feels the child's continued presence is not in the child's best interests
- identification of any safety concerns
- how the child can get more information (e.g. website, brochure, CPCU intake staff, Legal Aid fact sheets).

The child's ability to participate will also be assessed on the day by the convenor in collaboration with other professionals if possible.

5.3 Intake with ODCPL, Lawyers, Recognised Entity Representatives and others

When appropriate, intake will be undertaken with the other participants, including professionals.

Discussion will include:

- the purpose and process of the conference
- prerequisite obligations prior to the COC occurring e.g. SAR, Duty of Disclosure, currency of case plans, other reports as initiated

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- the central concerns of the conference
- the roles, responsibilities and expectations of professionals in the conference
- the parameters of confidentiality
- the importance of bringing up-to-date information
- commitment to participate in process
- how they can prepare
- identification of any safety concerns
- the circumstances when a conference might be ended early
- whether non-participants should be present (e.g. support person, interpreter)
- how the professionals can get more information (website, brochure).

6. Selection of a convenor

When a referral for a confirmed COC date is identified, the CPCU Manager will, as soon as possible, select a convenor from their panel to chair the conference. The Child Protection Act 1999 s. 69(2) notes that the chairperson must have the qualifications or experience prescribed under rules of court made under the Childrens Court Act 1992. These are:

- (a) an ability to facilitate voluntary dispute resolution processes
- (b) a knowledge and understanding of the issues and processes for the protection of children under the Child Protection Act 1999
- (c) an ability to communicate effectively with a broad range of people.

All CPCU convenors are experienced dispute resolution practitioners. They are Nationally Accredited Mediators, appointed as mediators under the Dispute Resolution Centres Act 1990 and are employed by the Dispute Resolution Branch. In addition to having suitable tertiary qualifications and / or experience in the provision of human services, convenors have also undertaken specific training in relation to their role as a convenor including consideration of the issues and processes for protection of children under the Child Protection Act 1999.

The CPCU will endeavor to use Indigenous convenors in conferences that include Indigenous participants and continue to develop culturally inclusive (or appropriate) conferences for Aboriginal and Torres Strait Islander families. When Indigenous convenors are not available, culturally sensitive convenors will be sought. The same approach will be followed with families from culturally and linguistically diverse (CALD) backgrounds.

If, at any time, a convenor has a conflict of interest or is unable to be impartial and free of bias, they must disqualify themselves from convening the conference and notify CPCU which will arrange another convenor. Similarly, if the CPCU identifies a convenor has a conflict of interest or is unable to be impartial and free of bias, the CPCU will arrange a different convenor.

7. Conference participants

Conference participants must include:

- the parents of the child
- ODCPL as the applicant
- a representative from the Child Safety Service Centre for the child/ren which may include the Child Safety Officer and the Team Leader or Manager from the Centre
- a separate representative for the child (if ordered by the court) or / and an officer from OPG.

Conference participants may also include:

- the child (only when they wish to participate)
- if the parties are legally represented, their legal representatives
- parties and non-parties under s113
- if the child is Aboriginal or Torres Strait Islander, a representative from a Recognised Entity for the child
- an officer from the Office of Public Guardian representing a parent with impaired decision-making capacity
- other people who may attend the conference with the convenor's approval e.g. interpreters and support people or agencies. The role of support people is non-participatory unless negotiated otherwise prior to the conference with the convenor.

8. Location of conference

Conferences are held at the courthouse where the application was filed. However, alternative venues may be utilised when the CPCU believes this will provide a more effective conference or the location / room is not suitable. The consideration of an alternative venue will be discussed with the parents and as many attending professionals as possible before a decision is made regarding the alternative venue.

9. Purpose of a conference

The purpose of the conference is to discuss issues in dispute, consider alternatives and try to reach agreement over the action to be taken in the best interests of the child. This includes discussing the specific concerns that are held by DCPL and Child Safety departmental officers, the parents' understanding of and responses to these concerns, the strengths of the family and possible options and strategies to ensure the future wellbeing and safety of the children.

10. Conference process

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The convenor will conduct the conference in accordance with the Queensland Conference Model (see following section). This model provides a checklist which helps ensure that no important elements are missed and promotes a high and consistent standard of dispute resolution service. While the model provides a guide, it is important to remember that the convenor has discretion to adapt this model ensuring the 'Central Concerns' noted above are met.

The CPCU seeks to provide the same quality of service to rural and remote communities. Every attempt will be made to create opportunities for face to face meetings which generally provide the best opportunity for effective discussion and problem solving. The CPCU is committed to considering options for the convenors travelling to remote communities. However, resource limitations may result in the conference being conducted via teleconference.

There are other circumstances that may also dictate that not everyone can physically be present in the room, such as concerns around safety, incarcerated parents, parents in different locations or funding constraints. In these circumstances alternative approaches may be used such as:

- the participation of one or more participants by telephone / video link
- separate conference/s for each parent
- shuttle conferences, where the convenor moves between separately placed parties facilitating discussion.

11. Queensland conference model

1. Preparation
2. Introductions
3. What are you seeking today?
4. Clarify and explore:
 - What's working well? (family strengths, current placement advantages, child)
 - What are we worried about? (Past harm, future danger and complicating factors, current placement disadvantages other concerns)
 - Next steps/Future? (How can the risks be reduced, nature of proposed order, what does the family need to do to demonstrate safety)
5. Negotiation and Agreement
6. Court report and evaluation


12. Responsibilities of the convenor

During the conference, the convenor has the responsibility to:

Document Type: Guidelines
Issue Date December 2020

Version 3.0
Next Review Date December 2021

Team CPCU
EM Approved XX June 2018

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- a) assist all participants to remain focused on the interests of the child
 - b) promote the emotional wellbeing of any child present at the conference
 - c) control the proceeding with appropriate assertiveness
 - d) demonstrate impartiality, objectivity and freedom from bias
 - e) promote a non-adversarial tone
 - f) ensure a procedural fairness that is evident to all parties
 - g) foster respectful interactions
 - h) ensure power imbalances are considered and managed
 - i) manage challenging behaviours
 - j) encourage and enable participants to directly participate and contribute and ensure participants, including the parents, feel heard
 - k) promote common understanding and effective communication through clarification, effective questioning, option generation, reality testing, summarising and identification of common interests and areas of disagreement.
 - l) assist the participants to identify and clarify the facts, opinions and interests of other participants including
 - What is working well?
 - What are the concerns?
 - What needs to happen next?
 - m) facilitate opportunity for negotiation and joint problem solving
 - n) reality test potential decisions thoroughly
 - o) assist parties to develop an agreement, if appropriate.

13. Attendance of a child at a conference

For some children, participation at the conference has potential benefits.³ However, to ensure these benefits are not outweighed by any potential detriment, suitable safeguards should be employed to protect the safety and wellbeing of the child.

A child should attend a conference only after comprehensive intake and assessment has been undertaken by the CPCU.

Immediately before the conference commences, the convenor will meet with the child, their support person (if present) and / or Child Safety departmental officers to:

³ Listening, hearing and acting: Approaches to the participation of children and young people in decision making – a review of the literature, Queensland Government, Department of Child Safety, 2006

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- briefly revisit the discussions covered in the intake process
- answer any of the child's questions
- check whether the child wishes to continue as originally planned, a revised version of that plan or not at all
- assess their current ability to participate.

During the conference, the convenor should be mindful of, and take appropriate action in relation to:

- the potential impact of discussions on the child
- facilitating the child's participation in a meaningful way
- the child indicating, verbally or non-verbally, they wish to leave the conference.
- After the conference the child should be given the opportunity to discuss the experience. This might happen with the support person, the child's lawyer, ODCPL and or Child Safety departmental officers. This debrief is considered part of the conference and consequently falls under the same confidentiality provision.
- Discussion can include:
 - the confidential nature of this discussion
 - what took place
 - whether it was what the child expected
 - whether the child felt they were able to say what they wanted and why that was
 - what decisions were made
 - what those decisions might mean to the child
 - the child's thoughts and feelings about what was said or happened
 - the child's thoughts and feelings about the decisions that were made
 - what might happen next.

Permission should be obtained from the child to share any feedback to the CPCU that might promote future good practice.

Children do not routinely attend conferences. The particular vulnerabilities of the children involved require careful consideration and should inform the decision whether this post conference discussion takes place and with whom.

14. Responsibilities for parents and professionals



Conferences are most effective when all participants:

- remain focused on the best interests of the child
- arrive on time and remain for the whole of the conference
- respect the authority of the convenor
- adopt a non-adversarial approach
- treat other participants respectfully
- are prepared and understand the purpose and process of the conference
- clearly state their point of view, particularly in regard to
 - What is working well?
 - What are the concerns?
 - What needs to happen next?
- are flexible, willing to consider the other participants' options for resolving the protective concerns
- have sufficient level of advice, information and understanding to make decisions
- are familiar with the file materials
- alert the court and / or convenor if they become aware of any safety concerns.

15. Lawyers representing participants - additional responsibilities

Alongside their professional responsibilities to their clients and in addition to responsibilities noted directly above, effectiveness will be maximised when lawyers:

- prepare their clients before the conference about the nature and purpose of the conference including advising their client that the participants will discuss
 - What is working well?
 - What are the concerns?
 - What needs to happen next?
- encourage their client to directly participate and contribute to the process
- assist their client to understand and be open to new solutions that may present themselves during discussion
- endeavour to manage the behavior of the client.

16. ODCPL - Additional responsibilities

In addition to responsibilities for all participants noted above, effectiveness will be maximised where participants from ODCPL

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- have the authority to negotiate future options
- seek any information or other advice that is known or likely to be required prior to the conference
- keep all explanations simple and in 'easy to understand' language
- identify concerns in specific terms, identifying behaviors and how those behaviors specifically create risk factors for the child
- participate in a discussion regarding the strengths within the family
- being open to making decisions in response to proposals put forward by or on behalf of the parents.

17. Evaluation and feedback

The CPCU actively seeks feedback from participants and other stakeholders and is willing to receive this at any time on a formal or informal basis.

At the end of each conference, all participants are invited to fill out a very brief survey of their experience and leave it with the convenor.

The collected feedback enables also statistical analysis of practice and professional development.

When a child has been present or participated in another way in the conference, their feedback will specifically be sought directly as appropriate by the convener after the COC.

In addition, CPCU will contact ODCPL and the court registrars annually to discuss ways of improving the service.

18. Post conference considerations

In accordance with s.72 of the Child Protection Act 1999, as soon as practicable after the conference the convenor will prepare and file in the court a report of the conference. This report will state whether the parties have reached agreement in relation to the child protection application and/or whether there is agreement that the Child is a child in need of protection.

Note: There are currently no Childrens Court Rules which prescribe the particulars to be contained in the report. Section 71 states that anything said at the conference is inadmissible in a proceeding before any court other than with the consent of all the parties.

Copies of the Report will be made and:

- filed with the court in line with s72 of the Child Protection Act 1999
- given to adult participants

- saved electronically to the CPCU file to enable statistical analysis of practice.

Convenor debriefing

CPCU conveners can request a debriefing at any time. This can be done by contacting the CPCU Coordinator or Manager by phone or email to arrange a mutually acceptable time.

The CPCU will contact the convenor to offer support or discuss matters relating to child protection conferences at least 3 times a year.

In addition, CPCU assists convener's upskilling with:

- Peer supervision;
- Quarterly Community of Practice Meetings for convenors and at other appropriate intervals
- Opportunities for feedback;
- Ongoing professional development training.