

Interim Policy on Parenting Hearings Programme

Background

The Family Court is piloting a new process for determining difficult childcare cases, called the Parenting Hearings Programme. The process will be faster and more focused. Cases will be decided ideally within three months and focus more closely on the children's needs and views. The Judge will have a much more proactive role in identifying the issues to be resolved and in deciding the process for doing this.

The new process is based on a model that was successfully trialled by the Family Court of Australia and that became law there in July 2006.

Implementation

The pilot began on 1 November 2006. It will operate in the Auckland, Tauranga, Rotorua, Palmerston North, Wellington and Dunedin Courts. It will run for two years.

Overview of the programme

The process will generally begin when the judge considers the application for day-to-day care and contact parenting orders. It may begin if no solution is reached after counselling or mediation. In both cases, the judge identifies the case as a possible parenting programme matter and sets it down for an urgent first call/judges list within 14 days.

At the first call hearing the judge will make a direction as to whether the matter is in the programme. If it is in the programme, a preliminary hearing follows within 14 days. For a more detailed description of the process, see the appendix to this memo.

Interim Policy

Once the programme is underway, we will review the interim policy, consult with the NZLS, and issue a final policy.

Track one matters

For track one matters:

- Grant Step 1 as usual
- Give high priority to considering an application for an amendment to cover a matter advised to be (or likely to be) within the parenting programme.
- Ensure that the grant is made or the amendment approved before the preliminary hearing date.
- When you receive a request for an amendment, entry into the programme may still be under consideration by the court or may have

been confirmed. If entry is still being considered, the provider and their client will have already been asked to attend an urgent first call/judges list hearing. If entry is confirmed, this means they have attended the urgent first call/judges list hearing.

- Step 2A:
 - - Grant up to 1 hour to prepare for and attend the urgent first call/judges list hearing (i.e. includes appearance).
 - In addition, grant up to 4 hours for preparation up to the preliminary hearing, plus all hearing time,
 - If there are DV issues, grant up to 6 hours plus all hearing time
 - If the hearing is scheduled for more than 3 hours, grant on a ratio of 2 hours preparation to 1 hours hearing.
- Step 3: If there are any unresolved issues after the preliminary hearing, you may approve an amendment to cover a conventional or final hearing. You will need to consider the judge's directions, which sets down the length and the date of the hearing.

Track two matters

For track two matters

- These will enter the programme after a counselling or mediation report (or both).
- Grant Step 1 and 2 as usual
- Give high priority to considering an application for an amendment to cover a matter advised to be (or likely to be) within the parenting programme.
- Ensure that the grant is made or the amendment approved before the preliminary hearing date.
- When you receive a request for an amendment, entry into the programme may still be under consideration by the court or may have been confirmed. If entry is still being considered, the provider and their client will have already been asked to attend an urgent first call/judges list hearing. If entry is confirmed, this means they have attended the urgent first call/judges list hearing.
- Step 2A:
 - - Grant up to 1 hour to prepare for and attend the urgent first call/judges list hearing (i.e. includes appearance)
 - - In addition, grant up to 4 hours for preparation for preliminary hearing, plus all hearing time.
- Step 3: You may approve an amendment to cover a conventional or final hearing. You will need to consider the judge's directions, which sets down the length and the date of the hearing.

Clarification

If providers have any questions about the Parenting Hearing Programme, they should contact their local Family Court.

Appendix – detailed process

How the parenting programme works

1. The pilot will include two types of high-risk parenting cases;
 - urgent applications and other high-risk cases, typically involving domestic violence, abuse or mental health issues
 - cases that have not been resolved through counselling or mediation.

New cases, often applications for urgent relief (Track A)

2. There will be two stages to the entry process –
 - Stage 1: Chambers hearing – At the chambers hearing where the Judge considers making orders on a without-notice application, a case may be identified as a candidate for the process, but is unlikely to be confirmed until Stage 2.
 - Stage 2: Urgent first call / Judge's List – This will be held within 14 days of the chambers hearing. The Judge will make a direction entering the case into the programme. This second stage will serve as a filter for those cases where one or both of the parties (usually the respondent) does not choose to engage or participate in any Court processes.
3. If the case is entered in the Parenting Hearings Programme, the next step is –
 - the preliminary hearing lasts up to 2 hours. This is held within two weeks of the urgent first call. However, the time before the preliminary hearing may be longer if there is a defended application for a protection order. The preliminary hearing is followed by
 - the final hearing, if one is necessary, held within two months of the preliminary hearing.

Cases not resolved by conciliation (Track B)

4. If a counselling or mediation report indicates that there has been no agreement, the Judge will consult with the Family Court Coordinator about whether the case is an appropriate one for the new process. If it's decided that it is an appropriate case, it will be set down in a Judge's List. At the Judge's List, the case will be confirmed for entry into the programme.
5. The next step is then –
 - the preliminary hearing, held within two weeks of that
 - decision to enter the case in the process, followed by
 - the final hearing, if one is necessary, held within two months of the preliminary hearing.

Urgent first call hearing

6. At the urgent first call hearing, the Judge may make directions, including –
- directions for urgent service and for filing any defences and affidavits in sufficient time for the preliminary hearing
 - appointing a lawyer for the child, if one hasn't already been appointed
 - directing the filing of any defence and affidavits, if the case is from Track A (urgent applications)
 - directing the filing of brief statements of proposals, if the case is Track B (no resolution after counselling or mediation)
 - calling for a social worker's report.

Preliminary Hearing

7. At the preliminary hearing the Judge will
- identify the issues to be addressed. The Judge does this after hearing from the parties and their lawyers, and after having an opportunity to question them and hear contributions from the lawyer for the child.

Final hearing

8. Once the Judge has identified the issues to be addressed, the Judge will determine the approach to resolving the issues. This could include discussions, conventional hearings (if there are factual dispute issues), and/or a final hearing.

9. If needed, the final hearing will usually be held within two months after the preliminary hearing. Before the hearing, the Judge will have issues directions regarding the process to be followed, the evidence to be presented, the number of witnesses, the order of cross-examination, and the way the evidence is to be presented. This new approach is intended to do away with lengthy affidavits and witness testimony that may largely be irrelevant, peripheral or historical, or that may be likely to inflame matters without helping the Judge to resolve the issues.