

**NEW GUIDELINES FOR PARTIES AND ASSESSORS IN THE UNDERTAKING OF  
SECTION 47 ASSESSMENTS**

**1. Obligations on the Parties and/or their Legal Representatives**

At the earliest opportunity and, where possible prior to any formal appointment of the Assessor, the parties and/or their legal representatives shall:

- (a) If enquiries are being made as to the availability of an Assessor prior to his/her appointment, bring to the attention of the Assessor the timeframe within which the assessment might be required to be completed;
- (b) Bring to the attention of the Assessor if there is a particular urgency to the commencement of the assessment and the reasons for such urgency. In addition, the parties shall bring to the attention of the Assessor if there are any child welfare concerns and/or domestic violence issues arising or alleged;
- (c) If there is any delay between making the initial enquiries with the Assessor as to his/her availability, and the application coming before the Court, the parties shall confirm the Assessor's availability not more than 2 weeks prior to the Court application date;
- (d) Bring to the attention of the Assessor at the outset, any difficulties in relation to the parties' availability for intended meetings and/or the availability of the child(ren) to be assessed, so that the Assessor can provide a reasonably accurate estimate of the timeframe within which the assessment can be concluded;
- (e) In the event that any difficulty around availability subsequently arises at any time, bring same to the attention of the Assessor immediately;
- (f) The parties shall, where practicable not less than 1 week prior to the hearing date of the application, and in any event prior to the matter coming before the Court, identify and exchange in writing the issues to be addressed in the assessment, a draft letter of instruction to the Assessor, and Orders which it is proposed the Court may be asked to make. Any such agreed issues/proposed Orders (or the respective positions of the parties where no agreement has been reached) shall be provided to the Court in writing at the commencement of the hearing of the application;
- (g) As soon as the formal Order is made, send a copy of the Order to the Assessor;
- (h) After the making of the Order, provide the Assessor at the outset with all relevant contact details (i.e. home address, landline & mobile phone numbers, email addresses) and bring to the attention of the Assessor if either party has

any difficulties with any form of communication (e.g. no email, restrictions on use of work mail etc.);

- (i) Where possible, and subject to any direction of the Court, the parties should seek to agree an initial letter of instruction to the Assessor setting out the issues which the Assessor will be asked to address in the assessment and identifying areas of dispute between the parties;
- (j) The parties should use all reasonable endeavours to comply with the meeting times proposed by the Assessor and any other requirements of the Assessor as envisaged by these guidelines or otherwise. The Court should encourage the parties to attend meetings as arranged.
- (k) In the event that any pleadings from the proceedings and/or any other documents covered by the *in camera* rule are required by the Assessor, the parties shall apply to the Court seeking an Order lifting the *in camera* rule in respect of any such documentation or to have any dispute as to the release of such information adjudicated by the Court at the earliest opportunity;
- (l) The parties shall acknowledge that no documentation (other than documentation requested by the Assessor) shall be furnished by them and/or their legal representatives without the prior agreement of the other party;
- (m) The parties shall acknowledge that any documentation requested by, and provided to, the Assessor by either of them, shall be furnished simultaneously to the other party and/or their legal representatives;
- (n) Where possible, the parties shall put funding in place for the payment of fees at the outset of the process, if necessary through legal representatives and based upon the fee estimate provided by the Assessor. Any difficulty of either party with regard to the funding of a s.47 report should be notified to the other party and/or the Court at the earliest opportunity. The Court should put in place a mechanism for the payment of the Assessor's fees.

## **2. Obligations on the Assessor**

The Assessor shall, at the earliest opportunity, and where possible prior to his/her formal appointment by the Court, provide the following to the parties and/or their legal representatives:

- (a) A CV detailing relevant qualifications and experience, and to include details of the relevant Professional Body membership of the Assessor, together with a note that the Assessor operates to the complaints procedure of their Professional Body.
- (b) Subject to the obligations on the parties below, an approximate timeframe within which the Assessor will be in a position to start and conclude the assessment. While it may not be possible to provide a definitive timetable, the

Assessor is required to provide a reasonably defined timeframe within which the assessment can be concluded and the report finalised.

- (c) Provide the parties and/or their legal representatives with details of the assessment to include:
- i. The likely number of meetings with each of the parties and the likely scheduling of those meetings (within the overall estimated timeframe for the assessment).
  - ii. A breakdown of those meetings to include:
    - The likely number of meetings with the parties individually;
    - The likely number of meetings, if any, with the parties individually and their child. If more than one child, whether meetings with the parties and the children individually or collectively;
    - Meetings, if any, with the child/children alone, and if so, whether individually or collectively;
    - Meetings, if any, with the parties jointly;
    - Any intended meetings with any third party e.g. new partners etc;
    - The intended location of all meetings.

It is acknowledged that the Assessor may not be in a position to provide all of this detail at the outset and that the assessment process may be an evolving one.

- (d) How the Assessor proposes to communicate with the parties during the process, to include:
- whether communication shall be with the parties directly or, where applicable, in whole or in part through their legal representatives;
  - means of communication e.g. by telephone, email, post etc.
- (e) Insofar as the Assessor can reasonably ascertain prior to the commencement of the assessment, specify the documentation, if any, which is to be furnished in advance to the Assessor, in particular any documentation covered by the *in camera* rule.
- (f) If it is the practice of the Assessor to seek reports or other documentation directly from third parties or institutions (e.g. school or medical reports, prior assessment etc.) or to consult with such third parties or institutions, this should be made known to the parties and/or their legal representatives, prior to such steps being taken by the Assessor.
- (g) Provide an estimate of costs for the assessment and the preparation of the report, to include details of the required timing of the payment for the report

and also costs of Court attendance. If the costs estimate provided by the Assessor is likely to be exceeded, the Assessor shall immediately notify the parties with a revised cost estimate.

- (h) In light of the constitutional amendment in respect of Children's rights, the Assessor in his/her report shall, where appropriate, indicate how the voice of the child to whom the proceedings relate has been heard;
- (i) The Assessor should endeavour to be clear in his/her findings having considered all relevant and substantive issues raised by both parties and should seek to identify those relevant and substantive issues in his/her report;
- (j) Any report prepared by the Assessor is a report for the Court and shall be provided by the Assessor only to the relevant Court/Court Office. The release of any report to the parties is solely a matter for the relevant Court.

### **3. General Matters**

- (a) Subject to the Court, it is acknowledged that the Assessor shall have general responsibility for, and authority over, the management of the assessment process;
- (b) The Assessor shall endeavour to accommodate all of the reasonable requirements of the parties in terms of the conduct of the assessment but it is a matter ultimately for the Assessor to determine appropriate arrangements to ensure that the assessment is conducted in a fair, efficient and expeditious manner;
- (c) The Assessor should have the facility to provide an interim report to the Court should the Assessor believe that to be necessary (e.g. to recommend on interim custody/access issues, where the Assessor is encountering difficulties with one or both of the parties where there is evidence of abuse to a child requiring immediate Court intervention etc.);
- (d) Subject to the relevant statutory provisions and to the ultimate authority of the Court, the Assessor may express a view to the Court as to whether all or part of report may or may not be suitable for release to the parties directly and may make recommendations to the Court in that regard;
- (e) The Assessor may express a view as to whether it may be appropriate for the Court to consider the appointment of a second or other Assessor (whether simultaneously or sequentially) in light of the particular needs of the case and, if so, should specify the reasons why that may be appropriate;

### **4. Matters for Consideration by the Court**

- (a) Once a s.47 Report has been ordered, it is recommended that the Court should keep the relevant application in the Court list for mention to review

when the s.47 Report will be concluded and, if there is any delay in concluding the assessment, what steps may need to be taken to ensure that the s.47 Report can be completed within a timeframe appropriate to the circumstances of the case.

- (b) Make Orders/Directions which the Court believes can assist the process, including:
- i. A direction that the parties shall comply with all reasonable requirements of the Assessor to enable the efficient conduct of the Assessment, if so required;
  - ii. Lifting the *in camera* rule in respect of specified documents to be provided to the Assessor;
  - iii. Where appropriate, identify in the Order specific issues which the Court would wish the Assessor to address;
  - iv. That the s.47 Report shall be provided by the Assessor only to the Court;
  - v. How the costs of the assessment and report are to be borne as between the parties.
  - vi. If appropriate, confirm that all relevant matters are governed by the *in camera* rule.'