

CAYMAN ISLANDS



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PRACTICE DIRECTION No. 10/2014
(GCR O.1, r.12)

(Section 9(4) of the Children Law (2012 Revision))
COURT WELFARE OFFICER'S REPORTS



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COURT WELFARE OFFICER'S REPORTS

1. Duties of reporter

- 1.1 Where the court directs an enquiry and report by a court welfare officer¹, the Children Law provides² that it is the function of that officer to assist the court by investigating the circumstances of the child, or children, concerned and the important persons in their lives, to report what he sees and hears, to offer the court his assessment of the situation and, where appropriate to make a recommendation. In such circumstances, it is not the role of the welfare officer to attempt conciliation, although he may encourage the parties to settle their differences if the likelihood of a settlement arises during the course of his enquiries.
- 1.2 The report must be filed by the court welfare officer at the court by or on the ordered date. If exceptional circumstances necessitate an extension of time to enable completion of the report, the welfare officer must make a timely written request to the court. The court welfare officer, in his written request for an extension of time to file the report, shall set out detailed reasons why this is required, the date that the case was allocated to the court welfare officer and the requested new date for submission. It is not to be assumed that an extension will be granted and the welfare officer must proceed to meet the deadline unless and until the judge grants the extension.
- 1.3 Where in the course of preparing a report in private law proceedings, the court welfare officer becomes aware that a child may have been abused, the reporter is not fettered from exercising his independent discretion in reporting his findings to the Department of Children and Family Services or to the police. However, he must inform the judge of the steps he has taken at the earliest opportunity so that the judge can consider the impact of the development and the need for consequential directions

2. Confidential nature of the report

- 2.1 The following wording must be boldly endorsed on all court welfare reports filed in Family Division proceedings and on all copies which are supplied to the parties and their attorneys.

“This report has been prepared for the court and should be treated as confidential. It must not be shown nor its contents revealed to any person other than a party or a legal adviser

¹ A social worker, employed by the Department of Children and Family Services or such other person as the Department considers appropriate.

² Section 9 of the 2012 Revision which also (in subsection (4) provides that it shall be the duty of Department of Children and Family Services to comply with the direction of the Court.

to such a party. Such legal adviser may make use of the report in connection with an application for legal aid.”

3. General considerations when requesting a court welfare officer’s report

- 3.1 When a report is ordered, the court shall promptly complete a written Referral Form³ which shall be promptly submitted to the Department of Children and Family Services. The Referral Form shall contain a very brief note of the background to the case, details of the order/directions made at the time of the referral, the required submission date for the report and an indication whether the court welfare officer is required to attend the hearing. Subject to any order that the court may make, if a party no longer requires the attendance of the court welfare officer at the hearing he must notify the court at least five clear working days prior to the hearing.
- 3.2 The court shall specify in the Referral Form those matters on which the report is to be made.
- 3.3 Such specifications will not prevent the reporting officer from bringing to the notice of the court any other matters which he considers that the court should have in mind.
- 3.4 The court when submitting the Referral Form to the Department of Children and Family Services shall attach a copy of the Background Information Form⁴ to facilitate the court welfare officer in making initial contact with the parties.
- 3.5 Before ordering a report, the court should balance the need for a report against the effect of delay caused by the preparation of the report.
- 3.6 In deciding whether a report should be ordered, consideration should be given to:
 - (a) determining what issues require a report and how important they are;
 - (b) whether these issues are likely to be resolved by mediation. If they can, the court should consider whether a decision on ordering a report should be postponed until mediation has taken place;
 - (c) whether the report is likely to produce factual information which the court needs to resolve the issues;
 - (d) whether the court, depending on the nature of the issues involved, needs professional advice;
 - (e) what delay will the preparation of the report cause and how detrimental would that be; and
 - (f) whether it is appropriate to delay a decision on whether to order a report.

³ Appendix 1

⁴ Appendix 2

3.7 Bearing in mind that contested Children Law cases often take several days to be heard, in cases where the attendance of the reporting officer is required, the parties shall agree a convenient date and time for the reporting officer's attendance before the court.

Dated this 2nd day of May 2014

The Hon. Anthony Smellie, QC
Chief Justice

APPENDIX 1

REFERRAL FORM – COURT WELFARE OFFICER’S REPORT

For the Attention of: **The Cayman Islands Department of Children and Family Services**

Please note: Section 9 (4) of the Children Law (2012 Revision) provides that “it shall be the duty of the Department to comply with any request for a report under this section.”

Cause No /201

Judge:

Applicant:

Respondent:

Child: (DOB) –Aged - Male/Female

Referred to: Investigative Counselling

Report on issue of requested:

TO BE FILED NO LATER THAN _____ – No extensions will be given without permission of the Court, to be granted only upon written application to the Court by the Court Welfare Officer

Interim Special Request Comprehensive

Order:

- (1) *(directions and orders made)* .
- (2)
- (3)
- (4)
- (5) The reporting officer(, *who will be notified of the date,*) is to attend the final hearing(*at am/pm on day of 201*) of this matter unless notified otherwise by the Court.
- (6) The parties are to notify the Court by no later than 5 working days prior to the final hearing if they do not require the Reporting Officer to attend the hearing.

Further Details:

(set out brief background)

The Court seeks a report in relation to

The Welfare officer is requested to

Report ordered by:

Date: day of 201

