

Chinese Translation**PRACTICE DIRECTION – 15.13****Children's Dispute Resolution**Introduction

1. A Pilot Scheme on Children's Dispute Resolution ("the Pilot Scheme") was carried out in the Family Court from 3 October 2012 to 31 March 2016.
2. The aim of the scheme is to support mothers and fathers, so that they are able to effectively parent their children post separation or divorce. The intention is to ensure that whilst the best interests of children remains the court's paramount concern, that lasting agreements concerning children are obtained quickly and in a less adversarial atmosphere. The focus is therefore on the children's best interests together with the duties and responsibilities of their parents.
3. After evaluation and consultation, it is decided to adopt the procedure in the Pilot Scheme, with some modifications to [Form J](#), as standard practice. This Practice Direction is to set out the standard practice in the Family Court upon completion of the Pilot Scheme.
4. This practice direction is to be read in conjunction with [Practice Direction 15.11](#) i.e. the Financial Dispute Resolution Pilot Scheme ("FDR"). It will apply to all children matters commenced in the Family Court, where there is a dispute save for any matters arising out of an adoption.
5. The process described in this Practice Direction will be mandatory in the Family Court. The court may of its own motion or on the application by one or either or both of the parties direct that it shall not apply.

Children's Appointment

6. Upon the filing of:
 - i) an Acknowledgment of Service form, a Form 4 or a Joint Application and where it is clear that there is a dispute over children; or
 - ii) a summons or an originating summons in relation to the arrangements for children;the court may either direct that a Children's Appointment ("CA"), be heard at the same time as the First Appointment under PD 15.11 or in the case of an urgent application allocate an earlier date in the first instance. Notice of a CA shall be by way of the notice annexed to this PD as [Form I](#).
7. Save for any affirmation/affidavit filed in support of a summons, no further affirmations/affidavits shall be filed by either party without leave of the court.

8. The Applicant shall serve a copy of the [Form I](#) on the respondent.
9. 14 days prior to the CA, or otherwise as directed, each party shall file at court and simultaneously exchange:
 - i) the Children's Form, annexed to this PD as [Form J](#);
 - ii) a concise statement of issues relating to the children.
10. In the event that the CA is not heard at the same time as the First Appointment the parties shall also 14 days prior to the CA or otherwise as directed, deliver to court and simultaneously exchange
 - i) a brief chronology;
 - ii) a list of orders and directions sought.
11. No later than 4 p.m. on the last working day prior to the CA, each party shall exchange with each other and deliver to the court a cost estimate in relation to the children's arrangements, in [Form H](#), save where the CA is heard at the same time as the First Appointment and a cost estimate has already been filed for the hearing.
12. At the CA the Judge, with a view to defining the specific issues in dispute in relation to the children shall give directions, if necessary, for the filing of:
 - i) a Social Investigation Report (SIR) and/or an International SIR (with or without recommendations)
 - ii) other expert's reports (e.g. psychologist's reports)
 - iii) limited affirmations/affidavits from the parents (i.e. limited to the issues in dispute and only if necessary)
 - iv) limited affirmations/affidavits from other third parties.

The Judge may also

- v) appoint the Official Solicitor/Guardian ad litem to separately represent the child and request a report if necessary.
- vi) make orders in relation to custody and access, including interim orders and orders for supervision.
- vii) adjourn any matters relating to the children for mediation, collaborative practice, negotiation or sine die.
- viii) where he/she decides that a referral to a Children's Dispute Resolution hearing ("CDR") is not appropriate, direct and fix a date for a further directions hearing or trial.

ix) direct the attendance of the Social Welfare Officer or any other person at the hearing of the CDR if deemed appropriate.

x) direct that the parties attend counseling, a parenting education programme and/or direct any other form of third party intervention that may assist the parties.

xi) where a child has requested to see the Judge and/or a Judge deems it appropriate, direct that a judicial interview shall take place.

13. Not less than 14 days prior to the CDR, or otherwise as directed, the parties shall file and exchange a detailed Statement of Proposals relating to the future arrangements for the children.

The Children's Dispute Resolution Hearing

14. The parties shall be notified of the CDR hearing by way of the notice annexed to this PD as [Form K](#) which shall be served by the applicant on all parties concerned.

15. The Judge will act in the role of a conciliator. The parties shall attend the CDR hearing. The attendance of any other persons, including the Social Welfare Officer, must be specifically directed by the Judge at the CA. The Judge may talk to the parties directly and not only through the parties' lawyers.

16. The same Judge will conduct both the CDR hearing and the FDR hearing at separate hearings. As a CDR hearing is not privileged the same Judge may hear the child related matter at trial if settlement is not achieved in the meantime.

17. Therefore anything said or any admission made in the course of the CDR hearing shall be admissible as evidence in trial.

18. Parties attending the CDR hearing shall use their best endeavours to reach an agreement on all relevant matters pertaining to the children.

19. The CDR hearing may be adjourned from time to time. At its conclusion the court may make such orders as have been agreed or as it deems appropriate.

20. No later than 4 p.m. on the last working day prior to the CDR hearing, each party shall exchange with each other and deliver to the court a cost estimate in relation to the children's arrangements, in [Form H](#).

The Trial

21. In the event that settlement is not achieved the court shall give directions for the future conduct of the proceedings, including where appropriate, the fixing of a Pre-trial Review or final hearing date before the same Judge.

22. The Judge may also direct inter alia that further evidence be filed, including updated affirmations/affidavits from the parents and/or third parties, updated reports from the Social Welfare Officers and updated reports/reports from other experts.

23. 14 days prior to the trial both parties shall file and exchange an updated and detailed Statement of Proposals relating to the future arrangements for the children.

24. Both parties shall personally attend all hearings unless the court otherwise directs.

25. No later than 4 p.m. on the last working day prior to the trial, each party shall exchange with each other and deliver to the court a cost estimate in relation to the children's arrangements, in [Form H](#).

26. This Practice Direction supersedes the previous Practice Direction 15.13 on Children's Dispute Resolution Pilot Scheme dated 23 July 2012 and 27 September 2015.

27. This Practice Direction shall take effect on 1 April 2016.

Application and extent

28. The procedure under the Practice Direction would apply to all new disputes relating to children arising out of a Petition, Form 4, Joint Application, summons or originating summons filed on or after 3 October 2012.

Dated this 4th day of March 2016.

(Geoffrey Ma)

Chief Justice

[FORM I](#)

[FORM J](#)

[FORM K](#)