Children's Court of New South Wales

NGO LEGAL PRACTICE FORUM
POST FORUM PODCAST INTERVIEW

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PRESIDENT OF THE CHILDREN'S COURT OF NSW

"THE CARE AND PROTECTION JURISDICTION OF THE CHILDREN'S COURT OF NSW"

INTRODUCTION

1. I presented a paper to the 2014 NGO Legal Practice Forum at the Woolcock Centre, Glebe on Thursday 14 August 2014. I was asked to provide information regarding the Care jurisdiction of the Children's Court of NSW to assist those working in and for non-government organisations (NGO's)[1] involved in the child protection system of New South Wales.

2. As a follow-up to that presentation, I have been asked to participate in a recorded audio interview to be produced by DFaCs for the purpose of creating a downloadable audio podcast as part of the NGO Training Program.

3. I have been provided with a list of questions to address during the course of the interview.

4. Set out below are my tentative responses to that series of questions.

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[1] I acknowledge the considerable help and valuable assistance in the preparation of the paper provided by the Children's Court Research Associate, Paloma Mackay-Sim.

Question 1

There is no question 1.

Question 2: Becoming a judge in the Children's Court

I did not apply to be appointed to the Children's Court. Early in 2012 I was telephoned by the Attorney-General who asked me to take on the role of President of the Children's Court. At that time I had been a District Court judge for about 6 years. The Act stipulates that the President must be a District Court Judge, and the previous president's term was about to expire. I said to the Attorney, "Why me? I haven't really done such a great job bringing up my own children." I had very little exposure to children's law, but did have considerable experience in organisational management, and I decided that the role presented a fresh challenge and an opportunity to make a difference in an area of significant community need.

The Children's Court of NSW consists of a President, 13 specialist Children's Magistrates and 10 Children's Registrars. It sits permanently in 6 locations, and conducts circuits on a regular basis to country locations across NSW.

Question 3: Decision-making undre the *Care Act*

The Children's Court is vested with its Care jurisdiction by the *Children and Young Persons (Care and Protection) Act* 1998 (the *Care Act*), which governs all aspects of care and protection in New South Wales. The *Care Act* contains an inextricable mixture and combination of both judicial and administrative powers, duties and responsibilities. It is often difficult to precisely discern where the Department's powers and responsibilities begin and end as opposed to those of the Court. In summary, however, the Act establishes a regime under which the primary, and ultimate, decision-making as to children rests with the Court.[2]

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[2] Report of the Special Commission of Inquiry into Child Protection Services in NSW, November 2008 (the "Wood Report") at 11.2.

Question 4: Standard of proof in Care cases

The standard of proof in care matters is on the balance of probabilities: s 93(4) of the *Care Act*. This means that unlike in a criminal case, matters of disputed fact do not have to be proved beyond reasonable doubt. That means for example, that allegations of harm or unacceptable risk of harm to children do not have to be proved to that high standard. It is sufficient if the Children's Court considers that more probably than not what is alleged occurred. It must be more than a possibility, but it does not have to be proved beyond reasonable doubt.

Question 5: Realistic possibility of restoration

One of the key concepts in the *Care Act* is that of a realistic possibility of restoration.

The phrase involves an important threshold construct, which informs the permanency planning that is to be undertaken in respect of any child that has been removed or assumed into Care. In many of the contested cases that come before the Children's Court the central issue for determination is often whether there is a realistic possibility of restoration of the child to the parent(s).

It is for the Secretary to make the assessment: s 83(1). It is for the Court to decide whether to accept that assessment: s 83(5). If the Court does not accept the assessment it may direct the Secretary to prepare a different permanency plan: s 83(6).

Regard must be had to two matters:

a) the circumstances of the child or young person, and

b) the evidence, if any, that the child or young person's parent(s) are likely to be able to satisfactorily address the issues that have led to the removal of the child or young person from their care.

There is no statutory definition of the phrase ‘realistic possibility of restoration’. And, until recently, there had been no judicial consideration of what it entailed. The leading superior court decision in respect of the phrase “realistic possibility of restoration” is *In the matter of Campbell* [2011] NSWSC 761, a decision by Justice Slattery.

I have discussed the relevant principles in a number of judgments including *DFaCS (NSW) re Amanda & Tony* [2012] ChC 13 at [29] - [32] and *DFaCS re Oscar* [2013] ChC 1 at [29] - [34]. The principles may be summarised as follows:

- A possibility is something less than a probability; that is, something that it is likely to happen. A possibility is something that may or may not happen. That said, it must be something that is not impossible.

- The concept of realistic possibility of restoration is not to be confused with the mere hope that a parent's situation may improve. The possibility must be 'realistic', that is, it must be real or practical. The possibility must not be fanciful, sentimental or idealistic, or based upon 'unlikely hopes for the future'. It needs to be 'sensible' and 'commonsensical’.

- It is at the time of the determination that time the Court must make the assessment. It must be a realistic possibility at that time, not merely a future possibility.

- It is going too far to read into the expression a requirement that a parent must always at the time of hearing have demonstrated participation in a program with some significant "runs on the board": *In the matter of Campbell* [2011] NSWSC 761 at [56].

- There are two limbs to the requirements for assessing whether there is a realistic possibility of restoration.

The first requires a consideration of the circumstances of the child or young person. The second requires a consideration of whether the parent(s) are likely to be able to satisfactorily address the issues that have led to the removal of the child or young person from their care

- The determination must be undertaken in the context of the totality of the Care Act, in particular the objects set out in s 8 and other principles to be applied in its administration, including the notion of unacceptable risk of harm.

Question 6: Permanency plannning

The Court cannot make a final Care order unless it has considered the Secretary's Care Plan: s 80, and is expressly satisfied that the permanency planning has been appropriately and adequately addressed: s 83(7).

Permanency planning means the making of a plan that aims to provide a child with a stable, preferably permanent, placement that offers long-term security and meets their needs.

The permanency plan will generally consist of any Care Plan that has been prepared by the Secretary or on his or her behalf, together with details of other matters about which the Court is required to be satisfied: s 80. It may also include other documents, such as undertakings to be given to the Court by a parent or a proposed carer.

The plan must set out the proposed allocation of parental responsibility, the kind of placement proposed and how it relates in general terms to permanency planning, proposed arrangements for contact between the child and his or her parents, relatives, friends and other relevant persons, the services that need to be provided to the child or young person and the agency designated to supervise the placement in out-of-home care.

If it is proposed that the child be placed in out-of-home care, the child or young person is entitled to a safe, nurturing, stable and secure environment.

Unless it is contrary to his or her best interests, and taking into account the wishes of the child or young person, this will include the retention by the child or young person of relationships with people significant to the child or young person, including birth or adoptive parents, siblings, extended family, peers, family friends and community.

Decisions concerning out-of-home care placement of children in need of care and protection are not decisions that the Court takes lightly or easily. A risk assessment is required in accordance with the principle that the safety, welfare and well-being of the children are paramount. It is now well settled law that the proper test to be applied is that of "unacceptable risk" of harm to the child: *M v M* [1988] HCA 68 at [25].

The Court is also guided by the theory of attachment when making decisions about the care and protection of children. The Court is cognisant of the critical importance of socialisation and the formation of secure attachments in infancy and early childhood. It is vital that the Court avoids a situation where a child or young person is placed in a succession of different placements.

The permanency plan need not provide details as to the exact placement but must provide sufficient detail to enable the Court to have a reasonably clear understanding of the plan: s 83(7A).

There is, however, ongoing debate as to what is meant by "sufficient detail" in the context of approval by the Children's Court of permanency planning under s 83(7). This is not the time or place to wrestle with that issue in any detail, but the Children's Court is having ongoing discussions with the Director, Legal Services, DFaCS with a view to formulating, if not a set of principles for a consistent approach, then agreement as to typical scenarios that do arise.

Question 7: Improvements in permanency planning

The areas that in my view could be better addressed in permanency planning include the cultural planning, particularly for Aboriginal children.

Question 8: Parental responsibility

In addition to setting out the kind of placement proposed, the permanency planning must set out the allocation of parental responsibility.

The term parental responsibility means all the duties, powers, responsibilities and authority which, by law, parents have in relation to their child(ren): s 3.

Before the Court can make final orders in relation to the allocation of parental responsibility, it must consider the Care Plan presented by the Secretary: s 80.

The Court is also required to give particular consideration to the principle of the least intrusive intervention, and be satisfied that any other order would be insufficient to meet the needs of the child: s 79(3).

The Children's Court may, however, make a variety of orders, including the allocation of parental responsibility, or specific aspects of parental responsibility: s 79(1).

The specific aspects of parental responsibility that might be separately or jointly allocated are unlimited, but include residence, contact, education, religious upbringing and medical treatment: s 79(2).

For example, the Court can allocate complete responsibility to the Minister, or allocate only some aspects to the Minister and other aspects to the parent(s), or some other person. Or it might make orders for shared responsibility between the Minister and others: s 81.

Parental responsibility might be allocated to some other person such as the permanent out-of-home carer.

But if sole parental responsibility is allocated to the Minister, he or she is required, so far as is reasonably practicable, to have regard to the views of the person(s) who previously had parental responsibility, such as the birth parent(s): s 81(2).

Question 9: The geographical reach of the Children's Court

The President and 7 of the Children's Magistrates are permanently located at Parramatta; two Children's Magistrates are permanently located at Glebe (Bidura) and one at each Broadmeadow, Woy Woy, Port Kembla and Campbelltown.

Specialist Children's Court Magistrates also sit regularly at circuit locations. The Children's Court now effectively operates four Country Care Circuits, pursuant to which specialist Children's Court Magistrates hear Care cases at specified country locations: Northern Rivers, Mid-North Coast, Dubbo/Orange and the Riverina. The Country Care Circuit Roster details the standard sitting arrangements for these regions, which include Wyong, Nowra, Bourke, Kempsey, Orange, Griffith, Albury, Wagga, Port Macquarie, Coffs Harbour and Lismore.

The President and Children's Magistrates regularly visit other country locations to hear cases on an as needed basis pursuant to the operation of the Children's Court Country Assistance Protocol. Under this protocol, Local Courts are able to seek the assistance of the President of the Children's Court to allocate a Children's Magistrate to hear complex cases requiring specialist knowledge, matters that are likely to exceed time standards or matters that require a lengthy hearing that might otherwise disrupt the local list.

The capacity for audio visual links, digital recording, and telephone conference facilities allows the Children's Court to deal with cases in the one location more efficiently.

Thus, some 80% of Care cases involving children in the state are now dealt with by the President and the specialist Children's Magistrates. The other 20% of children's cases are conducted by Local Court Magistrates exercising Children's Court jurisdiction in other locations under an inter-dependent and collaborative relationship that exists between the Children's Court and Local Court. Importantly, newly appointed magistrates have the opportunity to spend several months in the Children's Court at Parramatta before commencing their country rotation.

Question 10: The specialist nature of the Children's Court

The Children's Court differs from mainstream courts in a number of ways.

So far as Care proceedings are concerned, they are to be conducted with as little formality and legal technicality as the circumstances permit: s 93(2). The proceedings are not to be conducted in an adversarial manner: s 93(1).

Thus, the Court is both empowered and required to proceed with an informality and a wide-ranging flexibility that might be thought not entirely appropriate in a more formally structured court setting and statutory context, provided ordinary common sense fairness is applied in the particular case.

Because the proceedings are not adversarial, parties are expected to be open and transparent, so that for example, it would be inappropriate to hide a relevant document, or to ambush a party with material not disclosed as part of the pre-trial procedure.

The Court is not bound by the rules of evidence, unless it so determines: s 93(3). This means that the Children's Court can, and often does, admit evidence that might be excluded in a criminal case, such as hearsay evidence or secondary evidence, such as a copy of a document rather than the original. The Court is also much more relaxed about the way in which evidence is presented, and in affidavits will accept material that is in a narrative form, or in the third person rather than direct speech.

Also, the Court is more prepared to allow evidence even if the author is not available to give evidence, subject to that evidence being accorded perhaps lesser weight. This might include, for example, a medical report where the doctor does not appear personally to be cross-examined.

Care proceedings are conducted in a closed court: s 104B and the name of any child or young person involved, or reasonably likely to be involved, whether as a party or a witness must not be published: s 105(1) (subject to exceptions). This publication prohibition extends to any information, picture or other material that is likely to lead to identification: s 105(4).

Question 11: Alternative dispute resolution in Care cases

Over the past few years, the Children's Court has initiated and entrenched Alternative Dispute Resolution (ADR) processes in Care cases, principally the Dispute Resolution Conference (DRC).

The DRC is an informal meeting conducted by a trained and experienced Children's Registrar. The usual DRC runs for around two hours, and each of the parties attends together with their legal adviser. The role of the Children's Registrar is both facilitative and advisory.

The process involves a pre-trial less formal opportunity for parties to reach an agreed position in relation to a dispute without the need for a formal hearing. Due to the confidential nature of the DRC, those involved can more readily state their position and place before the other parties what their position is, and why, in a less rigid, less intimidating environment than the formal final hearing if that becomes necessary.

This mediation process has brought about a significant cultural shift that has impacted on cases in the Court. An independent evaluation has found high levels of participation and satisfaction. Family members involved have generally found the process to be useful and they felt they were listened to and treated fairly. Approximately 80% of mediations conducted have resulted in the child protection issues in dispute being narrowed or resolved.

Question 12: ATSI principles in the *Care Act*

The *Care Act* contains specific provisions designed to empower Aboriginal families involved in Care proceedings. These are called the Aboriginal and Torres Strait Islander principles, and are set out at sections 11, 12 and 13.

These principles specify that Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children and young persons with as much self-determination as is possible.

Aboriginal and Torres Strait Islander families, kinship groups, representative organisations and communities are to be given the opportunity to participate in decisions made concerning the placement of their children and young persons and in other significant decisions made under this Act that concern their children and young persons: s 12

Where possible, any out-of-home placement of an Aboriginal child is to be with a member of the extended family or kinship group.

If that is not possible, the Act provides for a descending process of placement with an appropriate Aboriginal and Torres Strait Islander carer before, as a last resort, placement with a non-Aboriginal and Torres Strait Islander carer: s 13.

In summary, the order for placement is with:

a) a member of the child's extended family or kinship group, as recognised by the community to which the child belongs,

b) a member of the community to which the child belongs,

c) a member of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child's usual place of residence,

d) a suitable person approved by the Secretary after specified consultations.

A permanency plan for an Aboriginal or Torres Strait Islander child must address how the plan has complied with the requirements of s 13 as to placement.

Question 13: Cultural planning

The Children's Court is increasingly concerned as to the over-representation of Aboriginal children in the justice system. In the Children's Court, this over-representation is manifested in both the youth crime jurisdiction and in the care and protection jurisdiction.

The Court is undertaking a number of inter-related activities to attempt to address this problem. This includes developing a Koori Court model for the sentencing of Aboriginal children.

In the Care jurisdiction, the Court is increasing the focus on cultural planning and support for Aboriginal children and families. In 2011-2012, Aboriginal and Torres Strait Islander children were almost 8 times as likely to be the subject of substantiated child abuse and neglect as non-indigenous children (rates of 41.9 and 5.4 per 1,000 children respectively).[3]

It is vitally important that when making decisions about a child to examine the issue of culture.

Understanding culture helps the Court to understand that our perception of difference will often inform our interactions with others.

By acknowledging the impact of culture, we can ensure that we do not allow difference to inappropriately affect or impact upon outcomes:

"…culture is perhaps the most basic issue for child abuse and child protection. It is the context in which children live and something to which they contribute. It is the backdrop against which all circumstances and events affecting children occur. It provides the basis for both our definitions of abuse and neglect and the responses we have developed to protect children and prevent abusing acts from occurring and recurring[4]".

Some of you will be aware of remarks I have made in recent cases as to the inadequacy of the cultural plans contained within the permanency planning presented to the Children's Court in respect of Aboriginal Children. For example, in my decision in *Director-General of DFaCS and Gail and Grace* [2013] NSWChC 4, I made the following remarks at [94] - [95]:

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[3] 'Child Protection Australia: 2011-2012', Australian Institute of Health and Welfare, *Child Welfare Series* no 55, Cat. No. CWS 43, Canberra, p.16. *Please note: this data should be interpreted with caution due to the high proportion of children whose Indigenous status was unknown in Western Australia, Tasmania and the Australian Capital Territory.*

[4] Gough, D and Lynch, MA (2002) 'Culture and Child Protection', *Child Abuse Review*, 11, pp.341-344 at 341

”The Aboriginal and Torres Strait Islander Principles are in the *Care Act* 1998 for good and well-documented reasons that do not need to be traversed anew in these reasons. They are to be properly and adequately addressed in all permanency planning and other decisions to be made under the Act and in matters coming before the Children's Court.

I wish to place on record that this Court is increasingly frustrated by the lack of cultural knowledge and awareness displayed by some caseworkers and practitioners in their presentation of matters before it. The time has come for a more enlightened approach and a heightened attention to the necessary detail required, which may require specific training and education by the agencies and organisations involved.”

I am pleased to report that we have formed a working party in the Children’s Court which is developing some agreed standards and a standard template for cultural plans to be included in permanency planning for Aboriginal children involved in Care proceedings, with a view to enabling cultural planning to become a standard and meaningful part of the process. The working group has representatives from the Aboriginal Services Branch of DFaCS, AbSec, the Aboriginal Legal Service and of course the Court.

The template will provide for a minimum set of topics to be covered by the cultural plan, including for example, details as to country, nation, language group, totems, community links and organisations. The plan will then set out what is intended for the child in terms of learning about their origins, learning their language, participation in cultural events, cultural planning and other relevant detail.

Question 14: Cultural planning template

I am hoping this template will be available soon. In the meantime, the AbSec Aboriginal Consultation Guide will be a highly helpful tool for caseworkers and lawyers involved in preparing Care Plans for Aboriginal children. It is online unde the AbSec website.

Question 15: The role of the clinician

The Children's Court Clinic (the Clinic) is an important resource in Care proceedings. It provides specialist clinicians, including psychiatrists, psychologists, and other experienced child care specialists, to conduct clinical assessments of children and others such as parents and relatives.

Clinicians observe the protagonists over a period of time, interview parents, children and others in detail and on different occasions, in neutral or non-threatening environments, away from courts and lawyers, untrammelled by court formalities and processes, clinicians can provide the Court with insights and nuances that might not otherwise come to its attention.

Question 16: The importance of clinical evidence

Clinic assessments are of great assistance to the Court, which can derive considerable assistance from an Assessment Report. In addition to providing independent expert opinion, the Clinician can provide a hybrid form of factual evidence not otherwise available. A clinician can provide impartial, independent, objective information not contained in other documents, give context and detail to issues that others may not have picked up on.

Question 17: The use of the clinical report in subsequent casework

The report of the Clinician can also inform and guide ongoing casework for the child. For that reason I would like to see these reports being made available to NGO caseworkers after the court proceedings have concluded. Care needs to be taken in cases where, for example, the Clinician's views have been criticised in the court proceedings, or as in some cases, rejected.

What I have suggested is that the reports could be redacted before release, to omit or block out any sensitive material, leaving for the guidance of caseworkers the clinical evidence relating to the child and any particular therapeutic issues.

Question 18: Expert evidence – Conclaves and concurrent evidence

The receipt of expert evidence in the future will be enhanced by procedures designed to simplify conflicts, such as conclaves and concurrent evidence.

The idea of a conclave is that the various experts, say for example the several doctors who have been involved in the treatment or assessment of a parent or a child, get together before the hearing, and they reach agreement on as much as possible, and then identify only those matters on which they disagree, leaving that for the Court to decide. Sometimes this might lead to the preparation of a joint report.

Concurrent evidence involves all the experts being in the witness box at the same time, rather than the traditional means of giving evidence one after another. The advantages include the ability to focus on one issue at a time, and the capacity for each expert to comment on the other, or even to ask questions of each other.

Question 19: Variation or rescission of Care orders: s 90

Applications can be made to the Court after final Care orders for variation or rescission of those previous Care orders. This is a topic that will increasingly engage those working in or for non-government organisations with out-of-home care responsibilities.

These sort of applications commonly arise when for example a placement breaks down, or the child self-locates.

Other common reasons for applications include situations where a mother whose child was removed because of drug addiction, comes to the Court seeking restoration on the basis that she has abstained from drug-taking for a significant period and no longer presents an unacceptable risk of harm to her child(ren).

Often the catalyst for a s 90 application is a s 82 report that indicates some ongoing problem with the placement.

Question 20: The nature of appplications under s 90

Such applications first require the party to obtain leave from the Court, which will only be granted if there has been "significant change in any relevant circumstances" since the original order: s 90.

What is meant by a relevant circumstance? One has to look at the range of issues raised, and not just a single episode or a 'snapshot' of events occurring since the original order. What is meant by a significant change? It will not be something minor, trivial or once off, but must be something that could justify a consideration of whether the existing orders should be changed.

Even if the Court is satisfied that a significant change in relevant circumstances has been established, it won't immediately grant leave. It will then proceed to consider additional mandatory considerations in determining whether to grant leave: s 90(2A); including:

- The age of the child or young person
- The length of time for which the child or young person has been in the care of the present carer
- The plans for the child
- Whether the applicant has an arguable case

Once leave is granted, another set of requirements that must be taken into account in determining whether the previous orders should in fact be varied or rescinded: s 90(6). They include:

- The wishes of the child and the weight to be given to those wishes
- The strength of the child's or young person's attachments to the birth parents and the present caregivers
- The capacity of the birth parents to provide an adequate standard of care for the child or young person
- The risk to the child or young person of psychological harm if present care arrangements are varied or rescinded

Question 21: Reports to the Court under s 82

The Court and the parties will commonly require the provision of a s 82 report in order to satisfy itself that the placement is working satisfactorily, or that other issues identified in relation to the child are being appropriately addressed.

While the Court understands that such reports will be prepared by NGO's, the Department cannot delegate its primary responsibility for complying with the Court order requiring such reports. Thus, as one Children's Magistrate recently made clear, it was not good enough just to send a s 82 Report to the Court without an express adoption or approval of the report on behalf of the Secretary.

Non-compliance with the order, including lateness, is a breach, which is prima facie contempt of Court.

Question 22: Release of s 82 reports to non-parties

The release of a s 82 report is a matter for the individual judicial officer who made the order, to be exercised as a matter of discretion. As a matter of policy, however, I support the distribution of the report to all interested parties, including the NGO, and to the carers, or others with ongoing care responsibilities.

Sometimes it may be wise to redact the report to remove sensitive information, such as addresses, names of carers, medical practitioners and the like.

Question 23: Content of s 82 reports

The Court is increasingly seeing reports under s 82 and s 67 prepared by NGO's. Some points to remember in preparing such reports are:

There is no need to repeat or set out the detailed background, or the detail of the final orders.

The Court does not want a detailed history or analysis of the placement, or supervision issues that have arisen. All the Court wants to know is whether, in succinct general terms the placement s going well. If not, then some detail of the problems is required.

Essentially, the Court will want to know whether the problems are being satisfactorily addressed, or if not whether the matter should come back to the Court for review.

In general terms, a report should be no longer than two pages, unless there are exceptional circumstances that dictate greater detail. We generally don't want school reports, contact reports, or other written material.

It may be that in certain cases it would be helpful to annex the most recent medical report in a case where the child is receiving ongoing medical treatment or counselling.

What I have been advocating to caseworkers in their report writing is a short succinct executive summary on the first page of the report is helpful, that is couched in simple language, along the lines of how you might summarise a case to your partner or a friend or neighbour at the end of the working day.

Question 24: Record keeping

I encourage the maintenance of careful records. Experience shows that a piece of paper has 10 times the value of an oral recollection, which is subject to the vagaries of recollection and interpretation.

In simple terms, every meeting, every phone call, every conversation, should be the subject of a brief file note that records the time, date, place and persons involved. The file note should be made contemporaneously or as soon as possible after the event. It should record the essential matters covered, in summary form. If there are issues of particular note or which are contentious, some more detail should be recorded.

I am not an advocate of excessive reporting, but the record should be sufficient. This is as much an exercise in risk management as it is about record-keeping. It is a skill to say enough but not too much, which caseworkers develop with practice and experience. It is hard to conduct a meeting or an interview and take notes. It is useful where possible, for one person to do the talking, and another to take the notes.

Question 25: Giving evidence: on affidavit or in Court

The basic rule is just tell the truth. Be objective and transparent. Don't hide facts or obfuscate. Don't tailor your answers to suit the Department's case or its position. Be yourself. Don't try and second-guess the questioner; just tell the story as you see it. Keep your answers short and to the point. Don't be afraid to express your point of view.

When preparing affidavits, keep the paragraphs short. Preferably you should proceed chronologically, because that's how lawyers think. Group subject matter under topics where possible. Try and think about what the issues are, what is it the Court has to decide, and what relevant information can I provide that will help in that decision. Try and use the third person for conversations where possible.

Question 26: Key messages

The main point is that we are all involved in the system for one purpose: that is, the best interests of children, to minimise unnecessary risk of harm to them, to foster their positive development and enhance their lives. Courts understand and respect the work that caseworkers do and the difficulties that you encounter on a day-to-day basis.

The earlier the intervention with a family, the better the outcome. Restoration should always be the preferred option, wherever that is possible. But where a child has to be placed in out-of-home care, the sooner it is done, the better.

Ultimately, the Court has final responsibility for decision-making. Your role is to assist the Court, not dictate to it.

Be professional; remain detached, in the sense that you should not get caught up in the emotion of cases. Be courteous and polite, even if your are not being shown the same level of respect. Stay objective; be open and transparent in your dealings with families and others involved. Always try and keep an open mind and be prepared to change your viewpoint where appropriate.