

CONFERENCES UNDER PART 5A OF THE FAMILY COURTS RULES

Five types of conference are provided for under part 5A of the Family Courts Rules. They are issues conferences, settlement conferences, directions conferences, pre hearing conferences, and case management conferences. Each conference has specific requirements and specific possible outcomes.

ISSUES CONFERENCES (RULE 416X)

The purpose of an issues conference on the standard track is to identify the issues in dispute, and direct either that a settlement conference be convened or that the application proceed to a hearing.

The purpose of an issues conference held on the simple track is to identify the issues in dispute and direct that the application proceed either to a formal proof hearing or direct that the matter be transferred to the standard track. An issues conference is the only conference that can be held for proceedings on the simple track.

Because an issues conference happens prior to the matter being directed to a hearing, lawyers for parties are not able to attend if the matter starts on the standard track.

If the matter has been transferred from the without notice track and a hearing directed, lawyers for parties may attend. Lawyer for the child, if appointed, may attend.

SETTLEMENT CONFERENCE (RULE 416Y)

The purpose of a settlement conference is to enable the judge to ascertain whether issues in dispute between the parties can be settled and to assist the parties to settle those issues. Settlement conferences are privileged. Support persons may be permitted to be present. Lawyers for parties may be present if a judge has made a direction that at least one of the parties needs legal representation and that the parties having legal representation at the settlement conference will be likely to facilitate settlement (section 7A(7) of the Care of Children Act 2004). Lawyer for the child, if appointed, may attend.

At the conclusion of a settlement conference the judge may make any directions but must do one or more of the following:

- Make a consent order (and the conference can be adjourned to enable either or both parties to obtain legal advice about the terms of the proposed consent order).
- Direct that the application proceed to a hearing.
- Direct the parties to attend Family Dispute Resolution (only in relation to an application for a parenting order or a guardianship direction).

If the judge directs that the application proceed to a hearing, the judge can make directions in relation to evidence, etc, and may also convene a directions conference.

DIRECTIONS CONFERENCE - RULE 416Z

The purpose of a directions conference is to make directions that are necessary to ensure the hearing takes place as early as possible.

At the conclusion of a directions conference, the judge must:

- Settle the issues to be determined at the hearing.
- Identify any witnesses that are required for cross examination.

- Approve a timetable for filing and serving any further evidence.

The judge may also require the applicant to prepare and file an agreed bundle.

Parties must file no later than five working days before the directions conference a memorandum (joint if possible) addressing:

- Issues that have been settled.
- Issues in dispute.
- Chronology.
- List of Affidavits relied upon.
- Identification of whether s 133 report or second opinion on s 133 report is sought.
- Evidence proposed to be tendered at the hearing including the identification and availability of witnesses.
- A proposed timetable.
- Identifying what orders or directions have been complied with or, where they have not been complied with, the reasons for non-compliance.

Parties are entitled to legal representation because for a directions conference to occur, the application has been directed to proceed to a hearing. Lawyer for the child, if appointed, is entitled to be present.

PRE HEARING CONFERENCE - RULE 416ZB

The purpose of a pre hearing conference is to enable the judge to review the proceeding that is set down for hearing and to make any orders or give any orders that the judge considers necessary to ensure that the proceeding will be ready to be determined at the hearing. Legal representation is allowed.

CASE MANAGEMENT CONFERENCE - RULE 416ZC

These may be convened at any time by the Court's own initiative or on application by a party. Case management conferences are only available for complex cases on the standard track and are for the purpose of allowing closer judicial management of the case.