

The Family Report Process (including Obligations and Responsibilities)

This explanation is designed to provide you with helpful information about the Family Court Report preparation process and to answer any questions you may have.

Why is this relevant to me?

You have been sent this document because you are scheduled to participate in Family Court Report interviews, as ordered by the Court. The Family Consultant (report writer) is appointed by the Court.

The report writer's primary duty is to assist the Court in determining arrangements which are in the best interests of the child/ren.

The report writer must interview all parties, conduct observations and then provide an expert opinion and sometimes recommendations to the Court.

It is in your interests to be as open and honest with the report writer as possible, and to articulate any concerns or anxieties you may have about the process or about contact with the other party.

The Family Report process is your opportunity to have your voice heard.

Who is the Family Consultant?

The Family Consultant and report writer, **Sean Moriarty**, is an experienced Social Worker also with qualifications in law. He has worked with families and children for 35 years and specialised in writing Family Reports for the last 25 years. He provided Expert Testimony at the Child Protection Commission of Inquiry in 2013.

The report writer is engaged to be an impartial participant in this process. It is important to remember that you are not the report writer's clients; he is instructed by the Court and obliged to provide the Court with an objective and reasoned opinion.

What information is included?

The report writer will listen to your concerns, note your family history and discuss with you your proposals for the future, before making a decision about what information should be reported to the Court. **It is possible that not all the information you disclose to the report writer will be included in the report** and this can happen for a number of reasons. Sometimes it is simply not possible, or occasionally it is unnecessary, in the time allocated, to include every single point you raise.

The report writer's main priority is to explore those issues and concerns of most importance and to relay these to the Court in summary form, including some specific examples of matters you may be worried about, or pivotal and relevant past incidents.

Remember that you can provide further information to the Court at any time by filing Court material such as affidavits and that it does not assist the Court to merely restate in the Family Report information which you have already provided in other Court material.

Another reason that information may not be reported is because it is hearsay, or information that you have been told by someone else, rather than your own words and experience.

Sometimes you might discuss information which is of concern to you but is ultimately not relevant to the proceedings. The report writer must make a decision about what information to provide to the Court under the provisions of the Family Law Act. **If information is not included, this does not mean that the report writer considers it unimportant to you**, however it may be not directly relevant to the dispute, or the report writer may consider that it does not form part of the substantive issues to be addressed.

How is the Family Report structured?

The Family Report will be divided into separate sections, each focussed on – for example – one party and their history, relationship dynamics, or interactions with the children. The report writer will tell the Court essentially what you have told him (with the above limitations). It is important to remember that in the main body of the report, the Family Consultant will not express an opinion regarding information provided to him by you or other parties, as it is not his job to believe or disbelieve what he is told. He will simply report the information. **It is the responsibility of the Judge to decide what is true and what is untrue.**

However, in the Conclusions section of the report, the Family Consultant may comment on or evaluate information that he has gleaned through the interviews, in addition to relevant information he has observed during interviews or through the documentation provided. **This is done to highlight and summarise important points that the Court might need to consider.** In that case, the report writer may, as an example, firstly report a particular incident from one party's perspective, then the same incident from the other party's point of view, and then present possible conclusions that the Court may draw, depending on which version is believed to be most accurate. Again, it is not the report writer's job to prove or disprove evidence or to contact other third parties in an attempt to prove or disprove evidence.

This Conclusions section at the conclusion of the Family Report is the only section that contains the report writer's views, except for instances in the body of the report where he may comment explicitly on something he has been told or has heard or observed.

Why does the report writer need to know so much information?

The Court expects the Family Consultant to provide in the report an assessment of each party's presentation and any other relevant observations. **The Court also demands that the report writer relays certain information about your background**, including (but not limited to):

- Your family of origin, background and upbringing
- Your education
- Your employment history
- Your relationship history
- Your mental health history
- Your physical health history
- Your use of alcohol or drugs (if any)
- Your criminal history or legal difficulties (if any)
- Your interests and social networks and the support available to you
- Your current relationships and information about all of the above topics now, at this point in time.

The Family Consultant will explore these issues in a sensitive manner but it is important to understand that the normal provisions of confidentiality do not apply to this process. **Anything**

that the report writer hears or sees will be reported if it is relevant. You cannot discuss issues with the report writer and then later request that it not be reported.

Why is my mental health relevant?

A central purpose of the Family Report is to assess family functioning, children's attachments and their views. While the report writer is not undertaking a clinical psychological assessment of each party's mental health, he is competent to comment on each party's presentation and their apparent mental health status at the time of interviews, and he is required by the Court to disclose this information in his report.

The Family Consultant may also view other records and reports that are made available to him, and again, it is his job to incorporate his views on these into the report. He may refer to previous diagnoses or questions about mental health by other professionals.

While the Family Consultant will not diagnose any party with any condition, he may suggest the possibility of a psychological problem and he may recommend that the Court take further action in investigating this (for example, by ordering a separate psychiatric assessment). While the Court will consider his evidence, **it is the job of the Court to decide if further mental health assessment of any party is appropriate.**

Will I be safe?

Your interviews will be conducted in a purpose-built, five-room consulting suite designed to ensure as much privacy as possible for all parties, to enable individuals to feel safe during interviews, and to allow children access to play spaces during the day.

Every attempt will be made during the day of interviews to ensure that you feel safe. **If at any stage you do not feel safe, please say so.**

As is contained in the adjoining letter, a questionnaire has been provided to you which can provide key information about issues of safety, amongst other issues. This is relevant information to the report writer prior to the interviews.

Who will be interviewed?

The Family Consultant will notify you or your solicitor who is required to attend on the day of interviews. **Attendees are usually people who are significantly involved in the children's lives and living arrangements.** It is important that if, for example, your partner or a grandparent or somebody that lives with you is asked to attend, that they do so, in order to enable a thorough assessment to take place.

If your child/ren are able to communicate, they will be interviewed privately and individually, without either parent present. If there is more than one child, they may also be interviewed as a sibling group.

The term 'interview' here may refer to a broad range of activities such as play, observations, discussion designed to help the child/ren feel at ease and to elicit information about their attachments, concerns, developmental progress and their views. Other child/ren who live in the same household may also be required to attend.

Child/ren are informed at the commencement of the interview that what they say is reportable and they will be assured that they do not have to state their wishes about their living arrangements if they do not want to do so. **The purpose of the interviews will be explained to them, and they will be asked whether they have already been told about what to expect or how to behave.**

Younger children (babies and toddlers) who are unable to communicate will still be observed throughout the day, and their interactions with their parents and carers noted.

Observations of all parties and the child/ren will occur during the day in an informal sense in the waiting room and the play areas, in addition to the more formal interviews. This allows the report writer to observe how all the adults and child/ren in the household/s interact.

Particularly in relation to younger children, observations can often be affected if the child is fretful, slightly unwell, or simply fractious due to the strange environment. This is to be expected to some extent, and should not be a source of concern that it will reflect poorly upon parenting. The report writer is well aware that it can be unsettling process for very young children.

What do I tell my child/ren before the interview?

It is important that child/ren do not become overly stressed or worried about the interview process. Do not elaborate excessively about the process or emphasise its importance. All you need to say is **‘We are seeing someone who is going to help make decisions about what will happen in the future and he will want to meet you and talk to you about how things are going for you’**.

Instructing child/ren to ‘just tell the truth’ may be unhelpful, as it might imply that you want them to tell **your truth** and may result in them feeling divided loyalties as to which parent to ‘support’ on the day.

Depending on the age of the children, the report writer will explain the process to the children shortly after their arrival on the day of interviews.

Please remember that the Family Report process, including the interviews and crucially the final Family Report, is an adult issue. You should not discuss the report with your children either before or after its release, no matter how strong your feeling that ‘they deserve to know the truth’ or because they are asking you to disclose the information. Children – whether they are young children or adolescents – do not have the capacity to understand and conceptualise the issues involved and discussing the report with them can influence their views or even harm them emotionally.

Please do not tell the child/ren what to say in the interviews, and please do not question the child/ren about what took place during their interviews or what they said. Even asking how they are feeling may be unhelpful. .

Your child/ren will be safe during the interview process and will not be compelled to do or talk about anything that they do not wish to talk about. They will not be forced to express their wishes or even to talk at all if they do not want to do so.

What other documents will the Family Consultant read?

Usually the report writer will have access to any and all relevant documents relating to your matter and will have read these prior to the interviews. To make this process easier, please ensure that you send any documents to the report writer as soon as you can before the interviews.

Sometimes parties attend interviews with other additional documents. While the Family Consultant is obliged to review all Court documentation eg filed material, **the writer is not obliged or expected to read lengthy additional material provided that is not in the form of an affidavit or a Court-filed document.**

Any additional information given to the report writer should occur only with the agreement of the other party/parties involved in the dispute before the interviews, to ensure fairness and transparency. Ideally, parties should consult before the interviews and agree on any additional material to be provided.

The Family Consultant may request copies of other information such as school reports, psychological or psychiatric reports, or medical assessments. The report writer may also be provided with subpoenaed material to review. Generally, this occurs when an Independent Children's Lawyer has been appointed by the Court but it may also be submitted by either party.

Will the Family Consultant contact other people?

As talking to other people and gathering information from others is hearsay, the report writer will generally not do this. One exception might be if, with the parties' permission, the writer seeks to speak to teachers or treating practitioners; although this is not standard procedure, it may at times be appropriate. Should you wish to call other witnesses in your matter, you will be given this opportunity should the matter proceed to trial.

Can I contact the Family Consultant after the interviews?

Please only provide additional documentation after the interviews if it is filed material. **Please do not telephone, email or write to the report writer with updating accounts of what has occurred since the interviews or additional information that you forgot to tell the writer.**

If you have additional information that you want the writer to consider, please put it in the form of an affidavit and file it with the Court before sending it to the report writer. If you have legal representation and wish to communicate with the report writer after the interviews or after the report has been released, please do so through your representative.

Unless additional material provided has been filed, the report writer will generally not respond to it. **The reason for this is that the process must be transparent. Any documentation you give should be seen by the other party/parties to the proceedings and by the Judge.**

The report writer may contact either party after interviews have taken place, either to seek additional information or to clarify points about information that has been provided. If this is to occur, both parties will be contacted.

The report writer will not necessarily spend equal amounts of time with each party. Some people can get their points across quite quickly and succinctly while others take more time. The writer may simply need more time with one party in order to clarify the issues. If your interview is shorter than the other party's interview, that will be the reason; **the length of interview time is not a reflection of how seriously the report writer takes your concerns.**

What if I disagree with the findings of the Family Report?

It is more usual than not that one or more parties will disagree with some aspect of the Family Report but remember that the writer is expressing an opinion not a judgment.

If you have additional information that you feel may change the writer's opinion, you are encouraged to put it in the form of an affidavit, file it with the Court and send a copy to the report writer. If the writer's opinion changes, or if an additional opinion is needed, the writer will let everybody know, including the Court.

The primary purpose of the Family Report is to assist the Court in making decisions in the best interests of the child/ren. The report is a formal piece of evidence that is presented to the Court and considered by the Judge along with all of the other evidence, including sworn testimony. If you do not settle your dispute and your matter proceeds to trial, the report writer can be cross-examined and re-examined. You or your legal representative will have the opportunity to present additional information at that point.

If you feel that the Family Report is lacking or incorrect in some way, you can raise the issues by questioning the report writer at Court. **In that respect, a Family Consultant is subject to the very highest level of accountability.** The Judge may also ask the report writer questions or ask if his opinion on any issue has changed. The Judge or you or your legal representative can also seek opinions at trial on any additional issues that the report may not have covered.

Remember that at trial, the Judge usually has much more information than the report writer. Sometimes, it is only when all information has been presented at trial and everybody else has given evidence that the Family Consultant can offer a final opinion.

Can I share the Family Report with others?

It is a breach of the Family Law Act to publish the Family Report or part thereof or release it to anyone or any entity including any government body or authority without the Court's permission. The contents of the report can be shared with your legal representative. If you are unhappy with the report or process, the appropriate body to deal with your concern is the Court. Remember that you or your legal representative can cross-examine the report writer and you can raise issues of concern with the Judge.