



Children's Court of Western Australia
Practice Direction 1 of 2023
Court Conferencing referral to Youth Justice
Services

1. Application of Practice Direction

- 1.1 This Practice Direction applies to a referral by the Court of a matter involving a young person under the age of 18 years to a court conference (**conference**) under s 68 of the *Young Offenders Act 1994*.
- 1.2 This Practice Direction has effect from 22 May 2023.

2. Directions

Where this Practice Direction does not provide for a particular circumstance, the Court may give such directions as it considers necessary and appropriate.

3. Court conference

The purpose of a conference is to:

- (a) increase the young person's understanding of the effect of their offending;
- (b) reduce the likelihood of the young person reoffending;
- (c) negotiate an outcome plan that is agreed to by the young person.

4. Referral to a conference

The Court may refer a matter to a conference if:

- (a) the charge the subject of the referral cannot be referred to a juvenile justice team as it is for an offence listed in Schedule 1 or Schedule 2 of the Act; and
- (b) the young person:
 - (i) pleads guilty and before the Court records a conviction for the charge;
 - (ii) agrees to have the matter dealt with by conferencing;
 - (iii) will be under 18 years of age at the time of sentencing; and
- (c) the Court considers that after successful completion of court conferencing the charge may appropriately be dealt with under s 67 of the Act.

5. Factors relevant to referral

In deciding whether to refer a matter to a conference, the Court is to take into account the following matters:

- (a) the principles of juvenile justice in parts 2, 5 and s 46 of the Act;
- (b) the facts, circumstances and seriousness of the offence;
- (c) the number and nature of any offences committed by the young person and the number of times the young person has been dealt with under the Act;
- (d) any other matter the Court considers appropriate in the circumstances.

6. Adjournment of proceedings

6.1 When a young person is referred to a conference, the Court must adjourn the proceedings for no longer than 8 weeks to a fixed date.

6.2 Referral to a conference, like a juvenile justice team referral, is in the nature of a preliminary disposition and the Court must consider whether the young person should be released on a notice to attend at the hearing date.

6.3 In circumstances where the Court determines that a young person should not be released on a notice to attend, then the young person is to be released on bail with appropriate conditions to secure the attendance of the young person at the sentencing date. The Court must reconsider and, if appropriate, remove or reduce curfew bail and other conditions which conflict with the aims of conferencing and rehabilitation of young offenders.

7. Procedure

7.1 Following the referral of a young person to a conference, it is the responsibility of a Youth Justice Services appointed coordinator to arrange and conduct the conference.

7.2 The coordinator should ensure that a conference is conducted in accordance with any relevant policies or procedures of Youth Justice Services.

8. Relisting of adjourned proceedings

In circumstances where:

- (a) the parties are unable to agree an action plan; or
- (b) the young person fails to attend a conference; or
- (c) the young person has made no attempt to comply with the action plan;
or
- (d) the young person completes the action plan well in advance of the adjourned hearing date;

Youth Justice Services must lodge an application to early list the matter before the Court.

9. Hearing

- 9.1 At least 2 days before the adjourned hearing date the conference coordinator must lodge a conference report with the Court.
- 9.2 The action plan agreed to at a conference and what steps have been taken by the young person to comply with the action plan, must be included in the report.
- 9.3 The action plan must be considered by the Court in making a decision pursuant to s 67 of the Act.
- 9.4 A representative of Youth Justice Services must attend court to answer queries in relation to the contents of the report.

10. Court orders

If the Court does not deal with the matter under s 67 (or ss 69 - 72) and considers instead that a youth community based order or an intensive youth supervision order might be an appropriate sentence, the Court should request a further report and any necessary agendas to be prepared by Youth Justice Services. A youth justice report and agendas should not be ordered at the same time as a matter is referred to conferencing.



Judge Hylton Quail

President

Children's Court of Western Australia

31 March 2023