

# Children's Court of New South Wales

## Practice Note No. 18

### Winha-nga-nha List

#### 1. Commencement

1.1 This Practice Note commences on 4 September 2023.

#### 2. What is the Winha-nga-nha List?

2.1 The Winha-nga-nha List is an alternative court process for Aboriginal and Torres Strait Islander families involved in care proceedings.

2.2 The Winha-nga-nha List aims to engage Aboriginal and Torres Strait Islander families and communities in decisions about the care of Aboriginal and Torres Strait Islander children.

2.3 The Winha-nga-nha list will:

- a. explore Aboriginal and Torres Strait Islander cultural considerations
- b. involve Aboriginal and Torres Strait Islander parents and children in court proceedings
- c. include extended family members where appropriate
- d. help families to connect to local Aboriginal and Torres Strait Islander community supports during care proceedings.

2.4 The Winha-nga-nha List will provide:

- a. a less formal courtroom setting
- b. time to listen, talk and think about what is important for the children
- c. an Aboriginal Court Liaison Officer to support families who are involved with the Court.

2.5 The practice directions in other Children's Court Practice Notes apply in matters in the Winha-nga-nha List unless the directions are inconsistent with this Practice Note.

### **3. Sittings of the Winha-nga-nha List**

- 3.1 The Winha-nga-nha List will sit at Dubbo Children's Court and at other courts as directed by the President of the Children's Court. Any Court where a Winha-nga-nha List sits is called a "Referring Court".
- 3.2 All care applications at a Referring Court that involve an Aboriginal or Torres Strait Islander child or parent will be put in the Winha-nga-nha Conversations List.
- 3.3 An Initiating Application where s.43 or s.44 applies or an Application for an Emergency Care and Protection Order under s.46 is to be listed before the Referring Court unless the Winha-nga-nha List is sitting within three days of the application being filed. After the first listing in the Referring Court, the case should be listed in the Winha-nga-nha Conversations List.
- 3.4 A case must not be adjourned to a Winha-nga-nha List from a non-referring Court unless the Winha-nga-nha List judicial officer approves the referral.
- 3.5 The Winha-nga-nha List will be conducted by one judicial officer, where practicable.

### **4. Who will attend?**

- 4.1 The Winha-nga-nha List will be attended by:
  - a. parties (unless excused)
  - b. their legal representatives
  - c. the Aboriginal Court Liaison Officer
  - d. the Liaison Officer for the representative of the Secretary
- 4.2 As a minimum, the caseworker/s and a manager with the delegation to make decisions about the case on behalf of the Secretary are to attend:
  - the first mention of the case in the Winha-nga-nha List
  - the court date on or after the filing of the Summary of Proposed Plan
  - the court date on or after the filing of any Care Plan
  - any court date where the Secretary has not complied with filing directions
  - any other date as directed by the judicial officer.

4.3 The Winha-nga-nha List may also be attended (unless the Court directs otherwise) by:

- a support person for a party, including an Aboriginal or Torres Strait Elder or respected member of the local community
- members of a party's extended family (when invited by the party)
- a person who is proposed to be, or wishes to be considered as, a carer for a child or young person
- an interpreter and/or a non-legal advocate where a party wants assistance to communicate effectively.

## **5. Directions list**

5.1 The Directions List will involve short administrative mentions. Parties may attend the Directions List but they do not need to attend the Directions List if legally represented.

## **6. Conversations list**

6.1 Each case in the Conversations List will be allocated at least 20 minutes of court time.

6.2 The Conversations List will provide an opportunity for substantive issues to be discussed in a less formal setting.

## **7. Dispute Resolution Conferences**

7.1 Cases in the Winha-nga-nha List may be referred for earlier and more frequent Dispute Resolution Conferences (DRCs) to enable greater participation of Aboriginal and Torres Strait Islander families and community in proceedings.

7.2 Children's Registrars will exercise discretion in determining whether extended family, community members and services nominated by the parties are able to participate in DRCs.

Judge Ellen Skinner

**President, Children's Court of NSW**

Date: 25 August 2023