



## FEDERAL CIRCUIT COURT OF AUSTRALIA

# Information Notice Subpoenas and the Department of Health and Human Services Victoria

The information sharing protocols between the Federal Circuit Court of Australia and the Department of Health and Human Services (“DHHS”) provide an important mechanism for gathering evidence in parenting proceedings.

DHHS provides documents to the Court by orders pursuant to s 69ZW of the *Family Law Act 1975* (Cth). The Department also provides a written response to a Notice of Risk that summarises its involvement with the family and the outcome of its investigations.

Considerable time and work is required on the part of DHHS to respond to subpoena. The file must be photocopied; all references to the notifier redacted and the file must be reassembled before being produced to the Court.

DHHS should not be required to produce documents that may be produced by means other than subpoena.

Effective from 1 January 2018 a request to issue a subpoena against DHHS will be granted only with leave of the Court. Such leave will be granted only where there is a legitimate forensic purpose in seeking more information.

Permission is to be sought by:

- i) written request, setting out the documents and information already received from the DHHS, the precise documents sought, the relevance of those documents and a copy of the subpoena; or
- ii) oral application in open court, at which time the matters set out in (i) above are to be addressed.

Leave will generally not be granted for the issue of a subpoena:

- i) seeking production of the Department’s entire file; or
- ii) for documents that may be obtained pursuant to s 69ZW of the *Family Law Act 1975* (Cth).

Judge John O’Sullivan  
Case Management Judge  
Victoria