

Child Custody and Access Assessments Standards of Practice

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Introduction

This document is a statement of the standard of professional practice adopted by the British Columbia College of Social Workers in the area of child custody and access assessments.

The BCCSW has adopted a general statement of Standards of Practice which apply to all fields. In addition, the BCCSW adopts specific standards for specialized areas of practice. This document applies to work undertaken to provide information to the court about how children's needs can best be met in child custody disputes. It also distinguishes other roles social workers may have in child custody disputes and identifies differences in practice.

While this document outlines many steps in the process, the social worker will need to use professional judgment throughout the process in determining how to proceed in each specific case.

Standards of Professional Practice

1. This Standard of Practice will:

- (a) set the minimum acceptable level of practice;
- (b) provide a guideline for social workers to assess their own practice and develop high standards of practice;
- (c) establish criteria for the assessment of complaints about the practice of social workers.

2. As with other areas of practice, work undertaken by the social worker will be in compliance with the *Social Workers Act (Act)*, the Code of Ethics, and the Standards of Practice for Social Workers.

3. The Bylaws provide, in part, that:

“misconduct” is defined as any other failure to comply with the code of ethics or standards of practice as approved by the Board from time to time; and

“incompetence” is defined as, in part, a failure to comply with standards of practice established by the Board from time to time.

Custody Assessment and Reports

4. The purpose of a custody/access report is to conduct an impartial, objective assessment of the family for the purpose of assisting the family, or the court, in coming to a decision regarding custody and access which will best meet the needs of the children. The social worker is obligated to focus on the best interests of the children at all times in developing this plan.

Philosophical Framework

5. Social workers share a knowledge base with other qualified health professionals who also work in the area of child custody. Social work considers not only the child and family, but also considers the broader social context in which the client resides, including the intricate, and often complex, host of influences that are part of the social situation.

6. The social worker will approach the topic of child custody from social, emotional, developmental, relationship and cultural perspectives and these elements will be reflected in the report prepared by the social worker.

Clarifying the Roles of the Social Worker

7. It is important to clarify the various roles that social workers may be asked to perform in matters related to child custody.
8. From least to most decision-making involvement, the social worker's role includes:
 - (a) **Consultant:** Where one or both parents are the clients, the social worker provides general information (based on theory, literature and/or research) about child development and the impact of divorce and/or various kinds of custody and access arrangements on children, and on an understanding of what to expect in divorce situations. The consultant does not formally assess the child or family as part of the consultation.
 - (b) **Counsellor/Therapist:** The role of the social worker is to act as a counsellor or therapist for one or both of the divorcing parents, the children, or for the family as a whole, with the intent of helping them resolve difficulties in their relationships. These interventions would focus on assisting the clients to make changes in their behavioural, emotional, psychological, cognitive or social functioning and would not be designed to formalize any custody or access agreement the parents might make as a result of the sessions. In addition, these interventions would not be designed to assist a court in deciding between various arrangements.
 - (c) The social worker who has a prior therapeutic relationship with a family, one parent, or a child, and is required to testify in court in a custody/access dispute will limit any evidence and assessment to the therapist's direct knowledge and observations of his/her client.

The therapist will not make recommendations about custody and access.

- (d) **Child Development Expert:** The social worker provides services to one or both parents, or to their lawyers, or to the court, giving impartial evidence based on research and/or best practices, about a matter related to the court regarding child custody and/or access. The social worker is not directly involved and has no relationship with any member of the family. If called to present information to the court, the social worker acts as an expert witness.
- (e) **Assessor:** A social worker conducts an impartial, objective, formal assessment of a family situation for purposes of assisting the parties or the court in their decision-making process. In this role, although the social worker may provide recommendations (see Recommendations), the final decision is made by the parents or the court.
- (f) In exceptional situations, such as the social worker residing in a small community, prior contact between the social worker and family members may be unavoidable. In such cases, the social worker will disclose the prior contact to the parents and the parents will give their written consent to proceed. However, if the prior relationship included the provision of therapy it is not appropriate for the social worker to undertake a custody/access assessment. In all other situations the social worker will come to the process completely neutral and impartial.

Definitions

9. In this Standard:

- (a) Assessment means a structured, systematic collection and analysis of information that may or may not include recommendations;
- (b) Assessor means the social worker contracted to conduct an impartial and objective assessment of a family situation for the purpose of assisting the family, or the court, in coming to a decision that is in the best interest of the children;
- (c) Mandatory means procedures which must be done to provide an adequate custody and access assessment;
- (d) Optional means procedures that are recommended but which are subject to the professional judgment of the Assessor;
- (e) Parent means those individuals who are legally parenting the children in question. This could include step-parents or guardians;
- (f) Parties means those parents or others who are contesting the custody and/or access of the children;
- (g) Report, unless otherwise specified, means the custody and access report;
- (h) Social worker means a social worker registered under the *Social Workers Act SBC 2008 c. 31*.

Assumptions

10. In the role of assessor, the social worker will adhere to the following principles.

- (a) The social worker will be neutral in undertaking this work.
- (b) The social worker should only present information based on direct observation. The views of others should be stated as such.
- (c) The social worker shall state his/her biases in regards to custody and access of children.

Knowledge Requirements

Basic Knowledge Requirements

11. At the time that services are contracted, the social worker will have skills and knowledge in the following areas:
- (a) family systems theory;
 - (b) attachment theory;
 - (c) theories of childhood development, including stages of development and the impact of abuse, neglect, and trauma on development;
 - (d) the psychological effects of separation/divorce process on parents and children; (This would include knowledge of appropriate parent/child residential schedules and/or visitation schedules.)
 - (e) addictions and mental health;
 - (f) the *Divorce Act*, *Child Support Guidelines*, *Family Relations Act*, *Child, Family and Community Service Act*, and the *Adoption Act*;
 - (g) current approaches to family reorganization after separation/divorce;
 - (h) the issues of power and control and the cycle of violence, techniques for assessing the presence of family violence, and the effects of family violence on family members, particularly children;
 - (i) the impact of cultural, spiritual, and religious background, including cultural self-concept, on the process of separation and divorce;
 - (j) the dynamics of grief/loss within the context of separation and divorce with particular emphasis on the impact on children;
 - (k) the completion of psychosocial assessments;
 - (l) interview techniques appropriate to adults;
 - (m) interview techniques appropriate to children;
 - (n) if utilizing testing or screening instruments during the course of an assessment, appropriate training in the administration of and in the interpretation of those instruments;
 - (o) a basic understanding of how the family justice system deals with the issues of child and spousal support and the distribution of matrimonial property.

Optional

12. It is recommended that the social worker have knowledge and training in the following areas:
- (a) a basic knowledge of research about the financial impact of separation and divorce upon a family unit;
 - (b) a basic knowledge of international law as it pertains to custody, access and abduction issues.

Procedure

Referral

13. Referrals are generally made either by lawyers with the consent of the parents or by court order. Both parties must agree on the social worker.

Contracting

14. The social worker will have a written contract with each party to the assessment. There will usually be a lawyer representing a parent. If a parent is not represented by a lawyer, the contract will be between each parent and the social worker.
15. As part of the contracting process, the social worker will outline the process and procedures to be followed as well as the areas to be covered during the assessment process. The parties will be informed of their rights, of the limits of confidentiality as well as their recourse in the event that they have questions regarding the professional work of the social worker.
16. The written contract will cover, at a minimum, the following:
 - (a) nature of the report,
 - (b) access to any records,
 - (c) estimated length or duration of the assessment process,
 - (d) distribution of the report,
 - (e) whether recommendations will be made in the report,
 - (f) registration and credentials of the social worker,
 - (g) limits of confidentiality,
 - (h) informed written consent for the release of information,
 - (i) financial arrangements,
 - (j) conflict of interest considerations,
 - (k) any arrangements for consulting with other professionals.

Optional items in the written contract:

- (l) scope of the assessment,
- (m) assessment procedures (who will be interviewed, when and where),
- (n) use of any screening or assessment tools,
- (o) the number and nature of home visits,
- (p) policy regarding unilateral assessments and written collateral reports,
- (q) settlement opportunities and the role of the social worker if parental agreement is reached,
- (r) mutual responsibilities of the social worker and each of the parties.

17. During the orientation process, if pre-assessment information meetings are held, similar meetings will be offered to all of the parents and potential caregivers and to all of their lawyers.
18. The scope of the assessment is determined by the social worker, in conjunction with the clients, and is based on the Court Order or referral question.
19. If a social worker is requested to provide a focused or abbreviated report, addressing a limited number of issues, the social worker must state, verbally and in the written report, that this is **not** a custody/access assessment.

Financial Arrangements

20. The contract will clearly state the fees for the assessment, including the possibility of any additional unexpected fees that may occur; what the fees cover; who will pay these fees and when the fees will be paid. Usually the fees are shared equally, but other arrangements are acceptable.
21. If the fees will exceed those stated in the contract, the social worker will inform the clients of this and the reasons for the additional fees in advance and negotiate a new arrangement.

Assessment Process

22. The primary focus of a comprehensive assessment is on:
 - (a) the needs, interests, and wishes of each child;
 - (b) the parenting ability and willingness of each parent/caregiver including any new partners or other significant caregivers. This includes the ability to meet both general developmental needs and any special needs of the children;
 - (c) evaluating the relationship between each adult and child.
23. The social worker will gather all personal information and conduct all interviews. A social work student supervised by the social worker may undertake some of this responsibility. An assistant may only gather factual information such as school and medical records. The report must clearly indicate if anyone other than the social worker had a role in gathering information and preparing the report.

Children

24. The social worker will assess the needs of each child independently. This includes ascertaining each child's level of maturity, interests, aptitude, special needs, educational needs, and routines.
25. The social worker will meet with each child individually and use appropriate interviewing techniques. It is not necessary to meet individually with infants and toddlers.
26. All children must be observed together with each parent.
27. The children will be interviewed in their home setting and in any other homes that are being considered for custody.
28. Children, except infants, should also be interviewed in a neutral setting.
29. Siblings should be interviewed both separately and together.
30. The social worker will interview all children who may be living together or having regular contact. This would include step-children who are not subject to the assessment.
31. Social workers should avoid asking a child directly to choose which parent they would prefer to live with. However, in some circumstances it may be appropriate to elicit the views of older children.
32. It is important to avoid repeat assessments of any children. The social worker will be satisfied that there are demonstrable reasons which indicate that a repeat assessment of the child would be beneficial before undertaking this.

Parents

33. The social worker will interview each parent individually.
34. Any new partner of a parent will be interviewed and assessed individually. If this is not possible, reasons should be given.
35. Each parent will be interviewed with their partner/spouse.
36. Parents will be interviewed or observed with the children in order to assess the relationship.

Collateral sources of information

37. The social worker will interview collateral sources of information which will include people whom the family view as significant and may include grandparents, other relatives who are closely involved with the family, teachers, physicians, and other health care professionals.

Community/Environment

38. The social worker will consider the children's community as part of appropriate custody and access arrangements. This includes the safety of the immediate home environment, day care or after-school care arrangements, religious, cultural and recreational supports, as well as health and counselling resources. All environmental factors will be considered, ranging from economic to emotional to community support.
39. All adults living with the child will be interviewed. If this is not possible, reasons should be given.
40. When interviewing all parents/caregivers, the following issues will be assessed and, if deemed appropriate, discussed:
- (a) relationships between parent and children,
 - (b) personal and marital histories of each parent, including their relationship with their own parents, and their parents' relationships,
 - (c) attitudes, knowledge re parenting,
 - (d) presence or history of family violence,
 - (e) mental health,
 - (f) addictions,
 - (g) understanding and resources regarding any special needs of children,
 - (h) parenting arrangements,
 - (i) attitudes, relationships re community,
 - (j) ability and willingness to co-operate with a relationship between the children and the other parent(s),
 - (k) capacity to resolve difficulties in the child(ren)'s best interest,
 - (l) strengths and challenges of the individual as a parent,
 - (m) support systems.

Response To Domestic Violence

41. The social worker who has reason to believe that a child may be at risk of harm is obligated to inform child protection authorities. The social worker should consult with child protection authorities in deciding whether or not to stop the assessment process until all issues regarding risk of harm to the children are resolved.
42. The social worker will not provide an opinion about the veracity of any outstanding criminal allegations against any party to the assessment.
43. Any allegations of sexual, emotional, or physical abuse will be presented by the social worker as hypothesis only in the custody and access assessment report relating to issues of parenting capacity.

44. In cases in which domestic violence is alleged, or a pattern of domestic violence exists, the social worker will consider the following in all custody and access recommendations, including:
- (a) risks to the safety and well-being of the child,
 - (b) effects of exposure to domestic violence on the child,
 - (c) safety of the abused parent (or caregiver) including a safety plan,
 - (d) available supports to the family.

Consultation

45. At times, the social worker may wish to consult other professionals with specialized training and expertise in areas such as family violence, addictions, or mental health.

Balance and Fairness

46. The social worker will make every reasonable effort to spend equal amounts of time with each party and to undertake the same steps in gathering information from each party. If this is not possible or appropriate, reasons will be stated in the report.

Analysis

47. The social worker will identify any biases or assumptions made in analyzing the information gathered. The social worker will review impartially and consider all data collected in formulating the analysis.
48. The social worker will make explicit the data used in reaching conclusions and making recommendations.

Recommendations

49. The social worker may choose to make recommendations about custody and access or may leave this to the court. This will depend upon the terms of the court order and/or the contract. Any recommendations must be supported by reasons based in the evidence collected through the assessment.
50. Recommendations must be specific, clear, and practical. Recommendations regarding access could include the nature, duration, and intensity of contact, including whether contact will be in person, by telephone, or written.
51. The assessor plays an advisory role and must not infringe on the responsibility of the court. Recommendations will be open-ended in acknowledgment that the court has the sole jurisdiction of a final decision.

Written Report

Comprehensive Report

52. A comprehensive report will be clearly written and will convey an attitude of respect for all of the individuals involved.
53. The written report will identify:
 - (a) qualifications of the assessor,
 - (b) referral sources,
 - (c) reasons for assessment,
 - (d) sources of information,
 - (e) assessment process, including identifying the specific number and participants in each interview, dates, and length of interviews.
54. The report will summarize:
 - (a) personal, family, and marital histories,
 - (b) previous, present, and desired parenting/care giving arrangements,
 - (c) assessment of each child and each parent/caregiver, including strengths,
 - (d) issues of concern and how they have been addressed,
 - (e) factors such as family violence, addictions, and mental health that might affect the safety of the children or negatively impact the ability to parent, and how these have been addressed,
 - (f) procedures and assessment tools used,
 - (g) assessment of the relationships among parents and children and among the adults and the basis for this assessment.
55. The report will identify all areas of agreement between the parents.
56. If the report contains recommendations about custody and/or access, reasons will be provided which are based on the information gathered in the assessment process.

Distribution of Report

57. The social worker will distribute the report to all parties at the same time. Reports are usually sent to lawyers; however, if one party is not represented by a lawyer, the report may be sent to that party at the same time.
58. After the report has been distributed and considered, the Court may order or it may be deemed wise for either or both parties to participate in therapy and/or counselling. The professional counsellor/therapist may be an appropriate recipient of the report or that portion of the report relating to his or her client with approval of the Court.
59. The social worker may meet with the parties and/or their lawyers to discuss the results of the assessment.

Optional

60. When practical, the social worker may make a verbal presentation to the lawyers regarding the assessment outcome. This could include an explanation of the process and the rationale for findings, as well as allowing the lawyers to ask questions.
61. The social worker may make a presentation to the parents (separately or together) to inform them of the assessment outcome, to explain the rationale for any recommendations, to allow the parents to ask questions, and to invite the parents to cooperate in an agreement based on the assessment findings and discuss implementation of the plan.