

INSTRUCTIONS TO CHILD WELFARE REPORTERS: EDITION 1 (March 2016)

These instructions were prepared by a Working Group on Child Welfare Reporters and are one of the outcomes of the Working Group¹.

- **Terms of Appointment**

On appointment you will receive a letter from the sheriff clerk, enclosing a copy of the interlocutor (in some cases attaching a checklist) appointing you as reporter, ordering the report, setting out the terms of your remit and the steps which you are required to undertake. It is crucial that you adhere strictly to the terms of the remit and the steps required by the presiding sheriff as funding for your report in terms of the relevant interlocutor will be confined to the prescribed steps. Should you face difficulties in undertaking the remit or completing the report within the confines of the remit (e.g. if additional or unforeseen issues arise) you should write to the presiding sheriff c/o the sheriff clerk outlining the issue so that a decision can be taken as to appropriate next steps. You should not use your own initiative in undertaking further enquiries that are outwith your remit.

Court Rules contain a presumption that the liability for paying the reporter's fees should be borne equally by the parties to the case. This can be varied by the court on cause shown.

In relation to legally aided cases, if you consider the cost of the report will exceed £3,000, then you should contact the solicitors for the parties as prior sanction will be needed from the Scottish Legal Aid Board for this.

You may also wish to check generally that funding is in place to pay for the report.

- **First Steps**

On receipt of the sheriff clerk's letter, interlocutor and any checklist, you must undertake a conflict of interest check to ensure that you have no conflict of interest in undertaking the report. You should then e-mail the sheriff clerk confirming that you are happy to accept the appointment. A template is attached, along with a template declining the appointment.

You should then contact the agents for each party who will provide you with the "information required for the child welfare reporter" forms which provide you with the contact details and other pertinent information in relation to the parties. If appropriate, agents may also provide copies of other relevant documentation (eg court productions and any previous reports) and contact details for third parties who you are directed to contact in terms of the remit. You should take care not to disclose information to agents or in the report that could identify the whereabouts or school attended or similar information about a victim of domestic abuse and the children of the victim. This includes not disclosing the address of any refuge and not disclosing home and mobile telephone numbers and e-mail addresses.

¹ More details about the Working Group are available at <http://www.gov.scot/Topics/Justice/law/17867/reporters>

Agents should also provide you with signed mandates from their clients, where relevant, consenting to the release of relevant information required by the court from the GP, health visitor, teacher or other professional as appropriate.

Remember that in some cases parties may be representing themselves.

At this stage, you may wish to give advance notice to agents/litigants on how the report will be charged.

As the timeframe for undertaking your report is restricted, it is prudent to take initial steps in relation to the areas of your report most likely to result in a delay in its completion. In particular, if you are directed to obtain a police/criminal records check or to contact the social work department (and if applicable to speak to the relevant social worker) this should be actioned immediately as there may be delays in obtaining the relevant information and appointments being set up. If you are directed to contact a GP or health visitor for either of the parties then a mandate should be obtained (an example of a mandate is attached). If you are directed to contact the GP or health visitor for the child then a mandate should be provided along with the "information required for the child welfare reporter" sheet. If this has been omitted then it should be obtained as quickly as possible so that a letter can be sent to the relevant GP practice to ensure timeous release of the relevant information. In the absence of a signed mandate you should write to the relevant GP or health visitor with a copy of the interlocutor appointing you in order to obtain the relevant information required by the court.

The same may apply to any other relevant professional identified (e.g. a child psychologist working with the child, any counsellor, specialist support service or other professional working with any of the parties) who you have been directed to contact.

You should arrange interviews only with the parties and other witnesses on the relevant checklist or interlocutor. When making appointments, you should provide a copy of the Guide to the Child Welfare Report prepared by the Scottish Government. Make appointments in good time. Remember that the persons you are interviewing may be accompanied by a friend, relative or support worker. You may be told by the parties that there are other crucial friends or family members you should speak with and you may be placed under some pressure to obtain additional information from further witnesses. You should resist that pressure. If parties' agents consider that third party witnesses are relevant to your enquiry then this should have been canvassed with the sheriff at the time the report was ordered. If you are sufficiently concerned about such enquiries being crucial to you being able to form conclusions and recommendations in your report then you should write to the sheriff clerk as directed above before undertaking any further enquiry.

- **Observing Contact**

If it appears that the child/children is/are distressed or reluctant to attend contact then it may be appropriate for you to attend the resident parent's home either immediately before or immediately after contact. Where contact is at a contact centre it may be appropriate for you to speak with the centre staff, to obtain factual and objective information in line with the professional standards they follow, and to obtain records from the contact centre as to past attendance in accordance with the terms of your remit.

- **Ascertaining the Child's Views**

If you are directed to ascertain the child's views you must first consider whether in your view the child is of sufficient age and maturity to express a view including information obtained from other sources when undertaking your enquiry. You should then spend sufficient time with the child in order to ascertain whether they wish to express a view and also to consider carefully how you wish to go about doing this depending on the circumstances of the particular case.

It will often be appropriate to see a child more than once in order to build up a rapport with them and to be assured that you are able to understand their genuine views. In other cases the child's view will be readily ascertainable and this will not be necessary. Consider carefully how best to obtain the child's views and what methods should be used. In some situations you should consider seeing the child at a neutral setting. You should also consider if it would be appropriate to see the child outwith the presence of the parent(s). You may also wish to have the opportunity to observe the child with each parent and to discuss their views in both home environments. It is important to explain to a child that any view expressed to you cannot be held in confidence.

- **Format of Report**

Your report should set out clearly and concisely the facts which you have found established and which lead you to the conclusions and recommendations which you are making to the court. Your report has been ordered by the court in order to ascertain matters of fact and in order to enable the presiding sheriff to better regulate interim matters at a child welfare hearing. It is not appropriate for you to indicate that you have been unable to formulate a clear view as to appropriate next steps in the case and that the matter should simply proceed to proof.

In a very small number of cases issues of concern may arise during the course of your enquiries which were not foreseen by the presiding sheriff when your report was ordered. This may lead you to consider providing information confidentially to the sheriff. That temptation should be resisted. Instead you should contact the sheriff via the relevant sheriff clerk setting out the nature of the difficulty so that a view may be taken on appropriate next steps either from a child protection perspective or for consideration of a request for further enquiries to be undertaken.

In general terms your report should start with a note of the relevant interlocutor (in terms of which you were appointed), a summary of your remit, a brief note (no more than a paragraph) of your qualifications and training, and confirmation that your Protection of Vulnerable Groups (PVG) check remains current. You should record the information which you have had access to and the witnesses you have interviewed. You should set out all relevant factual information under appropriate headings and then make conclusions directly based on and related to the information you have recorded in your report. One of the biggest challenges facing child welfare reporters is to remain focused on your remit and on your role as an officer of the court in recording information in a child centred way restricted to the issues relevant to the sheriff's determination of the case at a child welfare hearing.

Parties will frequently have a very different view as to the relevant factual information and the enquiries which you ought to undertake. The background of disputed issues between the parties and tensions in their relationship can be peripherally relevant to a determination of issues concerning the

welfare of their child or children at this stage. However, issues of safety, such as domestic abuse, are always relevant.

Place the child at the centre of your fact finding. In cases involving disputed arrangements for the residence it is helpful to have practical information regarding both parents' home environments, their proximity to the school, the parents' involvement in their children's education and extra-curricular activities, child care arrangements when parents are working and each parent's parenting capacity both in practical terms and in terms of their relationship with their children. Take note of any challenges that are presented in a particular case to the child or children having a positive relationship with both parents and whether and how these issues may be best addressed. It is also very useful to have information in all cases in relation to the child's age and maturity, educational attainment, health, race and religion, needs and emotional development, interests, their relationship with each of their parents (and, if relevant, siblings) and, if appropriate, their wishes and views.

- **Timings of report**

You should aim to send your report to the Sheriff Clerk, and to the parties, at least three clear working days before the hearing. If this is not going to be possible, you should advise the Sheriff Clerk accordingly and explain why it is not going to be possible. You should make every attempt to send your report through a secure transmission route².

The Scottish Government
March 2016

² The Scottish Government is considering further, with other bodies, whether a future version of these instructions should say that reports must be transmitted through secure email.

TEMPLATE LETTER ACCEPTING APPOINTMENT

Case reference number:

To Sheriff Clerk at _____ Sheriff Court

Dear Sheriff Clerk

Thank you for your letter of _____ enclosing the interlocutor by Sheriff _____ appointing me as a Child Welfare Reporter in the case of _____.

I can confirm that I am unaware of any conflicts of interest and I am able to accept the appointment.

Yours faithfully

TEMPLATE LETTER DECLINING APPOINTMENT

Case reference number:

To Sheriff Clerk at _____ Sheriff Court

Dear Sheriff Clerk

Thank you for your letter of _____ enclosing the interlocutor by Sheriff _____ appointing me as a Child Welfare Reporter in the case of _____.

I regret I am unable to accept the appointment as _____.

Yours faithfully

INFORMATION REQUIRED FOR THE CHILD WELFARE REPORTER

Note: Do not disclose information to agents that could identify the whereabouts or school attended or similar information about a victim of domestic abuse and the children of the victim. This includes not disclosing the address of any refuge and not disclosing home and mobile telephone numbers and e-mail addresses.

Contact details for Party to family action -

Case Ref No:

(1) Name of Party: _____

(2) Date of birth of Party: _____

(3) Home address* of Party: _____

*(Please ensure that you give the current home address of the Party)

(4) Landline telephone number(s)
for Party: _____

(5) Mobile telephone number(s)
for Party: _____

(6) Email address for Party: _____

(7) Party's solicitor's name and
Contact details: _____

(8) Legal Aid Reference Number _____
(if appropriate)

**(9) ATTACH MANDATES IN FAVOUR OF GP, HEALTH VISITOR, OTHER PROFESSIONAL/
SCHOOL IF REQUIRED IN TERMS OF THE REMIT OF THE REPORTER**

DRAFT MANDATE

(1) NAME : _____

(2) HOME ADDRESS; _____

(3) telephone number(s)

I consent to release of information about *[insert name of child]*
to.....Child Welfare Reporter

For the purposes of and confined to the matters directly relevant to the report ordered by the court
in terms of the attached interlocutor of.....

SIGNED.....

Date.....