NON-DISCLOSURE CONDITIONS IN THE CHILDREN’S HEARINGS SYSTEM

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EXECUTIVE SUMMARY

Introduction
A non-disclosure request is made to ask that information be withheld from a specified person(s) on the grounds that disclosure of the information would pose significant risk of harm usually to the child. Non-disclosure conditions can be made by the Sheriff or Children’s Hearing (non-disclosure orders), or Children’s Reporter (Rule 9/16¹). There is a trend of an increasing number of non-disclosure cases: - at 1st March 2015 there were 1,278 children with non-disclosure orders and 929 with Rule 9/16². This is against a trend of decreasing numbers of children on compulsory measures of supervision.

The making of Rule 9/16 and non-disclosure orders has significant consequences. For parent(s) it usually means that they are not permitted to know where their child is living. Management of non-disclosure cases presents resource challenges for all agencies involved. Despite the stringent test of ‘significant risk of harm’, the majority of non-disclosure order breaches are assessed as low risk. It is therefore important to better understand the decision making and management of these cases so that:

- Non-disclosure conditions are used appropriately;
- Areas for improvement on decision making and the management of cases are identified; and
- Resources can be targeted on high risk cases.

Methods
The research involved: 1. examination 30 cases (15 Rule 9/16 and 15 non-disclosure orders), and all non-disclosure conditions breached in 2013-14; 2. interviews with SCRA staff (eight Senior Practitioners, five Locality Support Managers) and 12 Panel Members; and 3. a survey of Reporters.

Findings
More younger children are subject to non-disclosure conditions than older children.

Age breakdown of Rule 9/16 and non-disclosure orders at 1st March 2015

1 Rule 9 Children (Scotland) Act 1995; Rule 16 Children's Hearings (Scotland) Act 2011 (from 24th June 2013)
2 Some of whom may also have been subject to a Non-Disclosure Order.
This research found that there are differences in understanding of the ‘significant risk of harm’ test and application of non-disclosure conditions. Analysis of a sample of Rule 9/16 and non-disclosure orders and breaches indicated that some may not have been necessary and have met this test.

Clear guidance on the application and management of non-disclosure conditions is available, however, this research indicates that it is not always followed. SCRA staff have guidance on non-disclosure in the form of Practice Direction, and Panel Members have guidance in their Practice and Procedures Manual.

There is scope for more to be done to standardise the application of non-disclosure conditions and the management of these cases. Panel Members and Reporters must understand the level of detail required when recording the reasons for the application or removal of non-disclosure conditions.

Those who are responsible for making such conditions take this very seriously and are acutely aware of their impact on agencies and, most importantly, children and their families.

Recommendations

Guidance
- Panel Members and SCRA staff need to be aware of and follow relevant guidance on the application and management of non-disclosure conditions.
- Provision of check-lists for Reporters and Panel Members to follow when applying or removing Rule 16 or making non-disclosure orders. These should include the factors that can and cannot be considered, and emphasise the need to base such decisions on evidence of risk or changes in levels of assessed risk.
- Revision of the checklist of the management of non-disclosure process cases for SCRA for support and administrative roles, to cover the provisions of the Children's Hearings (Scotland) Act 2011. This should be displayed in in areas where Panel Papers are prepared by SCRA staff.

Administration
- Reporters must record in case notes on CMS the full details when applying or deciding not to apply Rule 16 (detailing information to be withheld, from whom, reasons and the evidence to support the need for non-disclosure).
- Reporters must ensure that they remove the non-disclosure flag on CMS when the non-disclosure order is terminated or Rule 9/16 is not re-applied.
- Reporters must routinely prompt Hearings to consider non-disclosure when there is such an order in place to ensure that there is consideration of its continuation or removal.
- There should be consistency within SCRA in the preparation of Panel Papers, particularly where non-disclosure applies.
- Panel Members must provide detailed justification for application or removal of non-disclosure orders in Hearings’ reasons.
Multi-agency working

- Social workers must help foster carers understand that their addresses may be known to parents and the high threshold of the significant risk of harm test.
- Current evidence on risk of significant harm must be provided in requests to the Sheriff, Hearings and Reporter for non-disclosure orders or application of Rule 16. Similarly, if there has been a change in the level of risk, evidence of this should be provided to allow Hearings and Reporters decide if the non-disclosure conditions should be removed or not re-applied.
- SCRA and social work should ensure that all professionals/agencies involved in the child’s life know when a non-disclosure condition is in place to avoid a breach being made.
1. INTRODUCTION

1.1 Non-disclosure

A non-disclosure request is one to ask that information be withheld from a specified person or persons on the grounds that disclosure of such information would pose significant risk of harm to the child (and/or relevant person):

“The statutory non-disclosure provisions enable the reporter to withhold information which the reporter would otherwise have a duty to provide...An order or warrant may contain a measure prohibiting the disclosure (whether directly or indirectly) of the place a child is required to reside (or the place of safety)...The reporter is to determine what, if any, information might indirectly disclosure the address/place of safety”\(^3\).

Non-disclosure orders are covered under Rules 84 to 87 of The Children’s Hearings (Scotland) Act 2011 (the 2011 Act) (Rules of Procedure in Children’s Hearings) Rules 2013) and can be made by the:

- **Sheriff** (e.g. when making a Child Protection Order (CPO))
- **Children’s Hearing** (e.g. when making or reviewing a Compulsory Supervision Order (CSO))

There are three primary provisions that enable information to be withheld:

- **A non-disclosure request** – may be made by any person. The request must specify what information in the Hearing (or Pre-Hearing Panel) papers is to be withheld from whom and why. The Reporter must withhold the specified information from the specified individual(s) and refer the request to the Hearing (or Pre-Hearing Panel). The Hearing (or Pre-Hearing Panel) will decide whether to agree to the request.
- **Rule 9/16** – enables the Reporter to withhold the whereabouts of the child or a relevant person when sending notifications or papers or other communications relating to a Hearing or Pre-Hearing Panel.
- **A non-disclosure measure** – where an order by a Hearing or Sheriff requires the child to reside at a particular place, including a place of safety, the Hearing or Sheriff may include a measure in the order prohibiting disclosure of that place. The measure prohibits disclosure of the address, and also other information if necessary to prevent indirect disclosure of that place\(^4\).

**Sheriff**

When considering an application for proof under sections 93 or 94 of the 2011 Act, the Sheriff may order that the address of the child or relevant person is not to be disclosed in the copy application which the Reporter serves on the child, relevant persons and any safeguarder. Under section 40 of the 2011 Act the Sheriff can add a non-disclosure measure as a condition of a CPO.

**Children’s Hearing**

Section 178 of the 2011 Act allows a Hearing not to disclose information about the child or about the child’s case if disclosure of that information to that person would be likely to cause significant risk of harm to the child.

**Rule 9/16**

Rule 9/16 allows the Reporter to withhold information disclosing the whereabouts of the child when sending any notification or documents before or after a Hearing, if disclosing this would be likely to cause significant risk of harm to the child or any relevant person.

1.2 The use of non-disclosure conditions

There is a trend of an increasing number of non-disclosure cases - at 1st March 2015 there were 1,278 children with non-disclosure orders and there were 929 children with a Rule 9/16 non-disclosure (made by the Reporter). Table 1 shows the numbers of non-disclosure conditions in place from 2009-10 to 2013-14.

**Table 1: Non-disclosure trends**

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Children with Non-Disclosure conditions in force at Quarter End</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/10</td>
<td>Q3</td>
<td>Rule 9 or 16* As % of total children with ND Total ND conditions</td>
</tr>
<tr>
<td>09/10</td>
<td>Q4</td>
<td>143 9% 1527</td>
</tr>
<tr>
<td>10/11</td>
<td>Q1</td>
<td>196 13% 1498</td>
</tr>
<tr>
<td>10/11</td>
<td>Q2</td>
<td>216 14% 1548</td>
</tr>
<tr>
<td>10/11</td>
<td>Q3</td>
<td>201 13% 1529</td>
</tr>
<tr>
<td>10/11</td>
<td>Q4</td>
<td>241 15% 1568</td>
</tr>
<tr>
<td>11/12</td>
<td>Q1</td>
<td>222 14% 1560</td>
</tr>
<tr>
<td>11/12</td>
<td>Q2</td>
<td>217 14% 1599</td>
</tr>
<tr>
<td>11/12</td>
<td>Q3</td>
<td>229 14% 1610</td>
</tr>
<tr>
<td>11/12</td>
<td>Q4</td>
<td>262 16% 1619</td>
</tr>
<tr>
<td>12/13</td>
<td>Q1</td>
<td>249 16% 1602</td>
</tr>
<tr>
<td>12/13</td>
<td>Q2</td>
<td>205 13% 1595</td>
</tr>
<tr>
<td>12/13</td>
<td>Q3</td>
<td>303 18% 1693</td>
</tr>
<tr>
<td>12/13</td>
<td>Q4</td>
<td>Data not available***</td>
</tr>
<tr>
<td>13/14</td>
<td>Q1</td>
<td>452** 26% 1758</td>
</tr>
<tr>
<td>13/14</td>
<td>Q2</td>
<td></td>
</tr>
</tbody>
</table>

* Rule 9 applied until 24th June 2013 when the 2011 Act came into force
** Rule 9 or 16 may be in force.
***Data not available during transition period to SCRA’s new Data Warehouse

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5 Section 251, Part II, Children’s Hearings (Scotland) Rules 1996
6 Some of which may also have been subject to a Non-Disclosure Order.
Tables 1 and 2 show that the number of children with non-disclosure conditions is increasing, against a trend of decreasing numbers of children on compulsory measures of supervision.

Table 2: Number of children on Compulsory Supervision Orders as at 31st March each year

<table>
<thead>
<tr>
<th>Year</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>13,523</td>
<td>13,829</td>
<td>13,474</td>
<td>13,093</td>
<td>12,514</td>
<td>11,420</td>
<td>10,733</td>
</tr>
</tbody>
</table>

Case sampling by SCRA of non-disclosure cases and analysis of non-disclosure breaches for SCRA’s Audit Committee identified differences on how non-disclosure orders are being used. The case sampling exercise found that application of Rule 9/16 was at an all-time high, with a steady increase being shown quarter on quarter. In addition, it found that the application of Rule 9/16 was not being recorded adequately by Reporters in SCRA’s Case Management System (CMS), with 34% of the cases examined not identifying the reason for the nature of harm and 73% having no record of the reason for the application of the Rule in the Warning Box. In 35% of cases, the person carrying out the case sampling did not agree with the application of the Rule, as they considered that it did not meet the criteria of risk of significant harm.

1.3 Non-disclosure breaches

Upon becoming aware of a breach of a non-disclosure order/Rule 9/16, the SCRA staff member must immediately inform their Locality Reporter Manager (LRM) who must assess the risk of the breach and determine whether to inform the family and other agencies. In addition, they have to report the breach within SCRA (see Appendix 1 for SCRA’s Non-Disclosure Notification Form).

This research examined non-disclosure order breaches in 2013-14. The purpose of this was to determine the levels of risk from the breaches and from this assess whether the non-disclosure conditions were necessary. In this period, there were 42 breaches of non-disclosure orders reported which occurred in 30 incidents (Table 3).

Table 3: Sources of non-disclosure breaches in 2013-14

<table>
<thead>
<tr>
<th>Source of ND breach</th>
<th>Number of ND Order breaches in 2013-14</th>
</tr>
</thead>
<tbody>
<tr>
<td>SCRA</td>
<td>16</td>
</tr>
<tr>
<td>Social work/local authority</td>
<td>5</td>
</tr>
<tr>
<td>Health</td>
<td>3</td>
</tr>
<tr>
<td>Family member/associate</td>
<td>2</td>
</tr>
<tr>
<td>Foster carer</td>
<td>6</td>
</tr>
<tr>
<td>School</td>
<td>1</td>
</tr>
<tr>
<td>Taxi driver</td>
<td>1</td>
</tr>
<tr>
<td>Child</td>
<td>4</td>
</tr>
<tr>
<td>Not clear/not known</td>
<td>2</td>
</tr>
<tr>
<td>Joint SCRA/Social work</td>
<td>1</td>
</tr>
<tr>
<td>Joint Social work/parent</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>42</td>
</tr>
</tbody>
</table>

(Source: SCRA (2014) Case Information and Non-Disclosure Breaches 2013-14)

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8 Prior to 24th June 2013 when the 2011 Act came into force these were Supervision Requirements.
9 Data from SCRA’s Official Statistics
There were also three breaches (in separate incidents) of Rule 9/16 (one of which was also a breach of a non-disclosure order): in total there were 32 non-disclosure or Rule 9/16 breach incidents in 2013-14. Of these, 21 were classified as low risk, one low to medium risk, seven medium risk, one medium to high risk, and one high risk. The risk level was not recorded in one breach.

1.4 Research aim

The making of Rule 9/16 and non-disclosure orders has significant consequences for a family. For parent(s) it usually means that they are not permitted to know where their child is living and sometimes who with. This has implications for the rights of parents and their child for family life under Article 8 of the European Convention on Human Rights and Article 9 of the UN Convention on the Rights of the Child. As such, withholding a child’s whereabouts from their birth parent(s) should only be done where it is necessary and meets the risk of significant harm test.

The management of non-disclosure conditions presents resource challenges for SCRA and other agencies involved in a child’s case. Each order requires the redacting of all relevant information from reports and correspondence, and systems to ensure that this has been done. As the number of cases with non-disclosure conditions continues to increase so does the resources required to manage them.

Breaches of non-disclosure conditions can put children, their carers and/or a parent at risk, and can also cause stress and anxiety for all involved (staff as well as children and carers). However, the majority of breaches are assessed as low risk.

It is, therefore, important to understand how both Reporters and Hearings are applying Rule 9/16 and non-disclosure orders to better understand the decision making and management of these cases. This will help SCRA (and partner agencies) ensure that:

- Non-disclosure provisions are being used appropriately;
- Identify areas for improvement on decision-making and the management of cases; and
- Resources are targeted on high risk cases.
2. METHODS

A mixed method staged approach was used which included both qualitative and quantitative approaches.

2.1 Stage 1: Data analysis

Stage 1 involved an analysis of: (i) all SCRA non-disclosure and Rule 16 breaches in the fiscal year 2013-14, and (ii) analysis of a random sample of 15 Rule 9/16 and 15 non-disclosure orders in force as at 1st March 2015.

(i) Data on all reported non-disclosure breaches in 2013-14 was gathered on:
- The type of non-disclosure order breached (an order or Rule 9/16);
- A brief summary of the breach;
- The risk level attached to the breach as determined by the person reporting the breach;
- An opinion as to whether the order/Rule was required prior to the breach in light of the breach; and
- Any additional information that might be pertinent.

(ii) Analysis of 15 current Rule 9/16 and 15 non-disclosure orders involved interrogating CMS to gather information on the rationale behind the application of the Rule/non-disclosure order, the evidence to support this, and recording of relevant information by the Reporter or Hearing (see Appendix 2 for the research variables for data analysis).

2.2 Stage 2: Interviews with SCRA staff and Children’s Panel Members

SCRA staff

Telephone interviews were carried out with eight of SCRA’s Senior Practitioners on decision making on the application of Rule 9/16 and any variances in local practice (see Appendix 3 for interview schedule); and with five of SCRA’s Locality Support Managers (LSMs) on the impact of Rule 16 and non-disclosure orders on teams in the management of these cases (see Appendix 4 for interview schedule).

Notes were taken of the interviews which were carried out between January to March 2015.

Children’s Panel Members

Telephone interviews were conducted with 12 Panel Members who self-selected to participate (see Appendix 5 for interview schedule). This was to obtain an understanding of the rationale and decision making processes on the application of non-disclosure orders, and the feelings of Panel Members when making them. A notice was put on CHIRP\(^\text{11}\) to advertise the research and invited Panel Members to contact the researcher to participate. Notes were taken of the interviews which were carried out between February to March 2015.

\(^{11}\) CHIRP (Children’s Hearings Information & Resource Portal) is the intranet provided by Children’s Hearings Scotland for Panel Members.
2.3 Stage 3: Survey of Reporters

An online survey of Reporters was made available on Connect\textsuperscript{12}. It included multiple choice and open-ended questions on rationale and decision making on Rule 9/16 (see Appendix 6 for questionnaire). The survey was made available for a 2 week period in March 2015. A total of 15 Reporters took part.

2.4 Stage 4: Analysis

The information on non-disclosure breaches was recorded and analysed using MS Excel, and findings are presented in aggregate.

Data from SCRA’s Data Warehouse was analysed to identify whether any patterns exist in the use of Rule 9/16 and/or non-disclosure orders (by age and gender of child, and type of order).

The notes from interviews with Senior Practitioners, LSMs and Panel Members were analysed thematically.

The Reporter survey was analysed using Survey Monkey and the findings presented are in aggregate and discussed throughout the text alongside the views of the Senior Practitioners. Open ended questions in the survey were analysed thematically.

\textsuperscript{12} SCRA’s staff intranet.
3. FINDINGS

As at 1st March 2015 there were 929 children with a Rule 9/16 and 1,278 with non-disclosure orders. Approximately equal numbers of boys and girls were the subjects of these conditions (Table 4).

Table 4: Gender of children with Rule 9/16 and non-disclosure orders

<table>
<thead>
<tr>
<th>Gender</th>
<th>Rule 9/16 children</th>
<th>ICSO/CSO ND Order children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>458</td>
<td>610</td>
</tr>
<tr>
<td>Male</td>
<td>465</td>
<td>662</td>
</tr>
<tr>
<td>Unknown</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>929</td>
<td>1278</td>
</tr>
</tbody>
</table>

Figure 1 illustrates the breakdown of Rule 9/16 and non-disclosure orders by age of child.

Figure 1: Age breakdown of children with Rule 9/16 and non-disclosure orders as at 1st March 2015

3.1 Case file analysis

3.1.2 Rule 9/16

Five of the 15 Rule 9/16 were requested via a report to the Reporter, one via a Non-Disclosure Request Form, one from a CPO, one due to previous parental behaviour at a Hearing, and for seven it was unknown how they were requested (Figure 2).

Figure 2: Sources of non-disclosure requests on Rule 9/16
Evidence and recording

Eight of the 15 cases had a case note detailing the application of Rule 9/16. Nine had evidence to support the application of the Rule on CMS (six of which also had a case note detailing the Rule). There were seven cases with no case note on the application of the Rule and a lack of information on CMS to support the application of the Rule. Tables 5 and 6 show whom the non-disclosure conditions applied to and what information was to be withheld under the Rule 9/16.

<table>
<thead>
<tr>
<th>Table 5: Rule 9/16 - Whom the non-disclosure condition applied to</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who ND applied to</strong></td>
</tr>
<tr>
<td>Both birth parents</td>
</tr>
<tr>
<td>Birth father</td>
</tr>
<tr>
<td>Birth mother</td>
</tr>
<tr>
<td>Both birth parents and grandparents</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 6: Rule 9/16 - What information is to be withheld</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>What information is to be withheld</strong></td>
</tr>
<tr>
<td>Child’s residence</td>
</tr>
<tr>
<td>Mother’s residence</td>
</tr>
<tr>
<td>Unknown/not specified</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

In four of these 15 cases, the child was being placed in a permanent/adoptive placement. In one of these there was evidence to support a risk of significant harm to the child if their residence was known to their birth parents. In the three other cases there was no other evidence contained in CMS (either in a case note or in any reports) of a risk of significant harm.

Subsequent non-disclosure orders

Of the 15 Rule 9/16 conditions applied, in 13 cases the subsequent Hearings made non-disclosure orders. Amongst these 13 cases, seven applied the non-disclosure condition to both parents, three to the father, two to the mother and one to both parents and grandparents. In 12 cases the child’s residence was to be withheld and in one the mother’s address. For six of the 13 non-disclosure orders subsequently made, this was in part due to the child being placed in a permanent/adoptive placement.

Prior non-disclosure conditions

None of the 15 Rule 9/16 conditions examined were re-applied following the next Hearing. Two of the 15 cases had had a previous non-disclosure condition applied and removed, and there are no records on CMS of any previous Rule 9/16 conditions being applied prior to the one examined in this research.

Of the 15 Rule 9/16 conditions, 10 had current non-disclosure orders in place (seven of which withheld the child’s residence and three did not specify what information should be withheld) at the time the Rule was applied (two of which were added the same day the Rule was applied). Of these:

- Six had information withheld from both parents
• Two had information withheld from the child’s mother
• One had information withheld from the child’s father
• One had information withheld from both parents and grandparents.

3.1.3 Non-Disclosure Orders

Of the 15 non-disclosure orders made by Hearings, 13 were made during Review Hearings and two during Grounds Hearings. Fourteen were renewals of previous non-disclosure conditions and one was a new non-disclosure order. Two of the 14 renewal non-disclosure orders originated from CPOs made by the Sheriff, with the remainder originating from a previous Hearing (Table 7).

Table 7: ND Order - Whom the non-disclosure condition applied to

<table>
<thead>
<tr>
<th>Who ND applied to</th>
<th>No. cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both birth parents</td>
<td>7</td>
</tr>
<tr>
<td>Birth father</td>
<td>2</td>
</tr>
<tr>
<td>Birth mother</td>
<td>5</td>
</tr>
<tr>
<td>Stepfather</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>15</strong></td>
</tr>
</tbody>
</table>

Prior non-disclosure conditions

One of the 15 cases had previously had a non-disclosure order condition removed and three had never had a non-disclosure order condition attached to a CSO; 11 had all had prior non-disclosure orders which had never been removed. Six of the 15 non-disclosure orders had had a prior Rule 9/16 applied, with two of these not being re-applied after the Hearing made the current non-disclosure order condition.

Evidence and recording

In 14 of the 15 cases it was the child’s residence that withheld and in the remaining case there was no information recorded on CMS. In eight of the 15 cases, the non-disclosure order was because the child had been placed in a permanent/adoptive placement. Of these, most had detailed reasons and evidence for the non-disclosure order in the Report of Proceedings, but not all. Two did not record adequate reasons for the non-disclosure order – one did not detail or evidence a risk of significant harm, and the other did not record any discussion of the non-disclosure condition during the Hearing at all.

In 14 of the 15 Hearings that made orders, the non-disclosure condition was discussed and reasons for the order made recorded in the Report of Proceedings. In the remaining case there was no detail of the discussion on the non-disclosure condition in the Report of Proceedings.

The social work report recommended the non-disclosure condition in nine of the 15 cases. In five of these, the researcher assessed there was evidence to support the request for non-disclosure in the social work report. In the other four cases, the researcher did not find adequate evidence to support the requests for non-disclosure in the social work reports.

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13 For the remaining six cases, there was no clear recommendation for the non-disclosure conditions in the social work report for the Hearing.
3.2 Views of SCRA staff and Children’s Panel Members

3.2.1 Rule 9/16

Most of the Senior Practitioners who were interviewed and Reporters who participated in the survey when asked how to define ‘significant risk of harm’, gave fairly broad definitions which encapsulated emotional and physical harm. Aggression, violence, threats of abduction and placement security were all cited as examples of significant harm, with the emphasis was on current risk:

“If disclosure of the information to an individual would be or is likely to impact negatively on the emotional, mental or physical wellbeing of a child”

“Harm to the child or relevant person both physically and emotionally. There must be a real risk that if the individual knows the information which is being withheld...that they would use this information to approach the person”

“Evidence of physical, mental or emotional harm that is not transitory and has evidence of impact”

Eleven of the 15 Reporters in the survey responded that they would find a clear test for ‘significant risk of harm’ useful in guiding them on the use of Rule 9/16, and six said that they would find a clear definition helpful.

Some Reporters wanted to be better able to assess current risk rather than from historical events, which is often what non-disclosure requests are based upon. One commented:

“Often a lack of up-to-date info on which to base a proper assessment. Reporters tend to err on the side of caution rather than the ’significant harm’ test”

When asked about the factors they would take into account when applying Rule 9/16, Reporters gave similar responses. These included:

- Risk of emotional harm
- Risk of physical harm
- Risk of abduction
- Previous history of violence/aggression
- Previous threats of abuse/abduction
- Current level of risk
- Social work’s view.

SCRA Practice Direction states:

“...where there is a non-disclosure measure in an [existing] order, Rule 16 is only to be used by reporters where disclosure of the whereabouts of the relevant person would cause significant harm to the relevant person...If a hearing has not included a non-disclosure measure (where it could have), the use of Rule 16 in relation to the whereabouts of the child is unlikely to be justified without significant new information becoming available after the hearing”14.

Thirteen of the 15 Reporters in the survey said that they would not automatically apply Rule 9/16 at the request of social work. They would consider the issues that would need meet the test for significant risk of harm. Most would contact the agency making the request for non-disclosure (usually the social work department) and ask them to provide evidence to justify it. Again, the focus was on current and on-going risk and ensuring that the legal test was met. There was a feeling that that some requests for non-disclosure from social work are: “...not applying the significant harm test properly” and are doing so at the request of foster carers:

“Often requests come from social work purely based on the request of a foster carer with no real thought as to whether there is a real risk of harm or a likelihood that the relevant persons would act on the information disclosed”

“There are situations where we are asked to apply Rule 16 simply because the foster carer has indicated that they would prefer that their address is not disclosed”

When asked under what circumstances they would not re-apply Rule 9/16, all Reporters responded that they would do this if there were a change in circumstances and the risk had diminished. Five Reporters also said that they would do so if/when the Hearing made a substantive decision (whether or not the Hearing made a non-disclosure order as part of the CSO).

Senior Practitioners and Reporters were asked if their locality had any system for checking/approving the application of Rule 9/16. Most advised that it was at the discretion of Reporters who could approach their peers, Senior Practitioners and/or LRM s for advice if needed. Some localities did have systems in place where each Rule 16 has to be approved by either a Senior Practitioner or LRM prior to being applied, and that the approval must be recorded in a case note along with the Reporter’s evidence of why it was necessary.

Senior Practitioners and Reporters advised that in larger teams with more Rule 9/16 cases, these are monitored through management data provided to LRM s. In smaller teams it was felt that this level of review is not warranted, as Reporters are able to keep abreast of their own caseload.

3.2.2 Non-disclosure orders

Most Panel Members interviewed said that, in their experience, non-disclosure orders are made or renewed only when necessary. Most are made at the request of social work; and that it would be rare for the Hearing to apply a non-disclosure condition without such a request.

Case Study 1

Child was removed from birth parent(s) at birth, requiring police presence. Very serious historic grounds and permanence now being pursued and child living with prospective adopters. Decision to continue with non-disclosure of the name and address of the prospective adopters to secure placement and due to possible interference by extended birth family members, as has previously occurred. Non-disclosure also protects birth parents from pressure from extended family to disclose child’s whereabouts. Social work recommend non-disclosure remains in place.

Some Panel Members felt that some non-disclosure orders did not meet the test and could be open to legal challenge (see Case Studies 2 and 3). For example, one said that in their local authority area it is almost routine for a non-disclosure request to be made where there is any controversy between
the birth parent(s) and social work department. They went onto say that non-disclosure orders were often requested to help make foster carers feel ‘comfortable’ and that this has continued as standard, rather than a deeper consideration of whether the strict test for significant risk of harm has been met – similar to what some Reporters said.

**Case Study 2**

The Panel attach a non-disclosure of carers address to ensure there is no disruption to placement. Mum assured Panel she would not wish to disrupt the placement and jeopardise her contact with child however the Panel felt it was important to have this [non-disclosure order] in place as a safety net.

**Case Study 3**

Panel were of opinion that there was danger of disruption should dad be made aware of child’s placement and the Panel would not wish this disrupted in any way. At same Hearing, dad was undetermined as Relevant Person.

Panel Members interviewed said that the simple knowing of an address does not mean that the parent(s) are going to present a risk of harm and that there must be some evidential justification for the application/continuation of a non-disclosure order. Some Panel Members advised that, whilst the birth parent(s) may pose a risk to the child, sometimes circumstances may mean that a risk of significant harm is negligible (see Case Study 4).

**Case Study 4**

Non-disclosure of foster carers address to ensure that neither parent can appear at the home of the carers and cause problems for the child or carers. Child resides with foster carers in very remote and rural part of Scotland, over 100 miles away from birth parents who live chaotic lives.

Most felt that the majority of Panel Members are good at questioning the need for a non-disclosure order, but that some, particularly newer ones, can lack the confidence to question the social worker’s request for non-disclosure. Panel Members advised that social work must provide the evidence to support their recommendation and all those spoken to felt they had the professional confidence to question the need for the order should this arise.

All Panel Members interviewed were fully aware of the work involved when a non-disclosure order is in place and do not underestimate the impact that it has on agencies involved in managing the case. Most, said that a non-disclosure order made by the Sheriff (e.g. in a CPO) does not hold any additional weight than one made by a Hearing; although a few did say that they would be less likely to question a non-disclosure order if it was made by a Sheriff. Conversely, some Panel Members suggested that sometimes non-disclosure orders as conditions of CPOs are not necessary (e.g. a baby that is still in hospital) and that it can seem as if the non-disclosure condition is added routinely rather than out of necessity.

Previous SCRA research\(^{15}\) found that 112 of 175 CPOs examined had non-disclosure condition orders made by the Sheriff; 163 of the 175 CPOs were continued at the 2nd working day Hearing and 87 of

these had non-disclosure conditions. Figure 3 illustrates the number of non-disclosure conditions made by the Sheriff when making CPOs, and by Hearings at the 2\textsuperscript{nd} and the 8\textsuperscript{th} working day Hearings, and as a condition of the CSOs that followed.

Figure 3: Non-disclosure conditions at CPO, 2\textsuperscript{nd} and 8\textsuperscript{th} working day Hearings and CSO

3.2.3 Impact of non-disclosure on SCRA and partner agencies
Rule 9/16 and non-disclosure orders present resource challenges for SCRA and partner agencies. Each condition requires the removal of all specified information. All the LSMs interviewed stressed the additional workload required on cases where non-disclosure conditions are applied, particularly in redacting which can impact on time to do other work. In general, they felt that it takes support staff a lot longer to prepare papers and/or notifications for a non-disclosure case and other tasks can be affected as a result, this then can impact on other team members.

LSMs advised that ‘coming across a red file’ (which indicates the case is a non-disclosure) in their workload can be a source of stress and pressure for support staff. Reporters also commented on the additional work and stress that managing non-disclosure cases creates for all staff involved.

3.2.4 Recording
Where Rule 9/16 is applied or not re-applied Reporters should, in line with SCRA Practice Direction, record their decision on CMS. This should include a case note, against the associate’s details and in the warning box. The case notes should hold the most detailed note (when applying and/or not re-applying Rule 9/16) and should include: what information must not be disclosed; the person(s) whom the information is not to be disclosed to; the reasons and evidence supporting the application of the Rule; and, where the Rule is removed, the reasons for this. All of the Reporters and Senior Practitioners in this research advised that they knew what to record and where it should be recorded and that they would do this when they had applied Rule 9/16 or decided not to re-apply it.

However, an analysis of a random sample of 15 Rule 9/16 currently in force found that almost half (seven of 15) did not have case notes detailing the reasons for the Rule and a further four had case notes but these did not give the reason(s) why the Rule had been applied. Five of the 15 did not have any supporting documentation on CMS to support the application of the Rule. This is not to say
that the evidence was not contained elsewhere in the child’s paper case file\textsuperscript{16}, but that it was not clear from CMS alone why the Rule had been applied.

\subsection*{3.2.5 Support and training}
Senior Practitioners felt that \textit{Practice Direction Note 4 – Non-Disclosure}\textsuperscript{17} provides full and detailed guidance on the use of Rule 16 and non-disclosure. They regularly consult the guidance and find it a useful tool to refer Reporters to. Responses from Reporters in the survey were less positive. Nine of the 15 advised they found the Practice Direction helpful and six that it was not very helpful. One Reporter commented that: “\textit{The guidance on application of Rule 16 is not easily referred to – it is too lengthy and not user friendly}”.

Whilst Practice Direction is primarily aimed at Reporters, there is information relevant to support staff on the preparation of papers, sending notifications and the management of Hearings. LSMs advised that very few support staff are familiar with Practice Direction, seeing it as something for Reporters rather than themselves. They found it technical and difficult to understand and support staff are not afforded the time to familiarise themselves with it, and suggested that support staff-orientated guidance would be useful, particularly for new staff.

All SCRA staff in this research agreed that some form of quick at-a-glance checklist would be useful for those involved in non-disclosure cases. This could be either laminated for staff to keep at their desks and/or posters (particularly for support staff) near photocopiers and collating areas. LSMs felt that having more role-specific simple guidance would help in ensuring that all staff are aware of their responsibilities in non-disclosure cases. Reporters also felt a quick-glance checklist would be helpful in guiding them on the use of Rule 16 (12 of the 15 said that this would be useful).

Panel Members too felt that additional training and/or guidance would be useful on the application of non-disclosure conditions. Those interviewed advised that their basic training only touches on non-disclosure (and for some this training took place many years ago), and that recent conversion training on the 2011 Act had just a small section on non-disclosure. Most explained that non-disclosure is included in their Practice and Procedures Manual, however, this manual can be cumbersome as it covers many issues and it can be vague on some. Panel Members too felt that short concise at-a-glance guidance or checklist on the criteria to be met for ‘significant risk of harm’ would be helpful to them.

Some Reporters suggested that social work, Panel Members and other agencies could benefit from training on non-disclosure, and on the ‘significant risk of harm’ test and the evidence required to justify this.

\subsection*{3.3 Non-Disclosure Order breaches}
An SCRA report for the Children’s Hearings Improvement Partnership states that:

\begin{quote}
“A breach is where there is a legal order in force made by a court or children’s hearing which includes a measure that sets out conditions of non disclosure of information that apply to a
\end{quote}

\textsuperscript{16} This level of scrutiny was outwith the remit of this research.
\textsuperscript{17} SCRA (2015) \textit{Practice Direction 4 – Non-Disclosure}. 
specified individual or individuals and that information is disclosed to that individual or
individuals by any person or agency.”

An assessment of the information on each of the 32 non-disclosure and/or Rule 16 breaches reported in 2013-14, found that 19 cases did require the non-disclosure condition at the time the breaches were made. This means that there were 13 cases that did not require non-disclosure conditions. It should be noted that this assessment is based solely on the information provided when the breaches were reported.

For the 19 cases where it was considered that the non-disclosure condition was required, the risk level associated with each breach had been assessed by operational staff (Figure 4).

Figure 4: Risk levels of non-disclosure breaches reported in 2013-14

Examples of the reasons that breaches were assessed as low risk included:

- Remedial action taken to minimise the risk immediately following the breach (e.g. documents retrieved).
- Address being so barely visible the risk of parent(s) seeing it was minimal.
- Carers names only disclosed, not their address.
- Doubt about whether a parent actually knew the address or whether they just said they did.
- Parents did not normally engage with services so unlikely they would act on any information.
- There was no attempt by the parent(s) to disrupt the placement following disclosure of the child’s address.

Some of these explanations on the low level of risk from the breaches suggest that some of these non-disclosure orders may too not have been necessary.

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19 Assessment was carried out using the risk level assigned to the breach and the information provided on the breach notification form.
20 The risk assessed at the time of the breach may be different from the risk of disclosure when the order was made.
4. DISCUSSION AND RECOMMENDATIONS

4.1 Discussion

Concerns have been raised about a lack of consistent understanding amongst agencies involved in non-disclosure cases\textsuperscript{21}, and this was also found in this research. Work is on-going at national and local levels to address these; examples include:

- SCRA’s Glasgow locality is working in partnership with Glasgow City Council and the Centre of Excellence for Looked after Children in Scotland (CELCIS) on best practice and implementation of the Good Practice Guide\textsuperscript{22} to reduce the number of orders in place and breaches of them.
- The Scottish Government has written to all Chief Social Work Officers to ask that they provide an annual report on non-disclosure for the Children’s Hearings Improvement Partnership\textsuperscript{23}.
- The joint response by SCRA and Children’s Hearings Scotland to the Scottish Government’s consultation on the statutory guidance for the Children and Young People (Scotland) Act 2014, raised the difficulties in managing non-disclosure cases that can arise from the current format of the Child Plan/GIRFEC report:
  
  ‘Currently, Reporters and Panel Members tell us that some plans involve too much repetition, including repeated reference to address details which present risks relating to non-disclosure cases’\textsuperscript{23}.

- Children 1\textsuperscript{st} has included non-disclosure in the draft performance standards for Safeguarders.
- Non-disclosure has been subject of discussions between SCRA and the Scottish Court Service.

This research found that those involved in making non-disclosure orders in the Children’s Hearings System can find this challenging. The SCRA staff and Panel members in this research were very aware of the consequences of making non-disclosure conditions, and that such conditions should only be applied in those cases where there is current evidence of a risk of significant harm. Only in extreme circumstances should information on a child’s whereabouts be withheld from their parents and it is important that the rights of parents are balanced against the risks to the child.

The legal test for the application of non-disclosure orders and Rule 9/16 is high and is that there must be a **significant risk of harm**. However, the number of breaches where the risk was assessed as low and the number of Rule 9/16 and Non-Disclosure Order cases sampled that did not meet the ‘significant harm’ test, raises questions on whether the application of non-disclosure conditions were always necessary. This is supported in a letter from the Scottish Government to all Chief Social Work Officers, which states:

‘...that many of the [non-disclosure] orders have been identified as low risk by SCRA, questioning their requirement for the order in the first instance’\textsuperscript{21}.

A paper by SCRA’s Head of Practice & Policy to the Children’s Hearings Improvement Partnership explains:

\textsuperscript{21} Letter sent to Chief Social Work Officers and cc to Local Authority CEO’s in 2015 by the Chair of the Children’s Hearings Improvement Partnership, Scottish Government


\textsuperscript{23} SCRA and CHS response to the Scottish Government’s consultation on the draft Statutory Guidance for Parts 4, 5 and 18 (section 96) of the Children and Yong People (Scotland) Act 2014. (May 2015)
“The test to any non-disclosure provision is that disclosure of the information to the individual(s) would be likely to cause significant harm to the child (or to a relevant person re disclosure of the relevant person’s whereabouts). There is no established definition of what that term means. It covers physical and emotional harm, most obviously where there is an assessed risk to the health or well being of a child or other person and/or a threat of the child being abducted. It should never be a reluctance by a carer to share their address.”24

There is clear guidance on what information must be recorded when non-disclosure conditions are applied. However, this research and SCRA’s case sampling audit exercises indicate that this is not always being adhered to. SCRA’s Practice Direction on non-disclosure states:

“The reporter must comply with an order by a sheriff or children’s hearing that the place where the child is required to reside is not to be disclosed to a named non-disclosure individual. The reporter must record a non-disclosure order on the Case Management System...In complying with the order, the reporter must identify any information which would indirectly disclose the place where the child is required to reside. The reporter is to record his/her assessment of which information on Case Management System.”25

Both SCRA and Children’s Hearings Scotland need to ensure that Reporters and Panel Members know the level of detail required when recording the reasons why Rule 9/16 or Non-Disclosure Order have been made or not re-applied, and follow relevant guidance.

Whilst there are issues that require to be addressed in the application, management and monitoring of non-disclosure cases, the significance placed on them by SCRA staff and Panel Members highlights just how importantly they are taken. Those who are responsible for making such conditions take this very seriously and are acutely aware of the impact they can have – not only on SCRA staff and partner agencies, but, most importantly, on children and their families.

4.2 Recommendations

4.2.1 Guidance

• Panel Members and SCRA staff need to be aware of and follow relevant guidance on the application and management of non-disclosure conditions.

• Provision of check-lists for Reporters and Panel Members to follow when applying or not re-applying Rule 16 or making non-disclosure orders. These should include the factors that can and cannot be considered, and emphasise the need to base such decisions on evidence of risk or changes in levels of assessed risk.

• Revision of the checklist of the management of non-disclosure process cases for SCRA for support and administrative roles, to cover the provisions of the 2011 Act. This should be displayed in in areas where Panel Papers are prepared by SCRA staff.

4.2.2 Administration

- Reporters must record in case notes on CMS the full details when applying/not re-applying Rule 16 (detailing information to be withheld, from whom, reasons and the evidence to support the need for non-disclosure).
- Reporters must ensure that they remove the non-disclosure flag on CMS when the non-disclosure is terminated or Rule 9/16 is not re-applied.
- Reporters must routinely prompt Hearings to consider non-disclosure when there is such an order in place to ensure there is consideration of its continuation or removal.
- There should be consistency within SCRA in the preparation of Panel Papers, particularly where non-disclosure applies.
- Panel Members must provide detailed justification for application or removal of non-disclosure orders in Hearings’ reasons.

4.2.3 Multi-agency working

- Social workers must help foster carers understand that their addresses may be known to parents and the high threshold of the significant risk of harm test.
- Current evidence on risk of significant harm must be provided in requests to the Sheriff, Hearings and Reporter for non-disclosure orders or application of Rule 16. Similarly, if there has been a change in the level of risk, evidence of this should be provided to allow Hearings and Reporters decide if the non-disclosure conditions should be removed.
- SCRA and social work should ensure that all professionals/agencies involved in the child’s life know when a non-disclosure condition is in place to avoid a breach being made.
Appendix 1: SCRA’s Non-Disclosure Notification Form

Please complete and submit this form within 1 day of discovering a breach of Non-disclosure. Anyone can complete the form (particularly in a manager’s absence) to prevent delay of full assessment.

<table>
<thead>
<tr>
<th>Child’s CMS ID</th>
<th>Please provide the ID reference from Case Management System.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SCRA Team</td>
<td></td>
</tr>
<tr>
<td>Date of Breach</td>
<td>Please provide the date that the breach happened.</td>
</tr>
<tr>
<td>Date Discovered</td>
<td>Please provide the date that you were made aware of the breach.</td>
</tr>
<tr>
<td>Which organisation is responsible for the breach?</td>
<td></td>
</tr>
<tr>
<td>What information has been disclosed that applies to the ND order?</td>
<td>Please provide description of the information that has been released and state who could be affected by this.</td>
</tr>
<tr>
<td>Nature of Breach</td>
<td></td>
</tr>
<tr>
<td>– Hearing Order</td>
<td></td>
</tr>
<tr>
<td>– Sheriff Order</td>
<td></td>
</tr>
<tr>
<td>– Rule 9/ Rule 16 The Children’s (Scotland) Act 2011</td>
<td></td>
</tr>
<tr>
<td>Who has been placed at risk:</td>
<td></td>
</tr>
<tr>
<td>– Child</td>
<td></td>
</tr>
<tr>
<td>– Placement</td>
<td></td>
</tr>
<tr>
<td>– SCRA</td>
<td></td>
</tr>
<tr>
<td>– Other (please state who)</td>
<td></td>
</tr>
<tr>
<td>Assessment of risk</td>
<td>Please record the immediate assessment of risk and details to support assessment.</td>
</tr>
<tr>
<td>– High</td>
<td></td>
</tr>
<tr>
<td>– Medium</td>
<td></td>
</tr>
<tr>
<td>– Low</td>
<td></td>
</tr>
<tr>
<td>Type of risk</td>
<td>Please provide an explanation of your assessment. Comment on the likelihood of the individual acting on the information. Is any person at any risk of harm?</td>
</tr>
<tr>
<td>– emotional welfare</td>
<td></td>
</tr>
<tr>
<td>– physical welfare</td>
<td></td>
</tr>
<tr>
<td>– reputational risk</td>
<td></td>
</tr>
<tr>
<td>– no perceived risk</td>
<td></td>
</tr>
<tr>
<td>Are there Adoption or permanence Proceedings?</td>
<td>Are the plans for adoption or permanence contested?</td>
</tr>
<tr>
<td>Name of Associate(s) to whom breach was made</td>
<td></td>
</tr>
<tr>
<td>How did the breach happen?</td>
<td>This covers all circumstances where information is stolen, lost or disclosed without authorisation (intentionally or not), damaged or destroyed or it is suspected that any of the above has occurred. Please include the source i.e. disclosed at Hearing.</td>
</tr>
<tr>
<td>How was the breach discovered?</td>
<td>Please provide information about how you came to know about this breach.</td>
</tr>
<tr>
<td>Immediate actions taken</td>
<td>Have all individuals affected (including partner agencies) been informed and apology given? (if not state why) Were protective measures required for any individuals impacted by breach?</td>
</tr>
<tr>
<td>Date information retrieved?</td>
<td>If the information has not been retrieved please state why.</td>
</tr>
<tr>
<td>Contact with external agencies</td>
<td>Please identify which agencies should be contacted and informed (i.e. sw, Police, NHS). Provide a summary of discussion, risks identified and how these will be managed.</td>
</tr>
<tr>
<td>Management actions required?</td>
<td>Is there processes that should be reviewed? Is further action required with other agencies? Review ND order.</td>
</tr>
<tr>
<td>Senior Operational Manager’s closing comments</td>
<td></td>
</tr>
<tr>
<td>Date of closure</td>
<td>Please inform Gwen McNiven when all appropriate action has been taken and the matter can be closed. Advise partners of outcome/closure?</td>
</tr>
</tbody>
</table>

Please email completed forms to: Locality Reporter Manager; Senior Operational Manager; Malcolm Schaffer (Head of Practice & Policy); Maggie McManus (Director of Support Services); Gillian Henderson, Katie Brownlee and Gwen McNiven (I & R team); Bruce Knight (Information Security & Technical Assurance Officer); IG Lead(s)
Appendix 2: Case sampling research variables

Rule 16 research variables:
- Whether there was a current non-disclosure order in place at the time the Rule was applied and, if so, what information had to be withheld from whom
- Whether there was a current Rule 9/16 in place
- Who requested the application of the Rule and how was this requested (e.g. via phone call, letter, report)
- Date the most recent Rule 9/16 was added
- Was there a case note on CMS detailing the Rule
- Was there evidence on CMS to support the application of the Rule
- The Reporters noted evidence to support their use of the Rule
- What information had to be withheld from whom under the Rule
- Was the Rule because of a pre-adoptive/permanent placement
- Did the subsequent Hearing make a non-disclosure order (immediately after the application of the Rule) and, if so, the Hearings reason for the non-disclosure and what information has to be withheld from whom and whether this was because of a pre-adoptive/permanent placement
- Was the Rule removed after the Hearing made a non-disclosure order
- Has a non-disclosure order previously been removed and reapplied
- Has Rule 9/16 previously been applied.

Non-disclosure order research variables:
- The Hearing date that made/renewed the most recent non-disclosure order, the information to be withheld and from whom
- The type of Hearing (grounds, review, 2nd or 8th working day) and whether it was a new non-disclosure made or an existing one renewed
- The full Hearing decision made and the specific reasons recorded for the non-disclosure condition
- Whether the non-disclosure condition was added because of a pre-adoptive/permanent placement
- Date the most recent social work report was prepared for the Hearing that made the most recent non-disclosure order, whether it contained a recommendation for a non-disclosure and whether there was clear evidence in the social work report to support the use of a non-disclosure order
- Details of the discussion of the non-disclosure order from the Report of Proceedings
- Where the non-disclosure order was renewed, how the order first originated (e.g. Hearing or Sheriff)
- Has a non-disclosure order previously been removed and reapplied
- Has Rule 9/16 previously been applied and removed.
Appendix 3: Senior Practitioners Interview Schedule

How would you define ‘significant harm’?

What factors would you take into account when applying Rule 16?

How helpful do you find Practice Guidance on the application of Rule 16?

What else could be provided to help guide Reporters on the use of Rule 16?

What information should be recorded when Rule 16 is applied?

For what reasons should a Rule 16 be removed?

Where and what information should be recorded where a Rule 16 is removed?

How well do Rule 16s and Non-Disclosure Orders work together?

Is there any local system for checking/approving the application of Rule 16?

Are there any local practice/policies in place for monitoring Rule 16s in force?

Do you have any suggestions for ways of reviewing/monitoring Rule 16 and/or Non-Disclosure Order cases (locally or nationally)?

Any other comments?
Appendix 4: Locality Support Manager Interview Schedule

What impact does Rule 16/Non-Disclosure have on your team?

How helpful do you find Practice Guidance on the management of Rule 16/Non-Disclosure?

What else could be provided to help guide staff on the management of Rule 16/Non-Disclosure?

In your experience are Rule 16s/Non-Disclosure Orders removed when they are no longer necessary? Please explain...

Where would this be recorded?

Are there any local practice/policies in place for monitoring Rule 16s/Non-Disclosure Orders in force?

Do you have any suggestions for ways of reviewing/monitoring Rule 16 and/or Non-Disclosure Order cases (locally or nationally)?

Any other comments?
Appendix 5: Panel Member Interview Schedule

When would you apply a Non-Disclosure Order?

Have you ever made a Non-Disclosure Order?

In your experience, how necessary are Non-Disclosure Orders?

What guidance and/or training do your receive on the application of Non-Disclosure Orders?

What else could be provided to help guide you on the use of Non-Disclosure Orders?

Prompts:
Specific training
Quick-glance guidance
More detailed guidance
Clear test for the application of a Non-Disclosure Order
Anything else (please specify)

Would you automatically apply Non-Disclosure Order where it was requested?

Please explain...

Do you treat Non-Disclosure Orders that were made by a Sheriff (e.g. during a CPO) and a Hearing differently in terms of deciding whether to continue the condition or not?

What information would you record when a Non-Disclosure Order is applied?

When would you remove a Non-Disclosure Order condition?

What information would/do you record if you remove a Non-Disclosure Order?

Would you automatically continue a Non-Disclosure Order?

Please explain...

Do you have any suggestions for improving the use of Non-Disclosure Orders?

Any other comments?
Appendix 6: Reporters Survey

How would you define ‘significant harm’?
Open ended

What factors would you take into account when applying Rule 16?
Open ended

How helpful do you find Practice Guidance on the application of Rule 16?
Very helpful
Helpful
Not helpful
Not at all helpful

What else could be provided to help guide you on the use of Rule 16?
Quick-glance guidance
More detailed guidance
Clear definition of significant harm
Clear test for significant harm
System for approving Rule 16s
Anything else (please specify)
Nothing else

Would you automatically apply Rule 16 where the referrer/other partner agency requested it?
Yes
No

Please explain...

Where would you record the application of Rule 16?
Open ended

What information would you record when Rule 16 is applied?
Open ended

For what reasons would you remove Rule 16?
Open ended

Would you record if you had removed Rule 16?
Yes
No

Where would you record the removal of Rule 16?
Open ended

What information would you record when Rule 16 is removed?
Open ended

Would you check for a current Non-Disclosure Order prior to applying Rule 16?
Yes
No

Is there any local system for checking/approving the application of Rule 16?
Yes
No
If yes, please explain...

Are there any local practice/policies in place for reviewing and monitoring Rule 16s in force?
Yes
No

If yes, please explain...

Do you have any suggestions for ways of reviewing/monitoring Rule 16 and/or Non-Disclosure Order cases (locally or nationally)?
Open ended

Any other comments?
Open ended