



SCOTTISH
CHILDREN'S REPORTER
ADMINISTRATION

Practice Direction 3

Relevant Persons

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SUMMARY

Who is a Relevant Person ?

- Any parent, with or without parental rights or responsibilities (except a parent who at one time had parental rights and responsibilities which have all been removed)
- Any person with parental rights or responsibilities
- Any person who has been deemed to be a relevant person by a pre-hearing panel or children's hearing

Relevant Persons

- Relevant Persons are those persons who either meet the definition in section 200 or have been deemed to be a relevant person by a pre-hearing panel or children's hearing.
- The definition of relevant person in section 200 covers all parents, with or without parental rights or responsibilities (except a parent who at one time had parental rights or responsibilities which have all been removed) and other persons with relevant parental rights or responsibilities.
- A deemed relevant person has all the same rights and duties as a person who meets the section 200 definition of relevant person.

Deeming Process

- The 'deeming test' is that the person has (or has recently had) a significant involvement in the upbringing of the child. This requires the person to have (or have recently had) a quasi-parental role involving decision-making in relation to the upbringing of the child.
- Where the child, a relevant person, or an individual seeking to be deemed to be a relevant person requests a pre-hearing panel to consider the issue, the reporter **must** arrange one. The reporter **may** otherwise arrange one on his own initiative.
- If the reporter thinks that an individual meets the test for being deemed to be a relevant person, the reporter is to exercise that initiative and arrange a pre-hearing panel without waiting for a request in almost all circumstances. Where possible, the pre-hearing panel should take place at least 9 days before the children's hearing. This will allow someone deemed to be a relevant person by a pre-hearing panel to receive timely notification of the children's hearing.
- The exceptions to the automatic arranging of a pre-hearing panel are:
 - foster carers; and
 - individuals who have recently ceased to have significant involvement and this appears to be permanent.

In either of these circumstances the reporter is to arrange a pre-hearing panel to consider deeming the individual only if requested to do so.

- A pre-hearing panel or a hearing can consider deeming an individual to be a relevant person even though the matter was not referred to the pre-hearing panel or hearing. However, the pre-hearing panel or hearing may only do so if the individual in question is present **and** if the child, a relevant person or the individual requests that the matter be considered.
- Certain hearings cannot consider deeming an individual to be a relevant person, nor can a pre-hearing panel for this purpose be arranged in relation to these hearings. The hearings are CPO 2nd working day hearings, CPO advice hearings, criminal advice hearings and antisocial behaviour advice hearings.
- A person deemed to be a relevant person remains so until a children's hearing discharges all referrals or terminates any compulsory supervision order, or a children's hearing or PHP directs that the person is no longer to be deemed a relevant person. A decision to 'undeem' can be made:
 - by a PHP (or children's hearing) where the specific matter was referred to it, or
 - by a children's hearing following a review of a compulsory supervision order which makes a substantive decision to continue or vary the order.
- Where the child or a relevant person requests a PHP to consider whether to 'undeem' someone, the reporter **must** arrange one. The reporter **may** otherwise arrange one on his own initiative.
- If the reporter thinks that an individual no longer meets the test for being deemed to be a relevant person, the reporter is to exercise that discretion and arrange a PHP without waiting for a request if the forthcoming hearing is a review hearing or a grounds hearing for a child already subject to a CSO.
- There is a right of appeal against a decision to deem / not deem / undeem. The appeal must be lodged within 7 days (counting the day of the pre-hearing panel or hearing as day 1) and must be disposed of within 3 days (counting the day of lodging as day 1).

Persons with current or recent significant involvement

- An individual who appears to have current or recent significant involvement in the upbringing of the child has a right to be told about most forthcoming hearings and about the circumstances in which a review of a contact direction will take place. This is to enable them to exercise their rights to request a pre-hearing panel to consider

deeming them to be a relevant person or to request a review of a contact direction.

- An individual who appears to have current or recent significant involvement has a right to attend a CPO 2nd working day hearing or CPO advice hearing and to receive papers.

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1. INTRODUCTION

- 1.1 This Practice Direction addresses the meaning of 'relevant person' under the [Children's Hearings \(Scotland\) Act 2011](#) and sets out how the relevant statutory provisions are to be applied by the reporter.
- 1.2 There are two routes to being a relevant person. The first is to come within the definition of relevant person in section 200. This covers parents, and persons with relevant parental rights or responsibilities. The second is to be deemed to be a relevant person by a pre-hearing panel (PHP) or a hearing.
- 1.3 The reporter has a key role in early identification of those who meet the definition in section 200 and those who appear to meet the test to be deemed to be a relevant person. Significant duties flow from that identification. However it is the children's hearing (or PHP) which ultimately determines whether someone is to be deemed to be a relevant person.
- 1.4 Practice Direction 12 on Pre-hearing Panels contains detailed information about the operation of PHPs.
- 1.5 The most relevant statutory provisions are:
 - [Section 200](#) of the [Children's Hearings \(Scotland\) Act 2011](#)
 - [The Children's Hearings \(Scotland\) Act 2011 \(Review of Contact Directions and Definition of Relevant Persons\) \(Scotland\) Order 2013](#)
 - [Sections 79-81](#) of the [Children's Hearings \(Scotland\) Act 2011](#)
 - [Rules 48, 54 and 55](#) of [The Children's Hearings \(Scotland\) Act 2011 \(Rules of Procedure in Children's Hearings\) Rules 2013](#)

2. SECTION 200 DEFINITION - PARENTS

- 2.1 The definition in section 200(1) makes the following people relevant persons:
 - (a) a parent or guardian with parental rights or responsibilities under Part 1 of the [Children \(Scotland\) Act 1995](#) (the "95 Act")
 - (b) a person with parental rights or responsibilities under section 11(2)(b) of the 95 Act (a parental rights and responsibilities order)
 - (c) a person with parental rights and responsibilities under section 11(12) of the 95 Act (these flow from a residence order under section 11(2)(c))
 - (d) a parent with parental responsibility under Part 1 of the [Children Act 1989](#)
 - (e) a person with parental responsibility under section 12(2) or 14C of the [Children Act 1989](#) or section 25(3) of the [Adoption and Children Act 2002](#)

- (f) a person with parental responsibilities or rights under a Permanence Order
 - (g) any other person specified by order. The [Children's Hearings \(Review of Contact Directions and Definition of Relevant Persons\) \(Scotland\) Order 2013](#) specifies that a parent is a relevant person, other than a parent who falls within section 200(1)(a) or (d), or who has had all parental rights and responsibilities removed.
- 2.2 Therefore, parents who have the parental rights and responsibilities specified in section 200(1)(a) or (d) are relevant persons through that route rather than through section 200(1)(g).
- 2.3 The following parents fall within section 200(1)(a) through having parental responsibilities or rights under Part 1 of the 95 Act:
- Mothers;
 - Fathers who are married to the child's mother at the time of the child's conception or subsequently;
 - Unmarried fathers who:
 - are registered on a birth certificate issued in Scotland, England, Wales or Northern Ireland as the child's father - the date of registration must be on or after 4 May 2006;
 - have an order in terms of section 11(2)(b) of the 95 Act granting such responsibilities or rights;
 - have parental responsibilities and rights by virtue of having a right to have the child living with him in terms of a residence order under sections 11(2)(c) and 11(12) of the 95 Act ; or
 - have registered an agreement in terms of section 4 of the 95 Act.
- 2.4 Any queries on whether a parent has parental responsibility under Part 1 of the Children Act 1989 or whether a parent has rights or responsibilities from a foreign jurisdiction that are recognised under Parts 1 of the 95 Act or the Children Act 1989 should be referred to the Practice Team.
- 2.5 Parents without relevant rights or responsibilities will fall within section 200(1)(g) provided they are not in that position because all parental rights and responsibilities have been removed by court order.
- 2.6 Parent is not defined in the Act. However the primary issue likely to arise for reporters is not so much the definition as the information or evidence required before recognising someone as a parent. In the absence of the listed parental rights and responsibilities, the reporter is to treat someone as a parent under section 200(1)(g) if:
- There is some formal recognition of their status as a parent (see paragraph 2.7); or
 - In the absence of formal recognition, on the individual facts of the case it is settled that there is no dispute that the person is the parent (see paragraph 2.9); or
 - There is a DNA test report establishing parentage from a reputable DNA testing company (see paragraph 2.11).

- 2.7 Formal recognition of a person's status as a parent may arise through:
- Being registered as the father on a birth certificate issued in Scotland, England, Wales or Northern Ireland before 4 May 2006;
 - Being registered as a parent on any foreign birth certificate which does not confer relevant parental responsibilities or rights under section 200(1)(a)-(f); or
 - A declarator of paternity, or equivalent from a foreign jurisdiction.

This is not an exhaustive list. In other situations where a question arises as to whether formal recognition exists, for example in cases of assisted reproduction, contact the Practice Team.

- 2.8 Where there is formal recognition of parenthood or a presumption of law regarding parenthood, the reporter is to treat the person as a relevant person under section 200¹, even where there are differing opinions as to whether he/she is a parent of the child or widely shared agreement that the person is not a parent. A formal process, such as declarator of paternity or non-paternity, will be required to change the situation.

- 2.9 It will be settled that there is no dispute that a person without formal recognition of parenthood ("the other person") is a parent if:
- One person has formal recognition as a parent;
 - There is no second parent who has been formally recognised or to whom a presumption of law regarding parenthood applies;
 - The formally recognised parent and the other person agree that the other person is the genetic parent; *and*
 - The agreement of both has been clear for a sufficient period of time for it to be reasonable for the reporter to conclude that there is no dispute.

- 2.10 The reporter is to contact the Practice Team if:
- A dispute arises as to whether a person is a parent, when previously the reporter has treated that person as a parent under section 200(1)(g); or
 - There is a dispute that a person is the parent (or it is not sufficiently settled that there is no dispute), and as a result the reporter has not treated the person as a parent under section 200(1)(g).

This will enable consideration of appropriate communication with the person about the reporter's position.

- 2.11 The reporter is to contact the Practice Team if presented with a copy of a DNA test report establishing parentage, in order to support consideration of whether the report is from a reputable company.

- 2.12 Where the reporter cannot treat a person as the parent under section 200(1)(g), the reporter is to be alert to the possibility of the person nevertheless meeting the test to be deemed to be a relevant person on the basis of current or recent significant involvement in the upbringing of the child.

¹ The particular subsection will depend on the circumstances of the case.

3. SECTION 200 DEFINITION – OTHER PERSONS WITH PARENTAL RIGHTS OR RESPONSIBILITIES

- 3.1 Non-parents with relevant parental rights and responsibilities will meet the section 200 definition. Persons who have the following parental rights and responsibilities are relevant persons:
- A parental rights and responsibilities order under section 11(2)(b) of the 95 Act.
 - Parental rights and responsibilities under section 11(2) of the 95 Act. These flow from a residence order under section 11(2)(c).
 - Parental responsibility under section 12(2) or 14C of the Children Act 1989 or section 25(3) of the Adoption and Children Act 2002.
 - Parental responsibilities or rights under a permanence order.

4. SECTION 200 DEFINITION - GENERAL

- 4.1 On its own a contact order under section 11(2)(d) of the 95 Act does not create any of the listed parental rights or responsibilities in section 200. Nor does contact under a permanence order. The 2011 Act recognises such persons may need to be involved in the decision-making process to protect their ECHR Article 8 rights and it makes specific provision, under section 126, for them to be involved in review of contact directions made by a children's hearing. The case law relating to relevant persons and contact orders, in particular *Knox v S* and *L v Ritchie* and *H v Docherty*, is no longer applicable.
- 4.2 A parent or person need have only one parental responsibility or right under the various provisions in section 200 to come within the definition. A relevant interim order is sufficient.
- 4.3 The reporter must be satisfied that a person has parental rights or responsibilities or is the parent of a child before treating them as a relevant person. This need not always require the reporter to see documented proof. Where the issue is non-contentious, confirmation from the local authority will in many cases be sufficient. If the reporter has any doubt as to the position, the reporter should request copy documentation such as the marriage certificate, birth certificate, relevant court order or registered agreement. This may be via the local authority, the person direct or their solicitor depending on what is most appropriate for the circumstances.
- 4.4 If a person has been recognised uncontroversially as the father of a child for some time and has been treated as a relevant person under the 95 Act, the reporter need not pursue the existence of any formal recognition.

5. DEEMED RELEVANT PERSON

- 5.1 A PHP may deem an individual to be a relevant person under section 81 or rule 48. A children's hearing may deem someone to be a relevant

person under section 80 or rule 55. The individual then has all the rights and duties of a person who is a relevant person under section 200.

- 5.2 The test for someone to be deemed to be a relevant person is set out in section 81(3): the individual has (or has recently had) a significant involvement in the upbringing of the child. The test is not based on care of, or contact with, the child but on having an involvement in the child's upbringing. 'Upbringing' is defined in the Oxford Dictionary as the 'treatment and instruction received by a child from its parents throughout its childhood'². To be involved in a child's upbringing therefore requires a role similar to that of a parent. The statutory test further requires the involvement to be significant. In [MT & AG v Gerry](#), the Court of Session said the focus should be on "whether the individual in question has had an involvement in the upbringing of the child of such significance as to give rise to a relationship between the individual and the child which calls for the procedural protection of constituting the individual as a party to the proceedings, with all the procedural obligations and rights which that status entails."
- 5.3 An individual will have a significant involvement in the upbringing of the child where they are:
- providing actual care where the care being provided has features similar to the care that a parent would provide, for example decision-making about how the child is brought up;
 - exercising significant influence in the way the child is brought up, even if actual care is limited (for example, continuing to make decisions about a child's upbringing); or
 - enabling the child to be brought up by a parent or parents, by exercising a role similar to that of a parent.
- 5.4 Where a person looks after a child or has contact with the child but has no significant parental-like role in the child's upbringing, then the person does not have a significant involvement in the upbringing of the child. This would include, for example, teachers, nursery workers and childminders.
- 5.5 All cases will require assessment by the reporter of the particular facts and circumstances of the case. Foster carers, and cohabiters of a parent, are likely to require particular consideration of whether there is any involvement in the upbringing of the child and, if so, whether the involvement is significant. However, the mere fact of caring for a child for a period of time will not be sufficient³.
- 5.6 The reporter is to regard foster carers as meeting the test where the reporter has information which indicates that the nature and duration of the care provided by them is such that they have a significant involvement in the child's upbringing. If the reporter does not have information about the nature of the care being provided by the carers in

² This definition of 'upbringing' is also referred to in the National Convenor's guidance to panel members in the Practice and Procedure Manual and was approved implicitly by the Court of Session in [MT and AG v Gerry](#).

³ [MT and AG v Gerry](#) at paragraph 17

addition to the duration of the residence, the reporter is not to seek that information. In the absence of that information, the reporter is not to treat the foster carers as meeting the test.

- 5.7 The decision of the Supreme Court in PR (respondent) v K (appellant) is not directly relevant as it concerns the ECHR compatibility of the definition of relevant person in the Children (Scotland) Act 1995. However persons who fall within the Supreme Court approach to relevant person under the 95 Act will almost certainly fall within the ‘significant involvement’ test of the 2011 Act. The Supreme Court’s approach required that persons who have established family life with the child with which the children’s hearing may interfere and for whom the involvement of the child’s parents does not provide adequate protection of their procedural rights be fully involved in the children’s hearing. The particular example given by the Supreme Court is that the child’s hope of reintegration in her natural family depends on maintaining the close relationship established with a grandparent or other family member. Such a person would meet the significant involvement test under the 2011 Act.
- 5.8 The test also includes a person who has recently had a significant involvement in the upbringing of the child. A person who has recently had such involvement continues to meet the test even if the involvement has now ceased.
- 5.9 Where a person has had a significant involvement but this has ceased or reduced as a result of the investigation or intervention leading to the current referral to the children’s hearing, the reporter is to regard that person as continuing to have a significant involvement. In most cases, the individual will in any event meet the test of recent significant involvement.
- 5.10 The test in section 81(3) is a factual one and not “a decision about a matter relating to a child”. Therefore sections 25 and 27 do not apply to the decision⁴.
- 5.11 The reporter should generally determine whether someone meets the ‘significant involvement’ test based on information received in reports. There is no need to specifically investigate whether persons exist who might meet the test. If the available information indicates someone may meet the test, the reporter may seek clarification from report providers about any details that would help the reporter’s assessment⁵.

6. THE DEEMING PROCESS

- 6.1 Only a PHP or children’s hearing can deem someone to be a relevant person. Section 79(2) sets out the circumstances in which the reporter must or may refer the matter of whether someone should be deemed to be a relevant person to a PHP. If the child, relevant person or the

⁴ [MT and AG v Gerry](#)

⁵ However, see paragraph 5.6 in relation to foster carers.

individual in question requests the reporter to refer the matter to a PHP, the reporter **must** do so. The reporter **may** otherwise refer the matter on his own initiative.

- 6.2 The reporter has a duty under rule 22 to notify any individual who appears to have current or recent significant involvement in the upbringing of the child of the date time and place of almost every hearing. This is to enable the individual to decide whether to request a PHP (or to seek to raise the issue at the hearing itself).⁶ Rule 22 does not apply to a CPO 2nd working day hearing, a CPO advice hearing, a criminal advice hearing or an antisocial behaviour advice hearing. In terms of section 79, it is not competent for such hearings to deem someone to be a relevant person, nor for a PHP to be arranged to consider the matter in relation to these hearings.
- 6.3 However, under rules 39 and 40 the reporter has a duty to notify any individual who appears to have current or recent significant involvement in the upbringing of the child of the date time and place of a CPO 2nd working day or advice hearing and to give them a copy of the hearing papers. Although the individual has no express right to attend, the chair has discretion under section 78(2) to allow him to attend. Fairness is likely to require that the individual be allowed to attend if he wishes, at least in part.
- 6.4 Where it appears to the reporter that an individual has a significant involvement in the upbringing of the child, the reporter is to exercise his discretion and automatically arrange a PHP to consider whether to deem the individual to be a relevant person. The reporter is not to wait for a request for a PHP. The only exceptions to this are where the person who appears to have a significant involvement is:
- a foster carer; or
 - an individual who has recently ceased to have a significant involvement and this situation appears permanent.
- In these situations the reporter is to arrange a PHP only on request.
- 6.5 In terms of rule 48(2), even if the reporter has not referred the matter to a PHP, a PHP arranged to deal with other matters must consider deeming an individual to be a relevant person where:
- the child, relevant person or individual in question requests it **and**
 - the individual is present at the PHP.
- 6.6 In terms of rule 55, most hearings have a duty to consider whether to deem an individual to be a relevant person where:
- the child, relevant person or individual in person requests it **and**
 - the individual is present at the hearing.
- 6.7 A PHP or hearing may wish to consider deeming someone who is present to be a relevant person, but the matter has not been referred for

⁶ Rule 81 requires that they are also given information about the circumstances in which a contact direction review hearing will be arranged.

consideration nor a request made. In this situation it would be in order for the hearing to suggest that the child, relevant persons or the individual consider making a request. In order to ensure that the process is fair, the child, relevant persons and the individual must be allowed adequate time to consider the suggestion and must not be placed under any pressure to make a request.

- 6.8 Where a PHP or hearing decides not to deem a person to be a relevant person, and the person makes a further request for a PHP during the same set of proceedings, the reporter is not to arrange a PHP. The matter has been determined by the PHP or hearing and an appeal is the appropriate route if the person is not satisfied with the decision. There may be exceptional circumstances where it would be appropriate to arrange a further PHP, for example if there was a significant change of circumstances during very lengthy proceedings. However, such circumstances are unlikely to arise and require consultation with the Senior Practitioner and Practice Team.
- 6.9 Although the reporter will not have arranged a PHP in the circumstances in paragraph 6.8 above, the person (if present at the hearing) may still ask the hearing to consider deeming him/her to be a relevant person. If so, the reporter is to express the view that it is not appropriate for the hearing to consider the request. However, the children's hearing is free to form its own view. There may be exceptional circumstances where it would be unfair for a hearing to not consider a request made at hearing even although a PHP has already determined the issue. This would arise where the person was not notified of the PHP nor the outcome of the PHP, thereby rendering the appeal route in effect unavailable.

7. UNDEEMING

- 7.1 Once an individual is deemed to be a relevant person, he remains a relevant person until either a PHP or children's hearing decides under section 81A, or a hearing directs under section 142, that he is no longer to be deemed to be a relevant person.
- 7.2 A PHP or hearing can make this decision under section 81A only when the specific matter is referred to the PHP or hearing of whether a person should continue to be deemed to be a relevant person.
- 7.3 Section 79(5A) sets out the circumstances in which the reporter must or may refer the matter of whether someone should continue to be deemed to be a relevant person to a PHP or hearing. If the child, relevant person or the individual in question requests the reporter to refer the matter to a PHP or hearing, the reporter **must** do so. The reporter **may** otherwise refer the matter on his own initiative.
- 7.4 The duty or power to refer the 'undeeming' question to a PHP exists in relation to any hearing arranged under section 119 (i.e. to consider accepted or established grounds) or any hearing held 'for the purposes of reviewing a compulsory supervision order' (section 79(1A)). In addition

to any review hearing a grounds hearing to consider new grounds for a child already subject to a CSO is to be taken to be a hearing for the purposes of reviewing a CSO. A section 96 hearing to consider a further ICSO or interim variation during a proof is not such a hearing and so a PHP to consider undeeming cannot be arranged prior to such a hearing.

- 7.5 The reporter may arrange a pre-hearing panel to consider whether an individual currently deemed to be a relevant person should continue to be deemed without a request having been received (Section 79(5A)(b)). The reporter is to arrange a pre-hearing panel where they consider that the individual no longer has, and has not recently had, significant involvement in the child's upbringing and the forthcoming hearing is a review hearing or a grounds hearing for a child already subject to a compulsory supervision order. Where the forthcoming hearing is a hearing under section 119 or a deferred review hearing the reporter must consult with their senior practitioner and the Practice Team before arranging a pre-hearing panel without a request having been received. Only exceptionally will it be appropriate to arrange a pre-hearing panel to consider undeeming a relevant person within the same current proceedings as they have been deemed.
- 7.6 A review hearing may direct that a person is no longer to be deemed a relevant person under section 142 only once it has made a substantive decision to continue or vary a compulsory supervision order. However it may not do so if the question of whether to undeem that individual was determined by either a PHP held in relation to that hearing or at the hearing itself (section 142(1A)).
- 7.7 On conclusion of the review of the compulsory supervision order, if it appears to the hearing that the individual may no longer have (nor recently have had) a significant involvement in the upbringing of the child, the hearing must review whether the individual should continue to be deemed to be a relevant person.
- 7.8 There is therefore a two stage process. Firstly the hearing decides whether it appears that the individual may no longer meet the deeming test. Only if the hearing decides that it so appears, does the hearing then proceed to formally review whether the person should continue to be deemed to be a relevant person. The reporter must be clear whether the hearing has proceeded to the stage of formal review.
- 7.9 The hearing may defer its decision on the formal review of whether the individual should continue to be deemed to a relevant person (the undeeming decision) (section 142(3)). If the deemed relevant person whose status is being reviewed is not present, it is very likely to be unfair to proceed to make a decision in their absence. The reporter should express the view to the hearing that, as a result, the hearing should defer the undeeming decision.
- 7.10 Where a hearing removes the child from the care of someone who is a deemed relevant person, that person will almost certainly continue to meet the significant involvement test because of recent significant

involvement. Therefore the person may only be undeemed on conclusion of a subsequent review hearing.

- 7.11 Where there has been a review of a determination of relevant person status, the reporter must send the notification of the decision **no later than 2 working days** from the day of the hearing. More details of this notification are in paragraph 11.3 of Practice Direction 14 on Notifications and Papers.

8. APPEALS

- 8.1 Section 160 sets out the appeal provisions in relation to deemed relevant person decisions. The child, relevant person and individual in question may appeal the decision of a pre-hearing panel or hearing:
- to deem or not deem the individual to be a relevant person;
 - to continue to deem the individual to be a relevant person; and
 - to undeem the individual.
- 8.2 The appeal must be made within 7 days (counting the day of the pre-hearing panel/hearing's decision as day 1) and must be disposed of within three days (counting the day of lodging as day 1). Practice Direction 24 on Appeals contains more information about such appeals.
- 8.3 If a hearing directs under section 142 that an individual is no longer to be deemed to be a relevant person, the individual nevertheless retains the right to appeal the substantive decision on the review of the compulsory supervision order.

9. INVITATION TO ATTEND A HEARING

- 9.1 Section 78(2) gives the chair of the hearing authority to allow persons without a right of attendance (as set out in section 78(1)) to attend the hearing. When arranging a hearing, the reporter is to consider whether there is anyone (other than a relevant person or person who may be deemed to be a relevant person) whose attendance is likely to be necessary for the proper consideration of the matter before the hearing.
- 9.2 In particular, the reporter is to invite anyone who has (i) established family life and an ongoing relationship with the child and (ii) sufficient age and maturity to participate in the hearing where:
- the hearing is likely to consider including a contact direction about them in a CSO for the first time or to vary a contact direction about them in a CSO, or
 - the person has made clear that they want the hearing to consider their contact with the child.

See section 10 of Practice Direction 14 on Notifications and Papers for more information about notifying such people of a children's hearing. It will be for the chair of the hearing to decide whether and when the individual is allowed to attend the hearing.

- 9.3 Within hearings, the reporter is to be alert to situations where the hearing is considering including for the first time, or varying, a contact direction in a CSO in relation to a person with established family life and an ongoing relationship with the child. In most such cases, the person will have been invited by the reporter but there may be cases where the consideration of the contact direction was not anticipated in advance or where the person was not of sufficient age and maturity to be invited. In these circumstances the reporter is to take the view that the hearing should satisfy itself that, subject to age and understanding of the person:
- it has the views of the person (directly or indirectly) in relation to their contact or
 - if not, the person has been given an opportunity to provide their views. The hearing can decide to defer to give the person the opportunity to attend or give their views (directly or indirectly). An interim decision can be made if necessary.

Responses to Case Practice Enquiries Since Publication of Practice Directions

Whether someone is a parent in terms of section 200.

- (i) Consideration of whether someone is a parent because it is settled that there is no dispute that the person is a parent arises only where one person has formal recognition and no other person has formal recognition (or legal presumption) of parenthood. Therefore where a father is named on the birth certificate, another person is not to be treated as a section 200 relevant person even if there is settled no dispute that the other person is the father. ~~However, if the other person obtains a DNA certificate in relation to paternity, this may be sufficient to treat the person as a parent (depending on the reliability of the DNA test/test centre). The person named on the birth certificate as father will also continue to be treated as a relevant person.~~
If the other person obtains a valid DNA certificate in relation to paternity, this does not change the position – the man named on the birth certificate will still be presumed to be the father, will have PRRs, and so will be a section 200 relevant person. In the light of that presumption, the reporter is not to treat the person with the DNA certificate as a parent. The presumption that the man named on the birth certificate is the father may be rebutted in court proceedings (such as for a declarator of paternity) on the balance of probabilities, in which the DNA certificate is likely to be relevant evidence.
[NB the amendments to delete sentences and add those in italics was made in April 2023]
- (ii) As above, where parties are separated but not divorced, the husband is to be treated as a section 200 parent even if there is settled no dispute that someone else is the father. The other person is not be treated as a section 200 relevant person. However, if the other person is recorded as the father on the birth certificate the reporter is to treat both the husband and the recorded parent as section 200 relevant persons. (Note that the other person may have significant involvement where not recorded on the birth certificate.)

(iii) Consideration of whether someone is a parent because it is settled that there is no dispute that the person is a parent arises only where one person has formal recognition and both parties have settled agreement. The view of the person without formal recognition must be known to the reporter before the reporter can treat the person as a section 200 parent

APPENDIX 1

| SCENARIO | A SIGNIFICANT INVOLVEMENT IN THE UPBRINGING OF THE CHILD ? |
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| <p>Grandparents who have looked after 2 children for two separate 6 month periods over the past 3 years because of justifiable concerns about the care provided by the children's parents. The children returned to the care of their parents 3 months ago. The grandparents provide considerable support to the parents without which the parents would struggle to look after the children.</p> | <p>Yes. The past care of a quasi-parental nature means they have recently had significant involvement. The nature of the current support, enabling the children to remain in the care of their parents, means that they also have current significant involvement.</p> |
| <p>Mother's former partner (not the child's biological father) who lived with the mother and child from the time the child was 2½ years old for about 6 years before they separated. During that time he was substantially involved in the child's life. The child is now 10 years old and is accommodated with foster carers. There is a contact direction in the child's supervision order providing for contact between the child and the mother's former partner.</p> | <p>Only if the former partner is maintaining a significant quasi-parental role. The nature and frequency of contact will help in the assessment but there must also be a decision-making role for significant involvement in the child's upbringing to exist. On the information available, there is nothing to indicate a current or recent decision-making role. It might be appropriate for reporter to seek clarification.</p> |
| <p>A grandmother who has regular contact with the child and had significant involvement in supporting the child's mother to care for the child when the child was living at home. The child is now accommodated with foster carers. There is a contact direction in the child's supervision order requiring that the child's contact with the grandmother is supervised.</p> | <p>The grandmother does not appear to have a current significant quasi-parental role, despite regular contact. It is possible that the level of support provided while the child was living at home amounted to a significant quasi-parental role and therefore significant involvement. Depending on how long since child was living at home the grandmother may still have recent significant involvement.</p> |
| <p>Grandparents of a 3 month old baby that was accommodated with foster carers following the granting of a CPO shortly after the child's birth. The grandparents have had weekly contact with the child since the CPO was taken. The child's mother has identified the grandparents as alternative carers and</p> | <p>Although the grandparents have very limited direct care or contact, the significance of their involvement in plans for the child's upbringing means they currently have a significant involvement in the upbringing of the child. This approach is also consistent with PR v K.</p> |

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| <p>the grandparents have themselves asked to be formally assessed as carers.</p> | |
| <p>Maternal grandparents of a child who lives at home with her mother and her mother's partner. The maternal grandparents see the child most weeks by way of informal arrangements with the child's mother.</p> | <p>There is no indication of anything other than normal ties of affection. The grandparent do not appear to have a quasi-parental role therefore they do not have a significant involvement.</p> |
| <p>A child has been residing with foster carers since the last review hearing 9 months ago, in compliance with the terms of her CSO.</p> | <p>In the absence of any information regarding the nature of the foster carers' care of the child, the mere fact of the duration of the child's residence with them does not amount to them having significant involvement in the child's upbringing. The reporter should not seek further information about the nature of their care.</p> |
| <p>A child has been residing with foster carers for the past 4 months on a series of ICISOs pending the outcome of a proof application.</p> | <p>It is likely that given the circumstances and duration of the child's residence with the foster carers, that they do not have a significant involvement in the child's upbringing.</p> |
| <p>A child had been residing with foster carers for two years, and the foster carers were deemed to be relevant persons. A hearing has just moved the child to live with different foster carers who plan to adopt her.</p> | <p>Although the child has been moved from the foster carers, the foster carers have recently had a significant involvement in the upbringing of the child. They therefore still meet the test at the hearing which moved the child and that hearing could not 'undeem' them.</p> |

APPENDIX 2 - Section 200 Relevant Person

