



SCOTTISH  
**CHILDREN'S REPORTER**  
ADMINISTRATION

## **Practice Direction 18**

# **Completion of Forms and the Record of Proceedings in a Children's Hearing**

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## SUMMARY

- The reporter has a statutory duty to keep a record of the proceedings of a children's hearing and a pre-hearing panel. The reporter attending the children's hearing is responsible for ensuring that there is an accurate record of the proceedings of that hearing.
- As an aspect of this duty, the reporter is also responsible for ensuring the accurate completion of the forms on which any intervention decided upon by the children's hearing is recorded.
- In recording the decisions of the hearing, the reporter is to record the hearing's decision regarding the essential elements of any order made by the hearing. It is important that the record of proceedings records the terms of the order made by the hearing in relation to the child<sup>1</sup>.
- Any measure, condition or other provision on any order or warrant is to be clear and unambiguous. As part of the "supporting fair process" role of the reporter within the children's hearing, the reporter is to seek to ensure that the decision of a children's hearing is expressed by the chairing member with a sufficient degree of clarity to enable the reporter to complete the form in line with this Practice Direction.
- The form for a compulsory supervision order, interim compulsory supervision order and medical examination order must contain all of the essential elements of the respective order.
- The reporter is to clearly identify on the form for a hearing's order or warrant the child and any other person named on the form.
- There is a presumption that in stating the child's address on the form as part of identifying the child, the reporter is to state the child's home address. However, in certain situations, the reporter is to state a different address.
- The reporter is to record on the form for the order currently in force for a child all of the measures, conditions and provisions that are *currently* applicable to the child.
- When the children's hearing makes an order that includes a measure requiring the child to reside at a specified place the reporter is to record the full details of the place on the order. This is the case even where the hearing has also included a non-disclosure measure.
- The reporter is to complete the non-disclosure provision on the relevant form on every occasion that a children's hearing includes a non-disclosure measure in an order or warrant.

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<sup>1</sup> There are exceptions to this where there is a non-disclosure measure.

- The test for making a first ICSO is that the hearing considers that the nature of the child's circumstances is such that for the protection, guidance, treatment or control of the child it is necessary *as a matter of urgency* that an ICSO be made. If the child is already subject to an ICSO, the test for making a further ICSO does not require that the further ICSO is necessary as a matter of urgency. Therefore when a hearing makes a further ICSO, the reporter is to delete the words "as a matter of urgency" from the relevant form.
- Appendix 1 contains a table listing the decisions of a children's hearing and pre-hearing panel that require a form to be completed, showing the relevant form for each decision.
- Appendix 2 contains a worked example showing how the relevant forms are to be completed in relation to a series of 4 decisions of children's hearings for a child.
- Appendix 3 contains details of every purpose for a children's hearing and pre-hearing panel, and every decision that can be taken by a children's hearing and pre-hearing. The reporter is to record the purposes and decisions of children's hearings and pre-hearing panels in accordance with Appendix 3. Appendix 3 is also available as a separate document.
- Appendix 4 contains a worked example showing how the record of proceedings is to be completed in relation to 2 decisions of children's hearing for a child.

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## **1. Introduction**

- 1.1 The Principal Reporter has a statutory duty to keep a record of the proceedings of a children's hearing and a pre-hearing panel<sup>2</sup>. It is therefore a core responsibility for a reporter to keep an accurate record of proceedings in a children's hearing and a pre-hearing panel. As an aspect of this duty, the reporter is also responsible for ensuring the accurate completion of the forms on which any intervention decided upon by the children's hearing is recorded.
- 1.2 In the absence of any statutory forms, SCRA, along with Children's Hearings Scotland, has developed forms on which are recorded the details of any specific intervention decided upon by a children's hearing, for example a compulsory supervision order and a warrant to secure the attendance of a child at a children's hearing.
- 1.3 The record of proceedings and the form are the legal record of the nature and extent of any intervention in relation to the child and therefore the extent of any interference with the private and family life of the child and any relevant persons. They are also a record of obligations that might apply to other persons eg a prohibition on disclosure of the place where the child is required to reside or a specific duty imposed on the implementation authority. It is therefore very important that the reporter completes the record of proceedings and the forms accurately, clearly and consistently.
- 1.4 This Practice Direction provides direction to reporters on the completion of the forms and the record of proceedings of a children's hearing and pre-hearing panel.

Practice Direction 11 on Role of the Reporter at a Children's Hearing or Pre-hearing Panel should be referred to for direction regarding the reporter's role within the children's hearing and pre-hearing panel.

## **2. Essential elements of orders**

Reference should be made to Practice Direction 19 on Orders, Warrants and Measures for the details of a compulsory supervision order (CSO), interim compulsory supervision order (ICSO), interim variation of a CSO, and medical examination order (MEO).

### **2.1 Compulsory supervision order**

A form recording a CSO (whether it be one first made by a children's hearing or continued by children's hearing on review) is to:

- include at least one of the measures in section 83(2)<sup>3</sup>;

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<sup>2</sup>Rule 13 of The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013

<sup>3</sup> The forms for CSOs include the standard measure: "The implementation authority will provide appropriate supervision and support to the child."

- specify the “implementation authority”, the local authority which is responsible for giving effect to the measures included in the order; and
- state the date until when the CSO will have effect.<sup>4</sup>

Although it is for the children’s hearing to decide on these elements of a CSO, if a panel member does not include all of them in their decision, the reporter is to intervene to remind the panel member that these are essential elements of the order (the only exception is the period during which a first CSO will have effect as this can only be for one year).

The reporter is to record the measures, implementation authority and date until when the CSO will have effect on the relevant form for the CSO.

## 2.2 Interim compulsory supervision order

A form recording an ICSO is to:

- include at least one of the measures in section 83(2) <sup>5</sup>;
- specify the “implementation authority”, the local authority which is responsible for giving effect to the measures included in the order; and
- state the date until when the ICSO will have effect, which must be no later than 22 days beginning with the day the ICSO is made or extended.

Although it is for the children’s hearing to decide on these elements of an ICSO, if a panel member does not include all of them in their decision, the reporter is to intervene to remind the panel member that these are essential elements of the order.

The reporter is to record the measures, implementation authority and the date until when the ICSO will have effect on the relevant form for the ICSO.

The test for making a first ICSO is that the hearing considers that the nature of the child’s circumstances is such that for the protection, guidance, treatment or control of the child it is necessary *as a matter of urgency* that an ICSO be made<sup>6</sup>. If the child is already subject to an ICSO, the test for making a further ICSO does not require that the further ICSO is necessary as a matter of urgency<sup>7</sup>.

Therefore when a hearing makes a further ICSO, the reporter is to delete the words “as a matter of urgency” from the relevant form.

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<sup>4</sup> This is the “relevant period”, as defined in section 83(7):

- When a CSO is first made, the period beginning on the day the CSO is made and ending with the earlier date of:
  - The day one year after the day on which the CSO is made; or
  - The child’s 18<sup>th</sup> birthday.
- When a CSO is continued by a children’s hearing on review, the period beginning on the day the CSO is continued and ending on the earlier date of:
  - The date specified by the children’s hearing (not more than one year from the hearing);
  - The child’s 18<sup>th</sup> birthday.

<sup>5</sup> The forms for ICSOs include the standard measure: “The implementation authority will provide appropriate supervision and support to the child.”

<sup>6</sup> Sections 92(2), 93(6), 120(3).

<sup>7</sup> Section 96(3), 120(5).

## 2.3 Medical examination order

A form recording a MEO is to:

- include at least one of the measures in section 87(2); and
- state the date until the MEO will have effect, which must be no later than 22 days beginning with the day the MEO is made.

Although it is for the children's hearing to decide on these elements of a MEO, if a panel member does not include either of them in their decision, the reporter is to intervene to remind the panel member that these are essential elements of the order.

The reporter is to record the measures and the date until the MEO will have effect on the relevant form for the MEO.

## 3. Completion of the record of proceedings of a children's hearing

- 3.1 Rule 13 of The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 requires the Principal Reporter to keep a report of the proceedings of a children's hearing and a pre-hearing panel. Paragraph (3) of the rule sets out the information that must be recorded. The Principal Reporter is also given discretion to record additional information in relation to the hearing or pre-hearing panel.
- 3.2 Rule 13 requires the Principal Reporter to record:
- (a) particulars of the place and date of the children's hearing or pre-hearing panel;
  - (b) the full name and address, date of birth and sex of the child;
  - (c) the full name and address of each relevant person;
  - (d) a record as to which (if any) of the child and relevant persons was present;
  - (e) the full name and address of any representative attending the hearing or pre-hearing panel;
  - (f) the full name and address of any safeguarder;
  - (g) the details of any other person attending the children's hearing or pre-hearing panel;
  - (h) the details of any decision or determination made by the children's hearing or pre-hearing panel, or any other course of action taken by the hearing or pre-hearing panel; and
  - (i) in any case where the children's hearing is a grounds hearing:
    - (i) particulars of any section 67 ground which is accepted or not accepted, or is not understood, and by whom;
    - (ii) a record of any direction under either section 93(2)(a) or 94(2)(a) to the reporter to make an application to the sheriff.
- 3.3 The record of proceedings of a children's hearing consists of *both* the record of proceedings form on which is recorded the details of an individual children's hearing, and the blue record of proceedings folder (on which is recorded the details of the child, relevant persons and others).

The reporter attending the children's hearing is responsible for ensuring that there is an accurate record of the proceedings of that hearing. That duty includes ensuring that the name and address of the child and relevant persons are recorded, and updated, on the blue record of proceedings folder.

Temporary changes of address required by decisions of a children's hearing (e.g. the issuing of an ICSO or CSO) are not to be recorded on the blue record of proceedings folder.

3.4 The reporter attending the hearing is to ensure that the record of proceedings provides a clear and accurate record of the proceedings of the hearing. In particular the reporter is to record:

- The place and date of the hearing;
- The name and date of birth of the child to whom the hearing relates;
- Those persons who were present at the hearing - this information is to include:
  - The names of the members of the children's hearing (making clear who chaired the hearing) and the name of the reporter;
  - Whether the child and each of the relevant persons were present;
  - The name and address of any representative of the child or relevant persons;
  - The name and address of any safeguarder – the address is to be stated as "c/o Children 1<sup>st</sup>"; and
  - The name, job title (if applicable) and address of any other person attending the hearing; and
- The purposes and decisions of the hearing, showing the statutory basis for each one – Appendix 3 contains the wording that is to be used by the reporter when recording both the purposes of a children's hearing and the decisions of the hearing.

3.5 In recording the decisions of the hearing, the reporter is to record the hearing's decisions regarding the essential elements of any order made by the hearing (see section 3 above). The implementation authority and the "relevant period" are to be recorded as part of the decision to make (or continue or vary) an order.<sup>8</sup> Each measure included in the order is to be recorded as a separate decision. Appendix 3 gives the wording to be used in recording decisions. Appendix 4 gives examples of completed records of proceedings.

3.6. When a non-disclosure measure is included in an order made by a children's hearing, the reporter is *not* to record in the record of proceedings the full terms of the measure requiring the child to reside at a specified place. Details of how to record the measure are in section 7 of Practice Direction 4 on Non-disclosure.

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<sup>8</sup> As stated in a footnote in paragraph 3.1 above, when a CSO is first made, the children's hearing does not decide on the "relevant period" for the CSO. The "relevant period" is the period beginning on the day the CSO is made and ending with the earlier date of:

- The day one year after the day on which the CSO is made; or
- The child's 18<sup>th</sup> birthday.

However the reporter is to record the duration of the CSO in the record of proceedings and on the form. See Appendix 3 for wording of decisions and Appendix 4 for examples of completed records of proceedings.



- 3.7 If a child leaves a children's hearing whilst it is in progress, as there has been no decision by the hearing to excuse the child, there is nothing for the reporter to record as a hearing decision. The reporter is to record that the child attended the hearing in part<sup>9</sup>.
- 3.8 As stated in Practice Direction 11 on Role of the Reporter at a Children's Hearing or Pre-hearing Panel, the reporter is to have no involvement whatsoever in the writing of reasons, the responsibility for which lies with the chairing member.
- 3.9 Where a children's hearing is providing advice to a court or a local authority, the report of the advice is to be recorded on a separate form. Therefore, the advice is not to be recorded on the record of proceedings. However, if the hearing has made any other decision (e.g. to excuse a relevant person from attending), the reasons for *that* decision should be recorded in the usual way.
- 3.10 The reporter is to complete one record of proceedings form for each child whose case is considered at a children's hearing. Therefore if a children's hearing considers the cases of 3 children in one family at the same time, the reporter is to complete 3 records of proceedings forms, one for each child. The reporter is also to ensure that each record of proceedings provides a clear record of the *particular child's* children's hearing. In doing so, the reporter is not to cross-refer to the record of proceedings for another child whose case was considered at the same hearing.
- 3.11 Reference should be made to Practice Direction 15 on Grounds Hearings in relation to the possible responses to a statement of grounds at a grounds hearing. On the record of proceedings, the reporter is to record:
- The response of the child and each relevant person present to each section 67 ground in the statement of grounds, and in particular whether each section 67 ground was:
    - Accepted,
    - Accepted as amended,
    - Not accepted,
    - Not understood as the person would be unable to understand, or
    - Not understood after explanation.
  - The details of any amendment of the supporting facts in the statement of grounds, whether by removing any facts denied or otherwise amending the facts.
  - Where some supporting facts were accepted and some were not, the details of the facts that were accepted.
- 3.12. The Principal Reporter's duty to keep a record of the proceedings of the children's hearing does **not** require the reporter to keep a minute or record of the discussion at the children's hearing. Any notes taken by the reporter during the course of the hearing are only to be used for the assistance of the reporter, for example when preparing for an appeal.

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<sup>9</sup> If the children's hearing decides that the criteria for excusing the child are met, the hearing may excuse the child. In this case the reporter is to record the decision to excuse the child.

As any notes are not part of the formal record of the hearing, they are not to be stored in a way which might suggest they are part of the record of proceedings, and in particular are not to be scanned and saved in the Case Management System.

As the notes are for the reporter's own purposes, those purposes will vary from case to case. However, they are not to be retained routinely when the reporter no longer has a purpose for them. For example, if they were taken for the purposes of a possible appeal and no appeal is lodged within the appeal period, the notes are to be destroyed.

#### 4. Principles for completion of forms

4.1 In completing the forms, the reporter is to apply the following principles:

- a) **The reporter is to clearly identify on the form the child and any other person named on the form.** This must include the child's name, date of birth and address. There is a presumption that the child's home address is recorded on the statutory form<sup>10</sup>.
- b) **Where an order or warrant requires a child to reside at a specified place, the reporter is to state the full details of the place on the form.**
- c) **Any measure or other provision on any order or warrant is to be clear and unambiguous.** The greater the extent of any intervention required by a condition or other provision on an order or warrant the greater the need for such clarity.
- d) As part of the "supporting fair process" role of the reporter within the children's hearing<sup>11</sup>, **the reporter is to seek to ensure that the decision of a children's hearing is expressed by the chairing member with a sufficient degree of clarity to enable the reporter to complete the form in line with this Practice Direction.**
- e) **The reporter is to record on the form for the order currently in force for a child all of the measures, conditions and provisions that are *currently* applicable to the child<sup>12</sup>.**
- f) The reporter is to **ensure that the essential elements of the order made by the children's hearing are included on the relevant form**, and when necessary is to intervene to remind the panel member of the need to include the essential elements of the order when making their decision.

4.2. Where there is not sufficient space on the first page of the form to enable the reporter to complete the form in line with this Practice Direction, the reporter is to:

- continue onto the rear of the form;
- write "continued on the rear of this form" at the foot of the first page of the form;
- ensure that the chairing member of the hearing signs at the foot of *both* pages of the form, with the words "Chair of the Children's Hearing" written below his/her signatures.

<sup>10</sup> For direction regarding the exceptions to this presumption, see paragraph 4.1 below

<sup>11</sup> See Practice Direction 11 on Role of the Reporter at a Children's Hearing or Pre-hearing Panel

<sup>12</sup> For direction regarding how such information is to be recorded on the form, see paragraph 5.5 below.

## **5. Completion of the forms in specific situations**

This section contains direction regarding completion of particular aspects of the forms and completion of them in specific situations.

### **5.1 Recording the address of the child**

As stated in section 2 there is a presumption that in stating the child's address on the form when identifying the child, the reporter is to record the child's home address. Normally the child's home address will be clear and is to be used. However, there may be situations where the child's home address is not clear or it would be inappropriate to use it as:

- The child no longer considers a previous address to be his/her "home" address and it would be insensitive to refer to that address in a form.
- The child's family has no fixed accommodation and therefore no "home address".
- The child is aged over 16 and has no fixed accommodation.
- The child's family is living at an address that should not be disclosed as it may place the child or others at risk (e.g. at a Women's Aid refuge or when on a witness protection programme).

As there is no statutory requirement regarding the address of the child which is stated on the form when identifying the child, in the above situations the reporter is to record the child's address on the form as:

- In the situation where it would be insensitive to refer to a previous "home" address, the reporter may decide to record the child's current address on the statutory form.
- In the situation where the child's family has no fixed accommodation, the reporter is to record the child's home address as being "presently living at [the address of the family on the day of the hearing]."
- In the situation where the child is over 16 and has no fixed accommodation, the reporter shall record the child's address as being "presently living at [the address of the child on the day of the hearing]."
- In the situation where there may be a risk to the child or others if the child's home address was stated, the address shall be stated as "c/o the Principal Reporter, Ochil House, Springkerse Business Park, Stirling".

### **5.2. Non-disclosure of address of the child**

A children's hearing may include a measure prohibiting the disclosure (whether directly or indirectly) of a place where a child is required to reside (a "non-disclosure measure") in the following circumstances:

- When the hearing makes, continues or varies a compulsory supervision order (CSO) that includes a requirement that the child reside at a specified place.
- When a children's hearing makes an interim variation of a CSO or an interim compulsory supervision order (ICSO) that includes a requirement that the child reside at a specified place or a place of

safety.

- When a children's hearing makes a medical examination order (MEO) that includes a requirement that the child attend or reside at a specified clinic, hospital or other establishment.
- When a children's hearing grants a warrant to secure the attendance of a child at a children's hearing.

When a children's hearing includes a non-disclosure measure in an order or warrant, the reporter is to complete the non-disclosure provision in the form.

The reporter is to state clearly in the non-disclosure provision the name (and address if known) of the person to whom the child's place of residence is not to be disclosed.

Where the children's hearing has required that the child's address shall not be disclosed to a class of persons, the reporter is to clearly describe the class of persons on the form.

The reporter is to complete the non-disclosure provision on every occasion that a children's hearing includes a non-disclosure measure in an order or warrant. Any change to the existing position on non-disclosure in a CSO is to be treated as a variation of the CSO. For a worked example of how this is to be done, see Appendix 2 of this practice direction.

When the non-disclosure provision is completed, the reporter is to complete the remainder of the form as required by this Practice Direction. In particular, the reporter is to record on the CSO (or ICSO where the hearing has named a place where the child is to reside) full details of the place where the child is required to reside. Where the child is to reside with foster carers, the reporter is to record details of the name and address of the carers. Where the child is to reside in a residential establishment, the reporter is to record details of the name and address of the establishment.

The reporter is *not* to record in the record of proceedings the full terms of the measure requiring the child to reside at a specified place. Details of how to record the measure are in section 7 of Practice Direction 4 on Non-disclosure.

### **5.3. Requirement for child to reside in a place**

When making a CSO, interim variation of a CSO, an ICSO or a MEO, a children's hearing may include a measure requiring the child to reside at a specified place<sup>13</sup>. However, in order to include such a requirement to reside with a person who is not a relevant person in a CSO, a children's hearing require to have the information specified in rule 80 of The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in

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<sup>13</sup> Section 83(5)(2)(a) in relation to a CSO; section 140 read with section 83(5)(2)(a) in relation to an interim variation of a CSO; section 86(1)(a) read with section 83(5)(2)(a) in relation to an ICSO; and section 87(2)(a) in relation to a MEO (the requirement to reside in a MEO can only require the child to reside at a specified clinic, hospital or other establishment).

Children's Hearings) Rules 2013. This information is in relation to that person and the place in which the child is to reside.

As stated in Section 2, where an order or warrant requires a child to reside in a specified place, the reporter is to record the full details of the place on the form. Where a children's hearing makes or varies a CSO that includes a requirement that a child is required to reside away from home, it cannot delegate responsibility for selecting that place to a third party, for example by stating that the child is to reside in a place chosen by the social work department. Therefore:

- A requirement in a CSO for a child to reside with foster carers is to record the name and address of the carers (no additional designation of the foster carers is required)
- A requirement in a CSO for a child to reside in a residential establishment is to record the name and address of the establishment.

When a hearing requires a child to reside in a place, it is not necessary for the hearing to include a measure authorising the person in charge of the place to restrict the child's liberty appropriately nor a measure relating to the granting of leave of absence from that place. It is presumed that the implementation authority and/or the person in charge of the place of residence can manage the child's whereabouts appropriately and/or grant leave of absence without the need for such measures.

#### **5.4. Requirement for child to reside in a place of safety**

When making an ICSO or interim variation of a CSO, the children's hearing may include a measure that requires the child to reside at any place of safety away from where the child predominantly resides.

When the children's hearing includes such a measure, the reporter is to record the measure as "the child is to reside at any place of safety away from where he/she predominantly resides".

#### **5.5. Continuation of measures in an order**

When a children's hearing continues a CSO (with or without variation), any measures included in the CSO may also be continued. When a children's hearing continues a CSO on an interim basis until the subsequent children's hearing (under section 139(2)), the measures in the current CSO will remain in place unless the hearing also makes an interim variation of the CSO<sup>14</sup>.

When a children's hearing makes an interim variation of a CSO, some measures in the CSO may remain in place as the hearing has not varied them.

It is important that all measures currently applicable in relation to the child are clear to all parties – the child, relevant persons, implementation authority and panel members. Therefore the reporter is to ensure that all

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<sup>14</sup>Under section 139(3). The form for a continuation of the CSO on an interim basis under section 139(2) states that the CSO is continued "until the next children's hearing".

current measures applicable in relation to the child, and only the current measures, are recorded on the form for:

- the continuation of a CSO;
- the variation of a CSO without continuation;
- the interim continuation of a CSO under section 139(2); and
- the interim variation of a CSO.

On the form for continuation and/or variation of a CSO the measures to be included under 'VARIATIONS' are any current measure which is either completely new or is different in some way to a measure included in the CSO being continued and/or varied. The measures to be included under 'CONTINUED MEASURES' are any measure which is exactly the same as one included in the CSO being continued and/or varied.

The forms for an interim variation of a CSO or an interim continuation under section 139(2) do not require the separation of current measures into 'VARIATIONS' and 'CONTINUED MEASURES'.

A measure which is removed through variation of a CSO does not appear at all on relevant form.

See the worked example in Appendix 2 for an example of how this is to be done in practice.

It is important to note that a children's hearing does not continue an ICSO – the hearing issues a further ICSO (see for example, section 96(2)). Therefore the reporter is to ensure that every ICSO issued by a children's hearing specifies the measures to be applicable in relation to the child.

## **5.6 Secure accommodation authorisation**

When making a CSO, ICSO, interim variation of a CSO, MEO or warrant to secure attendance, a children's hearing may include a secure accommodation authorisation. Reference is to be made to Practice Direction 20 on Secure Accommodation.

If the secure accommodation authorisation has been included in a CSO, the CSO must contain a requirement that the child is to reside at:

- A residential establishment which contains both secure accommodation and accommodation which is not secure accommodation (e.g. 'AB is to reside in X residential unit'); or
- Two or more residential establishments, one of which contains accommodation which is not secure accommodation (e.g. 'AB is to reside in X residential unit or Y residential unit').<sup>15</sup>

When the children's hearing makes such a decision, the specific measure to be included in the order or warrant is:

- "The hearing authorises that the child may be placed and kept in secure accommodation within X residential unit." This is to be used

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<sup>15</sup> Section 83(5)(a)

where there is a measure requiring the child to reside in X residential unit<sup>16</sup>.

- “The hearing authorises that the child may be placed and kept in secure accommodation within a residential establishment.” This is to be used where the interim order does not contain a requirement that the child reside in a named residential unit.

The reporter is to use the following forms to record decisions to include a secure accommodation authorisation in an order or warrant:

<b>Decision of children’s hearing</b>	<b>Form</b>
Make a CSO and include a secure accommodation authorisation	Form 2
Continue a CSO and vary the CSO to include a secure accommodation authorisation	Form 4
Vary a CSO (without continuing the CSO) to include a secure accommodation authorisation	Form 4
Continue a CSO including continuing a secure accommodation authorisation	Form 5
Vary a CSO (without continuing the CSO) but does not vary an existing secure accommodation authorisation	Form 5
Make an ICSO (or makes a further ICSO) <sup>17</sup> and includes a secure accommodation authorisation	Form 12
Continue the compulsory supervision order until the subsequent children’s hearing (under section 139(2)) and the continued CSO includes a secure accommodation authorisation ( <i>whether or not the hearing varied the CSO</i> )	Form 13
Make an interim variation of a CSO and the CSO as varied contains a secure accommodation authorisation ( <i>whether or not the hearing varied the CSO to include the authorisation</i> ).	Form 14
Grant a warrant to secure the attendance of the child with a secure accommodation authorisation	Form 7

<sup>16</sup> The measure regarding residence will refer to X residential unit only where X residential unit has both secure and non-secure accommodation; it will refer to both X and Y residential units where X has secure accommodation only and Y has non-secure accommodation.

<sup>17</sup> A children’s hearing does not continue an ICSO – the hearing issues a further ICSO.

## 5.7 “Respite” placement for child

A children’s hearing may specify a respite care placement (or placements) in addition to a “primary” placement with carers or in a residential establishment. A “respite care placement” is a placement away from home, other than the “primary” placement, where the child resides for short periods of time.

It is our view that a children’s hearing requires to specify in a CSO any planned respite care placement<sup>18</sup>. However, it is not necessary for the dates or times of the respite care to be specified in the CSO. More than one respite care placement may be specified. A respite care placement is subject to The Looked After Children (Scotland) Regulations 2009 to the same extent as any other placement. Therefore a children’s hearing require to have the information specified in rule 80 of The Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) Rules 2013 in relation to that person and the place in which the child is to reside before it can include a requirement to reside in relation to the “respite care placement”. See the worked example in Appendix 2 for an example of how this is to be done in practice.

It is important to note that an arrangement may be made with the local authority whereby the child is accommodated by the local authority with the consent of the child’s parents (i.e. those with parental rights and responsibilities), whilst the child is the subject of a CSO with no requirement for the child to reside in a specified place. This may be on either a respite or a longer term basis. The local authority will provide this accommodation under section 25 of the Children (Scotland) Act 1995.

It will be for any children’s hearing considering the case of the child to decide whether it is necessary to include in an order a requirement for the child to reside at that accommodation. In doing so, the hearing will apply the general considerations in sections 25 – 28 of the Act<sup>19</sup>.

## 5.8 Movement Restriction Conditions

Reference should be made to Practice Direction 26 on Movement Restriction Conditions for direction regarding the completion of forms when a children’s hearing has made a movement restriction condition.

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<sup>18</sup> A similar approach is taken in the Guidance on overnight stays for looked after children in relation to regular stays with friends - see para 27

<sup>19</sup> Section 25: welfare of the child is the paramount consideration.

Section 26: a hearing can make a decision inconsistent with section 25 in order to protect the public from serious harm.

Section 27: views of the child.

Section 28: a hearing may make, vary or continue an order or interim variation or grant a warrant only if the hearing considers it would be better for the child if the order or warrant were in force than not.



## 5.9 Local Authority Accountabilities

When making a CSO, interim variation of a CSO or an ICSO, a children's hearing may include a measure requiring that the implementation authority carry out specified duties in relation to the child<sup>20</sup>. When a children's hearing include such a measure, the reporter is to state the specific duties imposed on the form recording the relevant order. The reporter is to state the duties in the following terms: "The implementation authority will.....[specify the duties imposed]." <sup>21</sup>

In line with principle (c) (as detailed in paragraph 2.1 above), the terms of the duty imposed on the implementation authority must be clear and unambiguous. It must be clear to the local authority what it must do in order to comply with the duty imposed on it.

The reporter is to record on the record of proceedings any decision of a subsequent children's hearing to take enforcement action in relation to those duties (e.g. directing the National Convenor to give the authority notice of an intended application to enforce the duty, in terms of section 146(2)). The reporter is also to complete the relevant form in which the children's hearing gives a direction to the National Convenor (see Appendix 1 for details of the relevant forms).

## 5.10 Decisions to require a review of a CSO

When making, varying or continuing a CSO, the hearing may require the CSO to be reviewed on a day or within a period specified in the order.<sup>22</sup> If the order contains a movement restriction condition, the hearing must require such a review<sup>23</sup>.

Given the terms of section 125(2), the reporter is to record such a requirement on the form for the order in the following terms: "The order is to be reviewed [state the date or the period specified by the hearing]".

## 5.11 Advice to court following prosecution of a child or young person

When a child, or in some circumstances a young person aged 16 or 17, has been found guilty or has pled guilty to an offence, a court may request the advice of a children's hearing under various subsections of section 49 of the Criminal Procedure (Scotland) Act 1995.

As required by Rule 75(3) of The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013, it is for the chairing member to "make, or cause to be made, a report of the advice". The chairing member shall also "sign and date the report". The report of the advice shall be recorded on the form.

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<sup>20</sup> Section 83(5)(2)(i) in relation to a CSO; section 140 read with section 83(5)(2)(i) in relation to an interim variation of a CSO; and section 86(1)(a) read with section 83(5)(2)(i) in relation to an ICSO;.

<sup>21</sup> See Case Example 3 in Appendix 2 for an example of how the duty should be recorded on the form.

<sup>22</sup> Section 125(3)

<sup>23</sup> Section 125(2)

If the advice on the form is handwritten, the form is to be re-typed before being sent to the court. This will assist the court in reading the advice. The following statement is to be added to the foot of the form:

“Certified that this is an accurate copy of the attached form on which is recorded the advice of a children’s hearing.

Signed: .....  
Reporter: .....  
Date: .....”

The re-typed form recording the advice is to be attached to the original form, and **both copies** are to be sent to the appropriate clerk of the court.

As the report of the advice is recorded on the form, the chairing member does not require to record either the hearing’s advice on the record of the proceedings of the hearing. However, if the hearing has made any other decision (e.g. to excuse a relevant person from attending the hearing , or to continue the CSO), the reasons for *that* decision should be recorded in the usual way.

#### 5.12 **Report of children’s hearing under section 95 of the Adoption and Children (Scotland) Act 2007**

Reference should be made to Practice Direction 25 on the Adoption and Permanence Orders for direction regarding the report of the children’s hearing under section 95 of that act.

## Appendix 1: Table of Forms

The following table lists the decisions of a children's hearing and pre-hearing panel that require a form to be completed and signed by the chairing member (in addition to the record of proceedings). The table also lists the relevant form for each decision.

Decision	Form
Make a compulsory supervision order	Form 1
Make a compulsory supervision order with a secure accommodation authorisation	Form 2
Continue a compulsory supervision order (with or without varying the order)	Form 3
Vary a compulsory supervision order (without continuing the order)	Form 3
Continue a compulsory supervision order and vary the order to include a secure accommodation authorisation	Form 4
Vary a compulsory supervision order (without continuing the order) to include a secure accommodation authorisation	Form 4
Continue a compulsory supervision order and continue a secure accommodation authorisation	Form 5
Vary a compulsory supervision order (without continuing the order) but does not vary an existing secure accommodation authorisation	Form 5
Grant a warrant to secure the attendance of the child	Form 6
Grant a warrant to secure the attendance of the child with a secure accommodation authorisation	Form 7
Continue/continue and vary/terminate the child protection order	Form 8
Vary or terminate a child protection order	Form 9
Provide advice to the sheriff in relation to a child protection	Form 10

<b>Decision</b>	<b>Form</b>
Make an interim compulsory supervision order	Form 11
Make a further interim compulsory supervision order	Form 11
Make an interim compulsory supervision order with a secure accommodation authorisation	Form 12
Continue the compulsory supervision order until the subsequent children's hearing	Form 13
Continue the compulsory supervision order until the subsequent children's hearing and vary the order	Form 13
Make an interim variation of compulsory supervision order	Form 14
Make a further interim variation of a compulsory supervision order	Form 14
Make an interim variation of compulsory supervision order with a secure accommodation authorisation	Form 14
Vary or remove the contact direction (in a section 126 hearing)	Form 15
Make a medical examination order	Form 16
Make a medical examination order with a secure accommodation authorisation	Form 17
Prepare a section 95 report for the court which is considering the application for a permanence order	Form 18
Provide advice to the court under section 4(4) of the Antisocial Behaviour etc. (Scotland) Act 2004	Form 19
Provide advice to the court under section 49(1)(b)/49(3)/49(6) of the Criminal Procedure (Scotland) Act 1995	Form 20
Provide advice to the implementation authority and court about a permanence order application/placing for adoption/adoption application	Form 21

<b>Decision</b>	<b>Form</b>
Determine that it may be necessary for the child/relevant person to be represented by a solicitor and they are unlikely to arrange such representation	Legal assistance recommendation form
Seek advice from the National Convener	Request to the National Convener for written advice
Require the National Convener to refer the matter of provision of education for a child excluded from school to the Scottish Ministers	Referral to Scottish Ministers where failure to provide education for excluded pupil
Direct the National Convener to give notice to the local authority of an intended application to enforce the authority's duty	Direction to National Convener to give notice of local authority breach of duty
Direct the National Convener to make an application under section 147	Direction to National Convener to make an application for enforcement of local authority duty

## Appendix 2 – Case Example: completion of forms

This appendix contains a case study and shows examples of how the forms are to be completed to reflect 4 decisions of children's hearing in relation to a child.

### Hearing 1

**On 26 August 2013 John Donald appears at his first hearing. The hearing decide to make a CSO with the following measures:**

- **a requirement that John is to reside with foster carers, Mr and Mrs Johnston at 3 Main Street, Newtown;**
- **a requirement that the implementation authority will provide appropriate supervision and support to John; and**
- **a prohibition on the disclosure of John's address to his parents, Mr and Mrs Donald.**

**The hearing decides that the implementation authority is Midshire Council.**

### COMPULSORY SUPERVISION ORDER

*under s.91 or s.119 of the Children's Hearings (Scotland) Act 2011*

A Children's Hearing in relation to

Name: John Donald

Date of Birth: 23.06.2002

Address: 10 Mid Street, Othertown

Is satisfied that, for his/her protection, guidance, treatment or control it is necessary to make a Compulsory Supervision Order and makes this Order.

This Order shall have effect until: 25.08.2014

Implementation Authority: Midshire Council

### MEASURES

The following measures are included in the Order

1. The implementation authority will provide appropriate supervision and support to the child.
2. The Children's Hearing orders that the place/places where the child is required to reside in accordance with this Order shall not be disclosed whether directly or indirectly to: His parents, Mr and Mrs Donald, 10 Mid Street, Othertown
3. John is to reside with Mr and Mrs Johnston at 3 Main Street, Newtown

Signed by:

On: 26/08/2013

*Chair of the Children's Hearing*

At: Othertown

## Hearing 2

On 29 November 2013 a review hearing took place at the request of the local authority. The review hearing decided that the CSO should be continued for a period of 6 months and varied to include:

- a requirement that John is to reside at Anytown House (a residential establishment), rather than with Mr and Mrs Johnston;
- an additional requirement that John is to go to other foster carers, Mr and Mrs Davidson at 5 High Street, Newtown for periods of respite.

The hearing again decided to include measures:

- prohibiting the disclosure of John's address to his parents,
- requiring that the implementation authority will provide appropriate supervision and support to John.

### **COMPULSORY SUPERVISION ORDER CONTINUED AND VARIED**

*under s.138 of the Children's Hearings (Scotland) Act 2011*

A Children's Hearing in relation to:

Name: John Donald

Date of Birth: 23/06/2002

Address: 10 Mid Street, Othertown

Being satisfied that it is necessary to do so for his/her protection, guidance, treatment or control, continues and varies the Compulsory Supervision Order dated: 26.08.2013 as follows:

This Order shall have effect until: 28 May 2014

Implementation Authority: Midshire Council

#### VARIATIONS

1. John is to reside at Anytown House, Main Street, Anytown
2. During periods of respite from residing at Anytown House, John is to reside with Mr and Mrs Davidson at 3 High Street, Newtown

#### CONTINUED MEASURES

1. The implementation authority will provide appropriate supervision and support to the child.
2. The Children's Hearing orders that the place/places where the child is required to reside in accordance with this Order shall not be disclosed, whether directly or indirectly, to: his parents, Mr and Mrs Donald, 10 Mid Street, Othertown

Signed by:

*Chair of the Children's Hearing*

On: 29.11.2013

At: Othertown

### Hearing 3

On 3 March 2014 a review hearing took place. The review hearing decided to defer a decision on the review and decided to make an interim variation for 22 days to include:

- A condition direction that John is to have no contact with his father, Hamish Donald, who has moved to 15 Matthew Street, Anytown; and The hearing did not vary any of the existing measures in the CSO.

# INTERIM VARIATION

## OF A COMPULSORY SUPERVISION ORDER

*under s.93(5) modified by s.97, s.96(3) modified by s.97 or s.139 of the Children's Hearings (Scotland) Act 2011*

A Children's Hearing in relation to:

Name: John Donald

Date of Birth: 23/06/2002

Address: 10 Mid Street, Othertown

Makes an interim variation of the Compulsory Supervision Order dated: 29 November 2013

This interim variation shall last until: 24 March 2014

For the duration of this interim variation, the measures contained in the Order are as follows:

### MEASURES

1. The implementation authority will provide appropriate supervision and support to the child.
2. The Children's Hearing orders that the place/places where the child is required to reside in accordance with this Order shall not be disclosed, whether directly or indirectly, to: his parents, Mr and Mrs Donald, 10 Mid Street, Anytown
3. John is required to reside at Anytown House, Main Street, Anytown
4. During periods of respite from residing at Anytown House, John is to reside with Mr and Mrs Davidson at 3 High Street, Newtown
5. John is to have no contact with his father, Hamish Donald, 15 Matthew Street, Anytown

Signed by:

*Chair of the Children's Hearing*

On: 3 March 2014

At: Midtown



## Hearing 4

On 22 March 2014 the deferred hearing took place. The hearing decided to continue the CSO for a period of 12 months and to vary it to:

- Delete the conditions of residence to allow John to return home;
- Change the implementation authority from Midshire Council to Northshire Council
- Include a contact direction that John is to have no contact with his father

The hearing continued the requirement that the implementation authority will provide appropriate supervision and support to John.

### **COMPULSORY SUPERVISION ORDER CONTINUED AND VARIED**

*under s.138 of the Children's Hearings (Scotland) Act 2011*

A Children's Hearing in relation to:

Name: John Donald

Date of Birth: 23/06/2002

Address: 10 Mid Street, Othertown

Being satisfied that it is necessary to do so for his/her protection, guidance, treatment or control, continues and varies the Compulsory Supervision Order dated: 29.11.2013 as follows:

This Order shall have effect until: 21 March 2015

Implementation Authority: Northshire Council

### VARIATIONS

1. John is to have no contact with his father, Hamish Donald, of 15 Matthew Street

### CONTINUED MEASURES

1. The implementation authority will provide appropriate supervision and support to the child.

Signed by:

*Chair of the Children's Hearing*

On: 22.03.2013

At: Midtown

## **Recording the Purpose and Decision of the Hearing and Pre-Hearing Panel in the Record of Proceedings**

- Purposes are arranged by type of hearing, with less common purposes grouped together at the end. A pre-hearing panel matter or a non-disclosure request can apply to any hearing.
- Each applicable purpose is to be copied in full to the record of proceedings, with the exception of purposes numbered 20 – 22 which require that only the appropriate description is included.
- Where specified, dates must be added.

### **PURPOSES OF A PRE-HEARING PANEL**

1. to consider whether to continue to deem an individual to be a relevant person s.79(5A).
2. to consider whether to deem an individual to be a relevant person s.79(2).
3. to consider whether to excuse the child from attending the children's hearing s.79(3).
4. to consider whether to excuse a relevant person from attending the children's hearing s.79(3).
5. to consider a non-disclosure request rule 86 <sup>24</sup>.

### **PURPOSES OF A CHILDREN'S HEARING**

#### **PHP Matters (referred to a children's hearing)**

6. to consider whether to continue to deem an individual to be a relevant person s.79(5A) & s.80.
7. to consider whether to deem an individual to be a relevant person s.79(2) & s.80.
8. to consider whether to excuse the child s.79(3) and 80.
9. to consider whether to excuse a relevant person s.79(3) & s.80.

#### **Non-disclosure Request**

10. to consider a non-disclosure request rule 86.

#### **CPO**

11. to review a child protection order s.45/46
12. to provide advice to the sheriff in relation to an application to vary or terminate a child protection order s.50.

#### **Grounds Hearings**

13. to consider the statement of grounds s.69(2) <sup>25</sup>.

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<sup>24</sup> This applies to a non-disclosure request relating to the information provided to the pre-hearing panel. (A non-disclosure request relating to papers for the hearing is dealt with at the hearing.)

<sup>25</sup> This also applies to a child placed in secure accommodation under regulation 9 of the Secure Accommodation (Scotland) Regulations 2013.

14. to consider the statement of grounds (following a child protection order) s.69(2) & s.54.
15. to consider the statement of grounds (following detention by the police) s.69(2) & (3) <sup>26</sup>.
16. to consider the statement of grounds (as required by the previous grounds hearing) s.95(2) <sup>27</sup>.
17. to consider the statement of grounds (as required by the previous grounds hearing) <sup>28</sup>.
18. to consider the statement of grounds, and review the compulsory supervision order dated [X] if a ground is accepted s.91 & s.97 <sup>29</sup>.

### Section 96 Hearings

19. to consider whether to make a further interim compulsory supervision order s.96 <sup>30</sup>.
20. to consider whether to make a further interim variation of a compulsory supervision order s.96 & s.97(5).

### Section 119 Hearings

(any hearing to consider accepted or established grounds after the grounds hearing, where the child is **not** subject to a CSO)

*following a proof application*

21. to consider whether to make a compulsory supervision order in relation to grounds [accepted on X] [established on X] [accepted on X and established on X] s.119 <sup>31</sup>.

*following deferral*

22. to consider whether to make a compulsory supervision order following deferral by the hearing on [date] in relation to the grounds [accepted on X] [established on X] [accepted on X and established on X] s.119 <sup>32</sup>.

### Review Hearings

*following a ground being accepted or established*

23. to review the compulsory supervision order dated [X] because grounds were [accepted on X] [established on X] [accepted on X and established on X] s.107/108 and 118 <sup>33</sup>.

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<sup>26</sup> The child has been kept in custody by the police.

<sup>27</sup> Use where section 95(2) applied to the grounds hearing

<sup>28</sup> Use where a further grounds hearing was required for any reason other than as set out in s.95(2)

<sup>29</sup> This applies where the child is subject to a CSO.

<sup>30</sup> During an application to the sheriff for a determination on whether a ground is established. It also applies where a child is moved into secure accommodation under regulation 8 of the Secure Accommodation (Scotland) Regulations 2013 and the child is subject to an ICSO during a proof application (unless the 66 day limit is reached).

<sup>31</sup> All flow from s.107 or s.108. Select the appropriate description depending on whether the sheriff has made a direction in the proof application re grounds found established, grounds accepted at the grounds hearing or both. The first description also applies where the reporter withdraws the application but another ground was accepted at the grounds hearing.

<sup>32</sup> This applies where a grounds hearing or subsequent hearing defers its decision on accepted and/or established grounds. Select the appropriate description. (Note that there is no decision to defer accepted grounds if a proof application is to be made for non-accepted grounds.)

<sup>33</sup> This applies to the first hearing following a proof application. Select the appropriate description.

*requests etc for review*

24. to review the compulsory supervision order dated [X] because it would otherwise expire s.133.
25. to review the compulsory supervision order dated [X] because the implementation authority has requested it s.131.
26. to review the compulsory supervision order dated [X] because the child has requested it s.132.
27. to review the compulsory supervision order dated [X] because a relevant person has requested it s.132.
28. to review the compulsory supervision order dated [X] because it contains a secure accommodation authorisation s.135.
29. to review the compulsory supervision order dated [X] because a previous children's hearing directed it to be reviewed s.125.
30. to review the compulsory supervision order dated [X] because the child has been transferred to another place s.136.
31. to review the compulsory supervision order dated [X] because the child has been placed in secure accommodation (regulation 7).

*review and permanence/adoption advice*

32. to review the compulsory supervision order dated [X] because the implementation authority intends to apply for a permanence order, and to provide advice to the implementation authority and court s.131(2)(c) & s.141.
33. to review the compulsory supervision order dated [X] because the implementation authority intends to place the child for adoption, and to provide advice to the implementation authority and court s.131(2)(d) & s.141.
34. to review the compulsory supervision order dated [X] because the implementation authority is aware that an adoption application has been or is about to be made, and to provide advice to the implementation authority and court s.131(2)(e) & s.141.

*deferral*

35. to review the compulsory supervision order dated [X] following deferral by a children's hearing on [date] s.138 <sup>34</sup>.
36. to review the compulsory supervision order dated [X] and provide advice following deferral by a children's hearing on [date] s.138/141

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<sup>34</sup> To be used for any deferral of review of a CSO unless advice is also to be provided.

## **Advice and Remits under the Criminal Procedure (Scotland) Act 1995 and Anti-social Behaviour etc (Scotland) Act 2004**

### *Criminal Procedure (Scotland) Act 1995*

- 37. to give advice on a reference dated [X] under section 49 of the Criminal Procedure (Scotland) Act 1995.
- 38. to consider whether to make a compulsory supervision order following a remit by the sheriff dated [X] under section 49 of the Criminal Procedure (Scotland) Act 1995 s.71 <sup>35</sup>.
- 39. to review the compulsory supervision order dated [X] following a remit by the sheriff dated [X] under section 49 of the Criminal Procedure (Scotland) Act 1995 s.130.

### *Antisocial Behaviour etc. (Scotland) Act 2004*

- 40. to give advice on a reference dated [X] under section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004.
- 41. to consider whether to make a compulsory supervision order following a remit by the sheriff dated [X] under section 12(1A) of the Antisocial Behaviour etc. (Scotland) Act 2004 s.70 <sup>36</sup>.
- 42. to review the compulsory supervision order dated [X] following a remit by the sheriff dated [X] under section 12(1A) of the Antisocial Behaviour etc. (Scotland) Act 2004 s.70 <sup>37</sup>.

### **Appeals**

- 43. to consider whether to suspend the decision of the children's hearing on [X] pending determination of an appeal s.158
- 44. to [specify purpose] as required by the sheriff following an appeal s.156(3)(a) <sup>38</sup>

### **Other Purposes**

- 45. to consider whether to grant a warrant to secure the attendance of the child at the children's hearing/court s.123.
- 46. to review the secure accommodation authorisation made by a children's hearing on [X] (Implementation of Secure Accommodation Authorisation Regulations 2013 regulation 9).
- 47. to review the compulsory supervision order dated [X] because a relevant person proposes to take the child to live out-with Scotland s.134.
- 48. to review the compulsory supervision order dated [X] because the sheriff has directed it following review of a grounds determination s.115/s.116/s.117.
- 49. to consider a decision deferred by a children's hearing on [X] in relation to [specify – reason other than any mentioned already].
- 50. to consider whether it is likely that the children's hearing will consider making a compulsory supervision order including a secure accommodation authorisation in relation to the child s.79(3) <sup>39</sup>.

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<sup>35</sup> Child **not** subject to CSO

<sup>36</sup> Child **not** subject to CSO

<sup>37</sup> Child **not** subject to CSO

<sup>38</sup> This will most likely be to review the compulsory supervision order dated X, or to consider whether to make a compulsory supervision order in relation to grounds accepted/established on X. Less likely, it may be to consider the statement of grounds.

<sup>39</sup> This may be a purpose for a pre-hearing panel or a hearing (as a referred PHP matter). It is unlikely to be used.

## Decisions of children's hearing

### Procedural

1. to excuse child / relevant person from attending s.73(3) / s.74(3)
2. to proceed in the absence of a relevant person [identify the relevant person] s.75
3. to excuse child from attending during explanation of ground(s) s.73(4)
4. to exclude a relevant person/their representative s.76 / s.77
5. to exclude a relevant person during explanation of the grounds - rule 59(1)<sup>1</sup>
6. to exclude a representative of a newspaper or news agency s.78(5)
7. to appoint a safeguarder / not to appoint a safeguarder s.30
8. to direct the reporter to make an application to the sheriff for a determination on whether a ground not accepted / not understood is established s.93(2)(a) /s.94(2)(a)
9. to amend the facts in the statement of grounds – rule 59(4)
10. to require the reporter to arrange another grounds hearing s.95<sup>2</sup>
11. to require the reporter to arrange another grounds hearing<sup>3</sup>
12. to accept / reject a non-disclosure request – rule 86 / rule 87
13. to defer making a decision on whether to make a compulsory supervision order s.91(2)<sup>4</sup>
14. to defer making a decision on whether to make a compulsory supervision order s.119(2)<sup>5</sup>
15. to defer making a decision on review of a compulsory supervision order s.138(2)
16. to set a date for the subsequent hearing to be held under section 119 or 139 [specify date]– rule 61(c)
17. to require the reporter to: obtain a report from any person/make arrangements for an interpreter for the child or relevant person / take

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<sup>1</sup> If the chairing member is satisfied that that the presence at the hearing of that person is preventing the children's hearing obtaining the acceptance or denial of a section 67 ground from any person who is required to accept or deny the grounds

<sup>2</sup> When the child has failed to attend

<sup>3</sup> When the hearing considers it would be unfair to proceed (other than child has failed to attend)

<sup>4</sup> At grounds hearing where proceeding on basis of accepted ground(s), no proof application

<sup>5</sup> At hearing subsequent to grounds hearing, ground accepted or established

- any other step with a view to securing participation - rule 61(b)/(f)<sup>6</sup>
18. to determine that it may be necessary for the child / relevant person to be represented by a solicitor and they are unlikely to arrange such representation – rule 61(d)<sup>7</sup>
  19. to give a direction that [specify direction on a matter to enable the hearing to make a decision on whether to make a CSO] rule 61(g)<sup>8</sup>
  20. to require a review of the compulsory supervision order dated [X] [specify when review is to take place] s.125
  21. to take no further action because the conditions under section 126(2)(b) are not satisfied s.126(5)
  22. to make a statement that supervision or guidance is needed by the child on termination of a compulsory supervision order s.138(6)
  23. to defer the review under section 142 s.142(3)<sup>9</sup>
  24. to seek advice from the National Convener s.8
  25. to adjourn the hearing to later the same day
  26. to not disclose [specify information] to [specify person] s.178
  27. to require the National Convener to refer the matter of provision of education for a child excluded from school to the Scottish Ministers s.127
  28. to require the reporter to consider whether to apply for a parenting order s.128
  29. to direct the National Convener to give notice to the local authority of an intended application to enforce the authority's duty s.146(2)
  30. to direct the National Convener to make an application under section 147 s.146(6)
  31. to request panel member continuity rule 3(1)

### **Interim**

1. to grant a warrant to secure the attendance of the child s.123
2. to continue / continue and vary / terminate the child protection order [if varied, specify the variations] s.47
3. to make an interim/further interim compulsory supervision order

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<sup>6</sup> When deferring under s.91(2), 119(2) or 138(2)

<sup>7</sup> When deferring under s.91(2), 119(2) or 138(2)

<sup>8</sup> When deferring under s.91(2), 119(2) or 138(2)

<sup>9</sup> Review in relation to a deemed relevant person

- specifying [X] local authority as the implementation authority and having effect until and including [specify date 21 days later, at the latest<sup>10</sup>] s.92(2)<sup>11</sup> / s.93(5)<sup>12</sup> / s.96(3)<sup>13</sup> / s.120(3)or(5)<sup>14</sup>
4. to not make an interim compulsory supervision order / to make an interim compulsory supervision order specifying [X] local authority as the implementation authority and having effect until and including [specify date 21 days later, at the latest<sup>15</sup>] s.95(4)<sup>16</sup>
  5. to make / not to make an interim variation of a compulsory supervision order and specify [X] local authority as the implementation authority, having effect until and including [specify date 21 days later, at the latest<sup>17</sup>] s.95(4) and 97(3)<sup>18</sup>
  6. to make an interim/further interim variation of a compulsory supervision order and specify [X] local authority as the implementation authority, having effect until and including [specify date 21 days later, at the latest<sup>19</sup>] s.139(3)<sup>20</sup> / s.93(5) and 97(3)<sup>21</sup> / s.96(3) and 97(3)<sup>22</sup> / s.120(3)or(5)<sup>23</sup>
  7. to not make a further interim compulsory supervision order/further interim variation of a compulsory supervision order s.96(3) and 97(3)<sup>24</sup>
  8. to make a medical examination order specifying [ X ] local authority as the implementation authority and having effect until and including [specify date 21days later, at the latest<sup>25</sup>] s.92(3)<sup>26</sup>/s.120(6)<sup>27</sup>
  9. to include in the order/warrant [specify measure<sup>28</sup>]
  10. to continue the compulsory supervision order dated [X] until the subsequent children's hearing s.139(2)<sup>29</sup>
  11. to suspend / not suspend the decision dated [X] to make/vary/continue/terminate the compulsory supervision order

<sup>10</sup> Eg if hearing makes ICSSO on 10 July 2013, latest date in order is 31 July 2013.

<sup>11</sup> When grounds hearing proceeding on ground accepted and deferring under section 91(2).

<sup>12</sup> When grounds hearing directs a proof application.

<sup>13</sup> During proof application.

<sup>14</sup> Hearing subsequent to grounds hearing (grounds accepted or established).

<sup>15</sup> Eg if hearing makes ICSSO on 10 July 2013, latest date in order is 31 July 2013.

<sup>16</sup> When grounds hearing directs reporter to arrange another grounds hearings after the child has failed to attend without being excused in advance

<sup>17</sup> Eg if hearing makes interim variation on 10 July 2013, latest date in variation is 31 July 2013.

<sup>18</sup> When grounds hearing directs reporter to arrange another grounds hearings after the child has failed to attend without being excused in advance

<sup>19</sup> Eg if hearing makes interim variation on 10 July 2013, latest date in variation is 31 July 2013.

<sup>20</sup> When grounds hearing proceeding on ground accepted and deferring under s.91(2), or review hearing deferring under s.138(2)

<sup>21</sup> When grounds hearing directs a proof application

<sup>22</sup> During proof application

<sup>23</sup> Hearing subsequent to grounds hearing (ground accepted or established).

<sup>24</sup> During proof application.

<sup>25</sup> Eg if hearing makes ICSSO on 10 July 2013, latest date in order is 31 July 2013.

<sup>26</sup> When grounds hearing proceeding on ground accepted and deferring under s.91(2) (child not subject to CSO).

<sup>27</sup> Hearing subsequent to grounds hearing (ground accepted or established, child not subject to CSO).

<sup>28</sup> A separate decision is to be recorded for each separate measure. The wording for each type of measure is listed at the end of this appendix.

<sup>29</sup> Grounds hearing proceeding on accepted ground or any review/subsequent review hearing.



## Substantive

1. to deem / not deem an individual to be a relevant person s.80 and 81<sup>30</sup> / rule 59<sup>31</sup>
2. to determine that an individual is to continue to be / no longer to be deemed to be a relevant person s.81A<sup>32</sup> / s. 142<sup>33</sup>
3. to provide advice to the sheriff in relation to a child protection order s.50
4. to discharge the referral s.91(3)(b)<sup>34</sup> / s.93(2)(b)<sup>35</sup> / s.94(2)(a)<sup>36</sup> / s.119(3)(b)
5. to make a compulsory supervision order specifying [ X ] local authority as the implementation authority and having effect until and including [specify date one year (minus one day) later<sup>37</sup>] s.91(3)(a)<sup>38</sup> / s.119(3)(a)<sup>39</sup>
6. to continue the compulsory supervision order dated [X] specifying [ X ] local authority as the implementation authority until and including [specify date at latest one year (minus one day) later<sup>40</sup>] s.138(3)(c)
7. to vary the compulsory supervision order dated [X] and specify [X] local authority as the implementation authority, having effect until and including [specify same date as in the order being varied] s.138(3)(b)
8. to continue and vary the compulsory supervision order dated [X] , and specify [X] local authority as the implementation authority, until and including [specify date at latest one year (minus one day) later<sup>41</sup>] s.138(3)(b) and (c)
9. to include in the order [specify measure<sup>42</sup>]
10. to terminate the compulsory supervision order s.138(3)(a)
11. to confirm the decision of the hearing dated [X] in relation to the contact direction/ to vary the contact direction dated [X] by [specify variations] / to remove the contact direction dated [X] s.126(6)
12. to provide advice to the implementation authority and court about a

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<sup>30</sup> Where the question of whether to deem is referred in advance

<sup>31</sup> Where request to deem is made at the hearing

<sup>32</sup> Where the undeeming decision is referred in advance

<sup>33</sup> This decision is only to be recorded if the hearing has proceeded to consider this question under section 142. It is not necessary for the hearing to do so at every review hearing when a “deemed” relevant person is present. See paragraph 7.8 of Practice Direction 3 on Relevant Persons.

<sup>34</sup> Grounds hearing proceeding on basis of accepted ground

<sup>35</sup> Ground not accepted, or some accepted but grounds hearing not proceeding on basis of accepted ground

<sup>36</sup> Ground not understood

<sup>37</sup> Eg decision made on 12 July 2013, CSO has effect until and including 11 July 2014

<sup>38</sup> Grounds hearing proceeding on basis of accepted ground

<sup>39</sup> Subsequent hearing, ground accepted or established

<sup>40</sup> Eg decision made on 12 July 2013, CSO can be continued at latest until and including 11 July 2014

<sup>41</sup> Eg decision made on 12 July 2013, CSO can be continued at latest until and including 11 July 2014

<sup>42</sup> A separate decision is to be recorded for each separate measure. The wording for each type of measure is listed at the end of this appendix.

permanence order application / placing for adoption / adoption application  
s.141

13. to provide advice to the court under section 49(1)(b) / 49(3) / 49(6) of the Criminal Procedure (Scotland) Act 1995
14. to provide advice to the court under section 4(4) of the Antisocial Behaviour etc. (Scotland) Act 2004
15. to vary / not vary the compulsory supervision order / interim compulsory supervision order / medical examination order dated [X] [if varied, specify the variations] – regulation 9 Implementation of Secure Accommodation Authorisation Regulations 2013<sup>43</sup>

## Measures

- To include in the order a requirement that the child reside at.....<sup>44</sup>
- To include in the order a requirement that the child reside at any place of safety away from where he/she predominantly resides.
- To include in the order a prohibition on disclosure of the place where the order requires the child to reside to [specify person(s)]<sup>45</sup>.
- To include in the order a movement restriction condition specifying that [specify details of restriction(s)]<sup>46</sup>.
- To include in the order a requirement that the implementation authority arrange [specify medical/other examination/treatment].
- To include in the order a direction that [specify contact arrangements between the child and a specified person or class of person].
- To include in the order a requirement that the child [specify condition with which the child is to comply].
- To include in the order a requirement that the implementation authority [specify duties which the implementation authority is to carry out].

## Secure accommodation - residence and secure authorisation measures when there is a secure accommodation authorisation

- To include in the order a requirement that the child reside in [X] residential unit.  
AND  
To include in the order authorisation that the child may be placed and kept

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<sup>43</sup> Vary only by varying or removing the secure accommodation authorisation

<sup>44</sup> See below for details of how a residence measure is to be recorded where there is a secure accommodation authorisation.

<sup>45</sup> See below for details of how a residence measure is to be recorded where there is a non-disclosure measure.

<sup>46</sup> The order itself will need to specify the required monitoring arrangements and require the child to comply with them, as well as specifying the restrictions. See Practice Direction 26 on Movement Restriction Conditions for more information about the terms of a movement restriction condition.

in secure accommodation within X residential unit.

[for a situation where X residential unit has both secure and non-secure accommodation]

- To include in the order a requirement that the child reside in [X] residential unit or [Y] residential unit.

AND

To include in the order authorisation that the child may be placed and kept in secure accommodation within X residential unit.

[for a situation where X residential unit only has secure accommodation and Y residential unit has non-secure accommodation]

- To include in the order a requirement that the child reside at any place of safety away from the place where the child predominantly resides.

AND

To include in the order authorisation that the child may be placed and kept in secure accommodation within a residential establishment.

[for a situation where there is an interim order that requires the child to reside at a place of safety and a secure accommodation authorisation measure]

#### **Residence and secure accommodation authorisation measures when there is a non-disclosure measure**

- To include in the order a requirement that the child reside with the carers and at the place specified in the order dated today.  
[for a measure requiring the child to reside with carers]

- To include in the order a requirement that the child reside at the place specified in the order dated today.  
[for a measure requiring the child to reside in a residential establishment]

- To include in the order a requirement that the child reside at the residential establishment(s) specified in the order dated today.  
AND  
To include in the order authorisation that the child may be placed and kept in secure accommodation within the residential establishment specified in the order dated today.  
[for a measure requiring the child to reside in a named residential establishment with a secure accommodation authorisation measure]

- To include in the order a requirement that the child reside at any place of safety away from the place where the child predominantly reside.  
AND  
To include in the order authorisation that the child may be placed and kept in secure accommodation within a residential establishment.  
[for a measure requiring the child to reside in a place of safety with a secure accommodation authorisation measure]

## **PRE-HEARING PANELS**

### **Purpose of Pre-hearing Panel**

1. to consider whether to excuse child / relevant person from attending the children's hearing s.79(3).
2. to consider whether it is likely that the children's hearing will consider making a compulsory supervision order including a secure accommodation authorisation s.79(3)
3. to consider whether to deem an individual to be a relevant person s.79(2)
4. to consider whether an individual should continue to be deemed to be a relevant person s.79(5A)

### **Decisions of Pre-hearing Panel**

1. to excuse / not excuse child/relevant person from attending the hearing s.79(3)
2. to determine that it is likely that the hearing will consider making a compulsory supervision order including a secure accommodation authorisation s.79(3)
3. to deem / not deem an individual to be a relevant person s.81(3)
4. to determine that an individual is to continue to be / no longer to be deemed to be a relevant person s.81A
5. to appoint a safeguarder s.82
6. to determine that it may be necessary for the child/relevant person to be represented by a solicitor and they are not likely to arrange for such representation – rule 50(7)

## **Appendix 4 – Case Example: Completion of the Record of Proceedings**

This appendix provides examples of extracts from the record of proceedings showing how it is to be completed. It relates to hearings 1 and 2 for John Donald in Appendix 2 on pages 23 and 24 above.

### **Hearing 1**

The circumstances of hearing 1 are that on 26 August 2013 John Donald appeared at his first hearing to consider a statement of grounds. The section 67 ground is (m), that John's conduct has had, or is likely to have, a serious adverse effect on the health, safety or development of him or another person.

John and his parents accept the ground and the hearing decides to make a CSO with the following measures:

- a requirement that John is to reside with foster carers, Mr and Mrs Johnston at 3 Main Street, Newtown;
- a requirement that the implementation authority will provide appropriate supervision and support to John; and
- a prohibition on the disclosure of John's address to his parents, Mr and Mrs Donald.

The hearing decides that the implementation authority is Midshire Council.

### **Hearing 2**

The circumstances of hearing 2 are that a review hearing took place on 29 November 2013. The review hearing decided that the CSO should be continued for a period of 6 months and varied to include:

- a requirement that John is to reside at Anytown House (a residential establishment), rather than with Mr and Mrs Johnston;
- an additional requirement that John is to go to other foster carers, Mr and Mrs Davidson at 5 High Street, Newtown for periods of respite.

The hearing again decided to include measures:

- prohibiting the disclosure of John's address to his parents,
- requiring that the implementation authority will provide appropriate supervision and support to John.

John's father did not attend the hearing and the hearing decided to proceed in his absence.

**RECORD OF PROCEEDINGS AT A PRE-HEARING PANEL OR CHILDREN'S HEARING**

Locality dealing with child's case: Othertown

- |  |                    |       |
|--|--------------------|-------|
| <input type="checkbox"/> Pre-Hearing Panel                                 | <b>Start Time:</b> | 10:00 |
| <input checked="" type="checkbox"/> Children's Hearing                     | <b>End Time:</b>   | 11:00 |
| <input type="checkbox"/> Children's Hearing plus Pre-Hearing Panel Matters |                    |       |

**Pre-Hearing  
Panel/Hearing  
at:**

Othertown

**Date:** 26.08.2013**Child's Name:** John Donald**Date of  
Birth:** 23.06.2002**Chaired by****Member****Member****Reporter**

David Black

May Green

Martin White

A Reporter

**Persons Present****Representative  
(& address if not recorded elsewhere)****Child** ☒**Mother** ☒**Father** ☒**Relevant  
Person 1** ☐ (name)**Relevant  
Person 2** ☐ (name)**Relevant  
Person 3** ☐ (name)**Relevant  
Person 4** ☐ (name)**Other Persons  
Present** (name)**Designation  
(& address if not recorded elsewhere)****Safeguarder****Social Worker** Susan Evans**Other** Mr Mathews

Othertown High School, Othertown

**Other**

**Pre-Hearing Panel  
Matters**
**Purpose(s) of hearing** to consider the statement of grounds s.69(2)

**Ground s67(2)** m

**Dated** 01/08/2013

	Child	Mother	Father	Relevant Person 1	Relevant Person 2	Relevant Person 3
<b>Accepted</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Accepted as Amended</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Not Accepted</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Not Understood – would be unable</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Not Understood – after explanation</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Decision of Pre-Hearing Panel/Children's Hearing**

Decision 1 not to appoint a safeguarder s.30

Decision 2 to make a compulsory supervision order specifying Midshire Council as the implementation authority and having effect until and including 25 August 2014

Decision 3 to include in the order a requirement that the implementation provide appropriate supervision and support to John

Decision 4 to include in the order a requirement that John reside with the carers and at the place specified in the order dated today

Decision 5 to include in the order a prohibition on disclosure of the place where the order requires John to reside to John's parents, Mr and Mrs Donald

Decision 6 n/a

Decision 7 n/a

Decision 8 n/a

 Signed:  
(Chair)

Date: 26.08.2013

**Reasons for Decision(s)**

*The hearing made these decisions for the following reason(s):*

Decision 1:

Decision 2:

Decision 3:

Decision 4:

Decision 5:

Decision 6:

Decision 7:

Decision 8:

Signed:  
(Chair)

Date: 26.08.2013



**RECORD OF PROCEEDINGS AT A PRE-HEARING PANEL OR CHILDREN'S HEARING**

Locality dealing with child's case: Othertown

- |  |                    |       |
|--|--------------------|-------|
| <input type="checkbox"/> Pre-Hearing Panel                                 | <b>Start Time:</b> | 10:00 |
| <input checked="" type="checkbox"/> Children's Hearing                     | <b>End Time:</b>   | 11:00 |
| <input type="checkbox"/> Children's Hearing plus Pre-Hearing Panel Matters |                    |       |

**Pre-Hearing  
Panel/Hearing  
at:**

Othertown

**Date:** 29.11.2013**Child's Name:** John Donald**Date of  
Birth:** 23.06.2002**Chaired by****Member****Member****Reporter**

David Black

May Green

Martin White

A Reporter

**Persons Present****Representative  
(& address if not recorded elsewhere)****Child** ☒**Mother** ☒**Father** ☒**Relevant  
Person 1** ☐ (name)**Relevant  
Person 2** ☐ (name)**Relevant  
Person 3** ☐ (name)**Relevant  
Person 4** ☐ (name)**Other Persons  
Present** (name)**Designation  
(& address if not recorded elsewhere)****Safeguarder****Social Worker** Susan Evans**Other** Mr Mathews

Othertown High School, Othertown

**Other**

**Pre-Hearing Panel  
Matters**

**Purpose(s) of hearing** to review the compulsory supervision order dated 26.08.2013 under s.137 as required by section 131(2)(a)

**Decision of Pre-Hearing Panel/Children's Hearing**

Decision 1 not to appoint a safeguarder s.30

Decision 2 to proceed in the absence of Mr Donald, John's father

Decision 3 to continue and vary the compulsory supervision order dated 26.08.2013, and specify Midshire Council as the implementation authority, until and including 28 May 2014.

Decision 4 to include in the order a requirement that the implementation provide appropriate supervision and support to John

Decision 5 to include in the order a requirement that John reside at the place specified in the order dated today.

Decision 6 to include in the order a requirement that John reside with the carers and at the place specified in the order dated today during periods of respite from residing at the place first specified in the order.

Decision 7 to include in the order a prohibition on disclosure of the place where the order requires John to reside to John's parents, Mr and Mrs Donald

Decision 8 n/a

Signed:  
(Chair)

Date: 29.11.2013

**Reasons for Decision(s)**

*The hearing made these decisions for the following reason(s):*

Decision 1:

Decision 2:

Decision 3:

Decision 4:

Decision 5:

Decision 6:

Decision 7:

Decision 8:

Signed:  
(Chair)

Date: 29.11.2013