



Practice Direction 14

Notifications and Papers

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SUMMARY

- This Practice Direction covers:
 - notification of reporter decisions on referral,
 - notification of hearings,
 - provision of papers for hearings, and
 - notification of hearing decisions.
- This Practice Direction also details certain obligations concerning notifications and papers for pre-hearing panels but should be read with Practice Direction 12 on Pre-Hearing Panels.
- There is no express requirement to notify the child and relevant persons that a referral has been received. The reporter is generally to inform the child (if of sufficient understanding) and relevant persons about receipt of the referral and any investigation that is being undertaken. Full details are in Practice Direction 5.
- The child (if of sufficient understanding) and relevant persons must be given, with limited exceptions:
 - written notification of reporter decision not to arrange a grounds hearing;
 - written notification of reporter decision to arrange a grounds hearing
 - written notification of hearings;
 - hearing papers; and
 - written notification of the hearing's decision.
- Carers who are not relevant persons are to be given written notification of the reporter's decision on the referral in some circumstances, invited to the hearing if their attendance is likely to be necessary for the proper consideration of the matter before the hearing, and given written notification of the hearing's decision in some circumstances.
- Where a person has participation rights in relation to the child's hearing, or where a PHP is considering whether a person meets the criteria to have participation rights, the person must be given:
 - notification of the hearing or PHP;
 - selected papers for the hearing or PHP; and
 - information regarding the decision of the hearing or PHP.
- Persons who appear to the reporter to have, or have recently had, significant involvement in the upbringing of the child must be told the date, time, and place of nearly all hearings for the child.
- Persons who have contact under a contact order or permanence order must be told the date of nearly all hearings for the child.
- The reporter may invite persons to attend a hearing where the person has no right to attend. The reporter is to invite any individual whose attendance is likely to be necessary for the proper consideration of the matter before the hearing. This can include:
 - professional persons (other than instructed representatives),
 - the child's carers (where not relevant persons), and

- persons with an ECHR interest in contact.
- Any appointed safeguarder must be given notification of hearings, hearing papers and notification of hearing decisions.
- The Chief Social Work Officer must be told of any decision not to refer the child to a hearing. The CSWO is to be told the date, time and place of all hearings and given a copy of the hearing papers. The CSWO must be given the hearing's decision, reasons, and a copy of the order within 5 days (or by end of next working day if the child is required to reside with someone other than the implementation authority or a relevant person). Communication with the CSWO is achieved through communication with the case social worker.
- The National Convener must be told the date, time and place of all hearings. This will be done through Head Office rather than by individual locally generated notifications.
- Panel members must be told the date time and place of the hearing and given the hearing papers.
- The police must be told the outcome of referrals made by them and told the decisions made by the reporter and hearings in relation to children aged 16 or over. This is done through Head Office rather than by individual locally generated notifications.
- Standard letters which incorporate the information required by the Act and Rules are available for each type of formal communication and are always to be used. Relevant leaflets or information sheets are always to be included.
- All notifications and communications required by the Rules must be in writing and must be signed by someone with delegated authority to do so under the Casework Practice Scheme of Delegation. For short notice hearings, the reporter should give early verbal information about the hearing wherever practicable in advance of the written notification.
- Notifications and other communications are generally to be sent first or second-class post, unless the reporter determines that recorded delivery is appropriate. First class post is to be presumed to be delivered 2 days after posting. At least 3 days is to be presumed for delivery of second-class post.
- It is competent for formal communications to be given by e-mail. However, reporters are only to do this where there is a secure e-mail option in place in compliance with SCRA's Information Security Policy and where the recipient has consented to electronic receipt of such communications. E-mail communication is presumed to be received on the day it is sent.
- The timescales which generally apply are:
 - notifications of hearings must be received at least 7 clear days before the hearing
 - hearing papers must be received at least 3 clear days before the hearing
 - hearing outcomes must be received within 5 days of the hearing.

- Short notice hearings generally require notifications and hearing papers to be given as soon as practicable before the hearing.
- The reporter need not give notifications or hearing papers to a child if the child would not be capable of understanding the document. The reporter is to operate to a presumption that a child under 6 would not be capable of understanding a notification (of any type), a child under the age of 8 would not be capable of understanding the statement of grounds, and that a child under 12 would not be capable of understanding hearing papers. However, this is just a presumption, and the reporter is to consider the capacity of each child as an individual in relation to each specific document. The reporter is always to notify relevant persons, or carers of a child who are not relevant persons, that the child is required to attend the hearing unless excused.
- Ideally a separate notification and set of hearing papers should be given to each relevant person, even if residing at the same address.
- Rule 16 enables the reporter to withhold information about the whereabouts of the child or a relevant person when giving notifications of any type, or papers, if disclosing that information would be likely to cause significant harm to the child or relevant person. In those circumstances the child's and/or relevant person's address is to be given as c/o the Principal Reporter, Ochil House etc.
- Other non-disclosure provisions may apply: a non-disclosure measure prohibiting disclosure of the place where the child is required to reside, receipt of a non-disclosure request, or withholding information authorised by the hearing under section 178. In these circumstances the reporter must refer to Practice Direction 4 on Non-disclosure.

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1. Introduction

- 1.1 The Children's Hearings (Scotland) Act 2011 and the The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 impose duties on SCRA to notify individuals and agencies in particular situations. The notifications which are dealt with in this practice direction are:
- notification of a reporter decision;
 - notification of pre-hearing panels;¹
 - notification of hearings;
 - providing hearing papers; and
 - notification of the hearing's decision.
- 1.2 In addition to the statutory obligations listed above, the reporter is generally to inform the child (if of sufficient understanding) and relevant persons about receipt of the referral and any investigation that is being undertaken. There are circumstances where such a letter is not to be sent or may require careful consideration. The approach to take to receipt of referral letters is covered in Practice Direction 5.²
- 1.3 The body of this Practice Direction provides direction in relation to the general principles which apply to these notifications. Appendix A contains a list of different types of hearing and details the provisions relating to notification and papers for each. If a hearing has more than one purpose, the reporter must comply with the requirements for notification and papers for each purpose. Appendix B details the provisions relating to pre-hearing panels, including notifying decisions. Appendix C details the provisions relating to notification of a hearing decision.
- 1.4 In addition to sending the notifications required by statutory provisions, the reporter can invite people who they think can contribute to the proper consideration of the matter before the hearing. Examples include schools, specialist services who are working with the child (e.g. CAMHS), the officer-in-charge of a residential unit where the child lives and the child's carers. The reporter is always to invite the child's social worker. The reporter is to invite a person with an ECHR interest in contact with the child. It will be for the chair of the hearing to decide whether a person without a right to attend will be allowed to attend the hearing at any point. Refer to Practice Direction 13 on Attendance at Hearings.
- 1.5 There is no statutory duty to invite the social worker to a pre-hearing panel, but the reporter is always to do so.
- 1.6 In all communications, care must be taken to ensure that personal information is not disclosed unnecessarily.

¹ For pre-hearing panels additional considerations apply and the reporter should refer to Practice Direction 12 on Pre-hearing Panels.

² PD 5 - Receipt and Registration of Referrals, Section 8

1.7 Below are links to relevant Practice Directions:

Practice Direction 4 on Non-disclosure

Practice Direction 5 on Receipt and Registration of Referrals, etc.

Practice Direction 12 on Pre-hearing Panels

Practice Direction 13 on Attendance at Hearings

A. GENERAL CONSIDERATIONS

2. Form of Notification

- 2.1 All notifications must be in writing (s.193). All notifications must be signed by someone with delegated authority to do so under the Casework Practice Scheme of Delegation (rule 98). Reference is made to paragraph 2.10 of the Scheme.
- 2.2 Where notifications of hearings and papers require to be given as soon as practicable, information can initially be given verbally to ensure maximum notice. This must be followed up by written notification and papers, sent in time for receipt in advance of the hearing or given at the Hearing Centre before the hearing starts.³
- 2.3 The Rules prescribe what information is to be given to different categories of people for different types of hearings (for both notifying of the hearing and notifying of the outcome of the hearing). SCRA has developed standard letters which contain the prescribed information, and these letters must be used.

3. Notifying Reporter Decision on Referral

- 3.1 There is a statutory duty on the reporter to inform certain people that the reporter is not arranging a hearing. Where the reporter determines under section 66(2) that either (i) no section 67 ground applies or (ii) it is not necessary for a compulsory supervision order to be made, then, subject to the exceptions set out in paragraph 3.2 below, in terms of section 68(3) the reporter must inform the persons specified in section 68(4) of the determination and that the question of whether a compulsory supervision order should be made in respect of the child will not be referred to a children's hearing. These persons are:
- the child,
 - each relevant person

³ It is **receipt of the written notification** that constitutes notification in accordance with s.193.

- the relevant local authority
 - any person required by a child protection order to produce the child
 - the referrer.
- 3.2 There is no duty in the 2011 Act to inform the child or relevant persons that the reporter has decided to arrange a grounds hearing for the child, other than the duties in relation to giving notification of the hearing. However, if the child has provided their views about what decision the reporter should make, compliance with article 12 of the UNCRC requires that the reporter inform the child of the reporter's decision, how the child's views were taken into consideration and what the child can do if they are not happy with the reporter's decision.
- 3.3 The overall approach to be taken by the reporter is that reporter is always to send letters informing the child and relevant persons of the reporter's decision, except in the following circumstances:
- to the child where the child would not be capable of understanding the letter⁴;
 - to a child or a particular relevant person where the decision is not to arrange a hearing and receipt of the letter by the individual would be likely to cause someone significant harm⁵,
 - to the child or a relevant person where the decision is to arrange a hearing and receipt of the letter by the individual would be likely to cause someone harm⁶, or
 - to the child or relevant persons where the decision is to arrange a hearing, the child did not provide views, and hearing notifications will be sent shortly. If the child did provide views, the reporter decision letters are to be sent regardless of the timescale for the hearing notifications.
- 3.4 The letter templates informing the child of the reporter's decision contain a section for explaining why the reporter made their decision. This section is to be completed if the child has provided their views (directly or indirectly) on what decision the reporter should make⁷. The reporter must explain how the child's views were considered in decision-making, using an appropriate level of detail and appropriate language for the age and maturity of the child. The reporter is to rely on the information available in the Decision Form on CSAS, particularly the information recorded in the boxes for child's views and the rationale for decision, though information relating to the assessment of specific factors may also be relevant. Examples of reporter decision letters are available at Appendix E.

⁴A presumption of age 6 applies, in line with the presumption for a receipt of referral letter. Where the child has given their views on what decision the reporter should make, consideration is to be given to whether other means could be used to tell the child the reporter's decision, how the child's views were taken into consideration and what the child can do if they are not happy with the reporter's decision.

⁵Consideration should be given to whether the individual could be given the outcome through a different route that would not be likely to cause significant harm to any person.

⁶ Consideration should be given to whether the individual could be given the outcome through a different route that would not be likely to cause harm to any person.

⁷ Note that the reasons for decision will not appear in the letters for relevant persons.

- 3.5 Where the reporter has sent a carer who is not a relevant person a receipt of referral letter in line with the criteria in Practice Direction 5 paragraph 8.3, and the carer is still looking after the child full time at the point of the reporter's decision, it would be appropriate to inform the carer about the reporter's decision as if they were a relevant person.
- 3.6 In terms of section 68(3)(b), if the reporter considers it appropriate the reporter may inform other persons of a 'no hearing' decision and that the question of whether a CSO is necessary will not be referred to a hearing. It is extremely unlikely to be appropriate to inform other persons, and if the reporter is considering doing so, they must consult with their Senior Practitioner or Locality Reporter Manager, and the Practice Team.
- 3.7 There is no prescribed timescale for notifying the reporter's decision on a referral. However, such notifications are to be sent as soon as practicable.

4. Audio or Visual Recordings

- 4.1 An audio or visual recording (a 'recording') is a document for the purposes of the Children's Hearings (Rules of Procedure in Children's Hearings) (Scotland) Rules 2013. Section 25 and Schedule 1 of the Interpretation and Legislative Reform Act (Scotland) Act 2010 defines 'document' as anything in which information is recorded in any form.
- 4.2 Therefore the same rules apply to recordings as to any other kind of document. However, given the different nature and format of a recording compared to a written document, the means of making a recording available will in practice sometimes have to be different to how written documents are made available. Further information on dealing with recordings is contained within the relevant sections of this Practice Direction and within Appendix D.

5. Method of Service

- 5.1 The combination of section 193, rule 100 and section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 creates the situation that service of any formal communication can be by any of the following methods:
- a) delivery to the person by a reporter or police constable;
 - b) sending by registered post (presumed to be received 48 hours after it is sent unless the contrary is shown);
 - c) sending by recorded delivery (presumed to be received 48 hours after it is sent unless the contrary is shown); and

- d) electronically (presumed to be received on the day it is sent) if the recipient has agreed in writing⁸.
- 5.2 However, if posting notifications or papers, the reporter is to use first or second class post unless there are reasons for personal delivery or recorded delivery. First class post is to be presumed to be received 2 days after posting. At least 3 days must be allowed for second class post.
- 5.3 Electronic notification must only take place where there is a secure e-mail link to the recipient in line with SCRA's Information Security Policy and the recipient has agreed in writing to electronic notification. An electronic communication is presumed to be received on the day of sending.
- 5.4 The rules on service apply to recordings as for any other document. In practice however, the means of providing recordings may be different than for other documents - see Appendix D for details of how recordings may be made available.

6. Timescales for Notifications and Papers

- 6.1 The statutory timescales are minimum timescales. Consideration should be given to providing longer notice where practicable so that as much notice as possible is given to children, families, and professionals.
- 6.2 A day is to be taken as a period of 24 hours beginning at midnight. Therefore, the day of receipt and the day of the hearing are not to be included in the calculation of the number of days' notice. The days which are counted must be clear days.
- 6.3 The following presumptions are to be applied to receipt of notifications:
- first class post – 48 hours after sending
 - second class post – at least three days after sending
 - recorded delivery – 48 hours after sending
 - e-mail – the same day as sending.
- 6.4 The timescale for notifying most hearings is as soon as practicable and no later than 7 days before the intended date of the hearing. For some hearings the timescale is as soon as practicable before the beginning of the hearing. Appendix A sets out the timescales which apply for different types of hearings.
- 6.5 The Rules require the reporter to provide hearing papers within specific timescales depending on the type of hearing and the point at which the information was received by the reporter. Appendix A sets out the requirements of the Rules as applicable to each type of hearing in table form.

⁸ Interpretation and Legislative Reform (Scotland) (Act) 2010 section 26. Panel members are to be taken to have agreed to electronic transmission of information via CSAS and Objective Connect.

For grounds hearings, the statement of grounds and certain other information requires to be provided at the same time as the notification of the hearing, meaning that 7 clear days may be required for some material.

For a review hearing (other than a short notice review), the reporter must give the child, relevant person and safeguarder⁹:

- (1) as soon as practicable before but no later than 7 days before the date of the hearing, the compulsory supervision order to be reviewed, all decisions and reasons of children's hearings and pre-hearing panels¹⁰ and, if the review is at the request of the local authority, the review request¹¹; and
- (2) no later than 3 days before the date of the hearing a copy of reports and the views of the child (subject to paragraph 6.6).

The timescale for giving hearing papers for most other hearings is no later than 3 clear days before the intended date of the hearing or as soon as practicable before then (subject to paragraph 6.6). For some short notice hearings, the timescale for sending panel papers is as soon as practicable.

- 6.6 Where any information, written document or recording which should be included in the hearing papers is received by the reporter after the point at which the above specific timescales can be met, the statutory timescale that applies is that the reporter must give the information, written document or recording to those entitled to receive it as soon as possible before the beginning of the hearing.¹²
- 6.7 The timescale for giving notifications of hearing decisions for most hearings is within 5 days of the hearing. The day of the hearing is not included in calculating the period. For some hearings the timescale is as soon as practicable after the hearing. Appendix C sets out the timescales which apply for different types of hearings.
- 6.8 EXAMPLE

An example of how the above timescales operate is as follows:

For a hearing where the reporter is to notify persons no later than 7 days before the intended date of the hearing and send the papers no later than 3 days before the intended date of the hearing, there is to be seven full 24-hour periods after the day of presumed receipt of notification and 3 full

⁹ Despite the terms of rule 34 Localities are not required to change current practice in terms of the timing of sending papers.

¹⁰ See standard papers below

¹¹ Where the review flows from court proceedings, the remit or requirement from the court must be included, rule 34(3).

¹² Rule 26(3)

24-hour periods after the day of presumed receipt of the papers and before the day of the hearing.

If the hearing is due to be held on a Friday, this means that the notification must be sent in time to arrive on the Thursday of the week before. If the reporter posts the notification, it must be mailed at least 48 hours before the intended date of receipt i.e. to arrive on a Thursday, the letter must be posted on a Tuesday.

So for a hearing on a Friday, the notification letter must be posted no later than the Tuesday a week earlier.

For the same hearing, the hearing papers must arrive no later than the Monday and must be posted no later than the Friday before the hearing. The notification of the hearing outcome must arrive no later than the Wednesday after the hearing and would have to be posted no later than the Monday after the hearing.

7. Material Received too Late for Postal Delivery/Reasonable Opportunity to Access

- 7.1 The reporter's duties to give relevant information, written documents and recordings apply to material given to the reporter in advance of the hearing, but do not apply to any material that a person brings to the Hearing Centre or hearing. Reference is made to Practice Direction 11 on Role of the Reporter at a hearing or Pre-hearing Panel.
- 7.2 The following paragraphs address dealing with verbal information, written documents or recordings given to the reporter in advance of the hearing, where the material is to be included in hearing papers but it is too late for postal delivery to be likely to be received before the hearing, or too late for reasonable opportunity to access a recording to be given, where these are the methods of service used.

Written material

- 7.3 Where the reporter receives verbal information or a written document where there is insufficient time for postal delivery (first class) to be likely to be received before the hearing, copies are to be made for distribution at the Hearing Centre prior to the commencement of the hearing to those attending the hearing in person.¹³ If there is time to give the material to the panel members via the CSAS portal this is to be done, even though others will not, or might not, receive postal delivery in time.
- 7.4 The panel members are to be informed if any verbal information or written document was received by the reporter and any of the following apply in relation to any person entitled to receive it:

¹³ The material must also be posted if there is a possibility it will be received through that route in advance of the hearing.

- the material has not been sent or given to the person,
- it has been sent but is not likely to have been received, or
- it has been given to the person at the Hearing Centre.

This is important because if the panel members have received the material through the CSAS portal they may not be aware that other persons have not received it at the same time. It is to be treated as an administrative matter¹⁴ and panel members are to be told about it before the hearing starts. As with all administrative matters, it should generally be dealt with by administrative or reception staff rather than the reporter where possible.

7.5 After the hearing has started, it will be for the hearing to decide how to deal with the situation taking into account all the circumstances. Fairness will be a key factor in relation to the most appropriate approach by the hearing, and if either of the following apply the reporter is to intervene to raise the issue:

- A person entitled to papers has not, or is unlikely to have, received the material and it is not clear that all persons within the hearing are aware of this.
- Any panel member does not appear to be alert to the appropriateness of assessing fairness based on the whole circumstances, including the nature of the material and the views of others about the appropriate approach to take.

Recordings

7.6 A recording may be received with insufficient time to make it available in advance of the hearing to all those entitled to receive it. The reporter is to proceed to make the recording available to those for whom this is possible, having selected the appropriate method of providing the recording (see Appendix D).

7.7 The reporter is to consider whether it is likely to be practicable to make the recording available during an adjournment, or possibly within the hearing, should the hearing decide it would like this to happen. If so, the reporter should take reasonable steps in advance to support this to be able to happen ¹⁵.

7.8 The reporter must not seek to have a recording played during a hearing, or rely on it being played during a hearing, as an alternative to making it available in advance of the hearing. (See also paragraph 7.9.)

7.9 A recording received by the reporter is not to be provided at the Hearing Centre before the hearing starts unless specific arrangements in line with Appendix D have been made in advance for a person to view the recording at that place and time.

¹⁴ Practice Direction 11 paragraph 4.1.

¹⁵ For example, checking whether equipment is or can be available in the waiting room(s) or hearing room to play the recording.

7.10 The panel members are to be informed if any of the following applies in relation to a person entitled to access the recording:

- the recording has not been made available to them,
- the recording has been made available through viewing in an SCRA office, the timescale did not provide a reasonable opportunity to access¹⁶ and the person has not accessed the recording.

This is important because if the panel members have received the recording through Objective Connect, they may not be aware that other persons have not received it at the same time. It is to be treated as an administrative matter¹⁷ and panel members are to be told about it before the hearing starts. As with all administrative matters, it should generally be dealt with by administrative or reception staff rather than the reporter where possible.

7.11 As with written information, after the hearing starts it will be for the hearing to decide how to deal with the situation taking into account all the circumstances. Fairness will be a key factor in relation to the most appropriate approach by the hearing and if either of the following apply the reporter is to intervene to raise the issue:

- A person entitled to papers has not had a reasonable opportunity to access the recording, they have not accessed it and it is not clear that all persons within the hearing are aware of the situation.
- Any panel member does not appear to be alert to the appropriateness of assessing fairness based on the whole circumstances, including the nature of the recording and the views of others about the appropriate approach to take.

7.12 The reporter's position is generally to be that if the hearing decides to take the recording into consideration, adjourning or deferring for persons to receive or access the recording is more appropriate than playing it within the hearing (in the same way that adjourning or deferring for someone to read a report is more appropriate than the report being read within the hearing).

8. Failure to Comply with Statutory Timescales for Notifications or Papers

Notifications

8.1 The reporter has a duty to comply with all statutory timescales. The following paragraphs apply specifically to notifications of hearings and PHPs, and to providing hearing papers.

¹⁶ What constitutes a reasonable opportunity to access will depend on the specific circumstances and will likely include consideration of, for example, the timescale, the distance and difficulty of travel, and the extent of choice of timing.

¹⁷ Practice Direction 11 paragraph 4.1.

- 8.2 Failing to comply with statutory timescales for notification may have serious consequences for hearings, and result in delay or successful appeals¹⁸. However, there may be occasions where fairness to a child or relevant person requires that a children's hearing's decision is reviewed as quickly as possible. In these situations it may be appropriate for the reporter to arrange the children's hearing to take place without giving the full statutory notice. This approach was endorsed by the Court of Session in *Martin v N* 2004 SLT 249.
- 8.3 Where it is impossible for the reporter to comply with a statutory timescale (e.g. request for a contact direction review hearing under s.126 is received after notifications would otherwise have been due to be sent out), the reporter is to make every effort to provide as much notice as possible of the forthcoming hearing.
- 8.4 If the reporter has been unable to comply with a statutory timescale for notifications of hearings, the reporter is to be open about this to all parties. Information about a reduced notification period is to be included in the hearing papers or given orally in the hearing. The hearing is not obliged to defer its decision, but it may decide to do so, if the panel members consider that fairness to the parties outweighs any immediate requirement to make a decision in the best interests of the child.

Papers

- 8.5 Where any information, written document or recording is not given by the reporter in compliance with the relevant statutory timescale (see paragraphs 6.5 – 6.7), the hearing is not obliged to defer its decision. It may decide to do so if it considers the amount of notice creates an unfairness which outweighs any immediate requirement to make a decision in the best interests of the child. The whole circumstances will be relevant to the hearing's consideration, including the materiality of the information.¹⁹

9. Non-disclosure Provisions

- 9.1 Practice Direction 4 on Non-Disclosure gives full details of all the non-disclosure provisions and their application. The following paragraphs highlight key points in relation to notifications and papers.
- 9.2 Rule 16 provides that, when giving any formal communication or document in relation to a hearing or pre-hearing panel, the reporter can withhold information about the whereabouts of the child or relevant person if disclosing that information would be likely to cause significant harm to the child or relevant person. In those circumstances the child's

¹⁸ A procedural irregularity raises a *prima facie* ground of appeal. However, for the appeal to succeed the irregularity must be "material" in the sense of causing real prejudice to the person affected or to the child. See *C v Miller* (No. 1) 2003 SLT 1379.

¹⁹ Where the relevant statutory timescale is as soon as possible or practicable before the hearing and the material was given shortly before the hearing in compliance with that timescale, there has been no breach of statutory requirements. However the hearing may decide to consider similar issues of fairness.

and/or relevant person's address must be given as that of c/o the Principal Reporter.

- 9.3 If a non-disclosure request has been made, the non-disclosure request is to be included in the hearing papers (or pre-hearing panel papers if the request relates to those), redacted if necessary.
- 9.4 If any non-disclosure provision – withholding whereabouts under rule 16, non-disclosure request, non-disclosure measure in an order, or a hearing withholding information under section 178 - applies then in terms of rule 15 the reporter must inform those entitled to receive the document that information has been withheld, what information and from whom.

B. NOTIFICATIONS AND PAPERS FOR CHILDREN'S HEARINGS

10. Content of Hearing Papers

- 10.1 Various provisions within the Rules set out the requirements for different types of hearings. For ease of reference, the statutory provisions for what is to be included in the hearing papers for particular hearings is dealt with in the table in Appendix A. Unless otherwise specified, reference to 'standard documents' in Appendix A means the documents detailed in the table below.

The table refers to the 'current proceedings' and the 'continuous series of proceedings'.

The 'current proceedings' means all hearings and pre-hearing panels relating to the current outstanding substantive decision. The current proceedings begin with a grounds hearing or a review hearing, or the second working day/CPO advice hearing where the grounds hearing is a CPO grounds hearing.²⁰

The 'continuous series of proceedings' is the series of proceedings that has not been interrupted by any decision that ended all orders and hearing proceedings for the child²¹.

STANDARD PAPERS

Document (reference to information, documents or	Comment
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²⁰ The same approach applies where the sheriff requires a hearing to be arranged on appeal. If the hearing is a grounds or review hearing, it commences new proceedings. (Information in the previous hearing papers may remain material or relevant.) If the hearing is for a different purpose (eg to consider established/accepted grounds or to consider whether to make a further ICISO/interim variation) it forms part of the current proceedings.

²¹ For example, a series of proceedings is interrupted by:

- a hearing decision to terminate a child's CSO where there are no other ongoing hearing proceedings,
- a hearing decision to discharge grounds, leaving no order or hearing proceedings ongoing,
- a hearing decision not to continue a CPO, leaving no order or hearing proceedings ongoing,
- a sheriff determining grounds are not established, leaving no order or hearing proceedings ongoing.

reports includes an audio or visual recording)	
All decisions and reasons for decision made by all children's hearings or pre-hearing panels from the continuous series of proceedings leading to the forthcoming hearing.	
The current compulsory supervision order if any.	
Any ICSO or interim variation of a CSO from the current proceedings.	
The statement of grounds for the current proceedings and any statement of grounds accepted or established in the continuous series of proceedings.	The following is to be added to the accepted statement of grounds, below the SCRA logo, "Statement of grounds accepted at a children's hearing on [DATE]." The statement of grounds is to be sent to the chief social work officer even if it was accepted without amendment. The following is to be added to the established statement of grounds, below the SCRA logo, "Statement of grounds established at [NAME] Sheriff Court on [DATE]."
The report or other information provided by the local authority to the reporter in relation to the current proceedings, except: <ul style="list-style-type: none"> • a report or information first provided to a CPO second working day hearing or CPO advice hearing²², and • a report or information first provided to a grounds hearing or section 96 hearing and the statement of grounds have since been established by the sheriff²³. 	If any excepted report or information is relevant or material to the hearing's consideration, it is to be included in the papers under that category (see final box in this table).
Any report or interim report prepared by a safeguarder in the current proceedings.	

²² A CPO does not form part of standard papers. Beyond a CPO 2wd hearing, CPO advice hearing and CPO grounds hearing (see appendix A) it is included only if relevant and material.

²³ Exceptionally, a similar approach may be required where significant amendment has been made to accepted grounds.

Any views of the child that have been given to the reporter (either by the child or another person) for consideration by a hearing in the current proceedings.	Where these views are given orally to the reporter, a note is to be written stating the expressed views, date of receipt and from whom they were received.
Any relevant direction, remit, reference or requirement from a court.	A reference for advice and a remit for disposal under section 49 of the Criminal Procedure (Scotland) Act 1995 must include the complaint or indictment that details the offences to be considered by the hearing.
Any report or document provided by the child, relevant person or participation individual for a hearing to consider in the current proceedings. ²⁴	The reporter must provide such a document even if it is irrelevant to the hearing's decision. However, the reporter is not to provide such a document to the hearing if it contains offensive or indecent material and following consultation with a Senior Practitioner or LRM. See paragraph 10.5 below.
Any request for a review hearing from the implementation authority in relation to the current proceedings.	
Any advice received from the National Convener following a request by a hearing in the current proceedings (section 8 and rule 79).	
Information about any withheld information as a result of the application of any non-disclosure provision (rule 15).	See section 9 above for more information.
Any Form 25 (or Court of Session equivalent) received from court following submission of a section 95 report in the current proceedings.	
Any safeguarder report not arising from the current proceedings where the safeguarder has requested a copy of the report.	See paragraph 4.4 of Practice Direction 21 on Safeguarders.
The interlocutor disposing of an appeal and the sheriff's note, where the sheriff has required the hearing to be arranged as part of the disposal of the appeal.	

²⁴ Rule 26 for children and relevant persons, s.79(5ZA)(b) for participation individuals.

Any other report or information which is relevant or material to the hearing's consideration.	<p>Examples are set out below. The more historic the information, or the more the factual basis for decision-making has changed since the information was provided, the less likely it is to be relevant or material.</p> <ul style="list-style-type: none"> • a school report or a report from an agency currently involved with the child, for example, health or the residential unit in which the child resides; • accepted or established statements of grounds, decisions or reasons, previous orders, safeguarders' reports, not included in the list above; • current request for a review hearing from relevant person or child (though the reporter is to consider any issues re disclosure of personal information before deciding whether to include copy correspondence from the child or a relevant person).
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- 10.2 Ideally, all hearing papers should be accompanied by an inventory of contents.
- 10.3 Where there is a deferred or subsequent hearing, a further copy of the papers already provided need not be given again. However, in terms of best practice the reporter may do so, particularly where it would be easier for the child or relevant persons to understand a single 'package' of current papers.
- 10.4 The reporter is not to include in the hearing papers documents (including photographs and video recordings) that were led in evidence at a proof. The established statement of grounds is the only record of the sheriff's decision (resulting from the consideration of that evidence) that is to be included in the hearing papers. The interlocutor establishing the statement of grounds is not to be included unless it also contains an ICSO, or interim variation made by the sheriff.²⁵
- 10.5 If the child provided views as to what decision the reporter should make, these are unlikely to be relevant or material to the hearing's consideration. They were provided for the purpose of the reporter's decision-making. If the child provided their views on the 'form' for views about what decision the reporter should make, the form is not to be included in the hearing papers. The same applies to views provided in any other separate document or provided verbally. If the child's views about the reporter's decision are included within a wider report or document which is relevant or material to the hearing's decision making, the report or document must be included in the hearing papers. Where

²⁵ It is to be included only during the current proceedings.

appropriate, the reporter may make a non-disclosure request about the child's views.

Documents received from party for inclusion in papers

- 10.5 If a child, relevant person, or participation individual provides a report or other document to the reporter for consideration by a hearing, the reporter must include it in the hearing papers.²⁶ However, if the document contains offensive or indecent material it may be justifiable for the reporter not to include it in the papers. The justification will be stronger where the material is irrelevant or where it disproportionately breaches someone's right to respect for private life. Before deciding to not include such material, the reporter is to consult with a Senior Practitioner.

If the document is not included in the hearing papers, the reporter must inform the person who provided the information of this decision.

As with any document included in hearing papers, the reporter may make a non-disclosure request if the reporter considers that it should be withheld from a specified person. The test to be applied is that disclosure would be likely to cause significant harm to the child to whom the hearing relates. Reference should be made to Practice Direction 4 on Non-disclosure.

Requests from party to include documents

- 10.6 If a child, relevant person, or participation individual does not submit a document but instead simply requests the reporter to include a particular document in hearing papers, rule 26 does not apply. However, where the request relates to a document that the requester has previously given to, or received from, the reporter then the reporter is to include it in the hearing papers - provided:

- the request clearly identifies the particular document, and
- it is practicable for the reporter to locate the document and provide it before the hearing takes place to those entitled to receive papers.

If either of these criteria are not met, the reporter is to inform the requester so that the requester can decide whether to take further action (e.g. provide a copy to the reporter or bring copies to the hearing).

If the request relates to a document that the requester has not previously given to, or received from, the reporter (e.g. a sheriff's judgement) the request is not to be complied with.²⁷

11. Notification and Papers for Children

²⁶ Rule 26(3), Rule 26(7) re CSWO.

²⁷ On occasion there may be a different basis for including the document in hearing papers.

11.1 In terms of rule 18, the reporter need not send notifications or papers to a child where, taking account of the child's age and maturity, the child would not be capable of understanding the notification or papers. This includes notification of the outcome of a hearing. Where rule 18 applies, the reporter is not to send notifications or papers to the child.

11.2 In applying rule 18, the reporter is to proceed on the basis of the following presumptions:

- a child under the age of 6 would not be capable of understanding a notification;
- a child under the age of 8 would not be capable of understanding the statement of grounds;
- a child under the age of 12 would not be capable of understanding the hearing papers.

These are just presumptions, and the reporter is to be alert to the understanding of each child in relation to notifications, statements of grounds and each document within the hearing papers on a case-by-case basis.

11.3 Where a solicitor contacts the reporter, stating in writing²⁸ that they act for the child, and requesting a copy of the papers, the reporter is to provide them. This is to be done even where we have not provided papers to the child because we considered the child would be unable to understand them. The reporter must assume that the solicitor is properly instructed by the child, that the child wants the solicitor to have the papers and that having the papers will help the solicitor to properly represent the child.

Information from the solicitor may influence the reporter's assessment of the child's understanding. If, based on that information, the reporter decides the child has sufficient understanding the reporter is to provide papers to the child as well.

11.4 Where a child is in prison, or their whereabouts are uncertain, or they do not want to receive papers, or receipt of papers would likely cause them significant harm, the reporter is to apply an equivalent approach to that specified for relevant persons in paragraphs 12.2 - 12.6 below.

12. Notification and Papers for Relevant Persons

12.1 Each relevant person is to be sent their own notification. In relation to hearing papers, ideally each relevant person should be sent their own set of papers. Any current practice of sending a shared set of papers to relevant persons residing at the same address may continue but will be subject to review.

12.2 The reporter is not to send notifications or papers to a relevant person if:

²⁸ See Section 17 below

- their whereabouts have never been known;
- their current whereabouts are not known, and it is known they are no longer at their previous address; or
- it is now not clear whether they are still at their previously known address.

In all these situations the reporter is to ask the local authority to make reasonable efforts to ascertain the current whereabouts of the relevant person.

If it is not clear whether the relevant person is still at their previous address, the reporter is to send a letter²⁹ asking them to contact the reporter's office. The letter is not to contain any personal details of the child.

12.3 Where a relevant person requests that notifications and/or papers are sent to a different address than their home address, the reporter is to comply with this request only if:

- the request is in writing;
- the notification and/or papers are still addressed to the relevant person; and
- the reporter is satisfied that the communications will not be opened by any other person, unless by a legal representative or curator for the relevant person.

Where a relevant person is in hospital it is very unlikely that the above requirements could be met by sending papers or a notification to that hospital.

12.4 Sending notifications and/or papers for a relevant person c/o a social worker or social work department does not constitute notification of the relevant person. If a relevant person requires support to manage receipt of their notification and/or papers, the reporter should liaise with the social worker to help enable support to be provided.

12.5 Where a relevant person has informed the reporter in writing that they do not want to receive hearing papers, the reporter is not to send them papers.³⁰ When notifying the relevant person of a children's hearing, the reporter is to send a letter³¹ explaining that they have a right to receive the papers, that the papers are not enclosed because of their request, but they will be sent if they ask for them.

12.6 Other than the situations above, in exceptional circumstances there may be justification for not sending notification and/or papers to a relevant person. These are that:

²⁹ Title: Letter re Papers RP Whereabouts Uncertain

³⁰ An equivalent request to not receive notifications is insufficient to justify the reporter not notifying.

³¹ Title: Letter re Papers RP Request No Papers

- the reporter considers that giving notification and/or papers to a relevant person would be likely to cause significant harm to that person or another person³² despite all the statutory and other protections that can be put in place in relation to the hearing and
- it is not possible for the local authority to support the person, directly or indirectly, in a way that would avoid receipt being likely to cause significant harm.

If considering such a situation, the reporter is to consult with their Senior Practitioner or Locality Reporter Manager and obtain advice from the Practice Team. It is extremely unlikely to ever be appropriate to not notify a relevant person.

If the decision is made to not notify the relevant person and/or send papers decision and reasons are to be recorded on CSAS.

Also, the relevant person is to be informed unless this is in itself likely to cause significant harm.

The reporter must include a note in the hearing papers to (i) explain that the reporter has not notified and/or sent papers to the relevant person because the reporter considers that receiving them would likely cause the relevant person or another person significant harm, and (ii) state whether the person has been informed about this by the reporter.

Notification to Persons in Prison

- 12.7 When sending notifications and papers to a person in prison they are to be placed in a sealed envelope which is addressed to the person and on which there is a statement making clear that the envelope is to be opened only by the person to whom it is addressed. That envelope is to be placed in another envelope with a separate letter to the governor³³ indicating that the sealed package is for the offender and contains legal correspondence.

A separate letter³⁴ is to be sent to the governor regarding any transportation arrangements that need to be made regarding the prisoner's attendance at the children's hearing. This can be sent by email.

Criminal advice hearings for 16- and 17-year-olds not on a CSO

- 12.8 Where a criminal court requests the advice of a children's hearing for a 16- or 17-year-old offender under section 49(6) of the Criminal Procedure (Scotland) Act 1995 the offender might not be a child as defined in the 2011 Act. Although the relevant rule dealing with notifications for advice hearings (Rule 44) fails to reflect this, 'relevant person' should be read to

³² The statutory non-disclosure provisions should be applied in so far as possible where the other person is the child. See Practice Direction 4.

³³ Available on Connect and in due course on CSAS.

³⁴ Available on Connect and in due course on CSAS.

include persons who would be relevant persons if the offender were a child.

13. Notification and Papers for Persons with or seeking Participation Rights

13.1 The reporter is to notify a person with participation rights of a children's hearing by sending them the appropriate notification. This notification contains the matters required by Rule 23A:

- confirmation of the participation individual's right to attend the hearing in accordance with rule 19;
- information on how the participation individual may express their views to the hearing; and
- confirmation of the participation individual's right to give any report or other document for consideration by the hearing.

A person with participation rights is not entitled to be notified of a PHP. A person seeking participation rights is entitled to be notified of a PHP (or hearing) that will decide whether they meet the criteria to have participation rights.

13.2 The participation rights include the right to be given certain documents. Prior to any children's hearing at which a participation individual has participation rights, the reporter must give the following papers to the participation individual:

- A copy of any contact direction that regulates contact between the participation individual and the child, and the hearing's reasons for making the contact direction.
- Any information in the hearing papers that is about:
 - the participation individual,
 - contact between the child and the participation individual, or
 - how contact or the possibility of contact between the child and the participation individual may be affected by a decision of the children's hearing

The reporter must not send the participation individual a copy of the statement of grounds or any information from the statement of grounds.

13.3 The reporter must give the participation individual this information in the hearing papers regardless of who provided it and whether it is contained in a separate document (for example a separate document submitted by the social worker along with the main social work report) or contained within a report or other document. Where the information is contained within a report or other document, the reporter is to extract that information (either by redacting the remainder of the document or extracting into a separate document) in order to send it to the participation individual.

- 13.4 Where someone has participation rights (whether by virtue of a decision of a reporter, PHP or children's hearing) the reporter is always to send a hearing notification to that person. However, where (i) the participation individual has notified the reporter in writing that they do not want to receive any papers for the hearing, (ii) the participation individual requests that papers are sent to a different address from their home address, or (iii) the reporter considers that sending them the papers would cause them significant harm, then the reporter is to adopt the same approaches as those adopted for relevant persons (see 12.3, 12.5 and 12.6 above).

14. Notification and Papers for Persons with Significant Involvement

- 14.1 For most hearings, the reporter must notify any individual who is not a relevant person but who appears to have (or recently have had) significant involvement in the upbringing of the child of the **date, time, and place** of the hearing. This is to enable the individual to request a pre-hearing panel to determine whether they should be deemed to be a relevant person. It is also to enable them to consider whether to request a hearing to review a contact direction. Further direction in relation to what constitutes significant involvement in the upbringing of the child is contained in Practice Direction 3 on Relevant Persons. Further direction in relation to contact direction reviews is contained in Practice Direction 17 on Contact Direction Review Hearings.
- 14.2 For 2nd working day hearings (and CPO advice hearings) in addition to notifying a person who has (or recently had) a significant involvement in the upbringing of the child of the date, time and place of the hearing, the reporter must also provide that person with the hearing papers.
- 14.3 If an individual who has been notified contacts an SCRA office after receipt of the letter, particular care must be taken not to disclose information to them which they are not entitled to have.

15. Notification for Persons with Contact under a Court Order

- 15.1 For most hearings the reporter must notify any individual who is not a relevant person but who (i) has a contact order regulating contact between the individual and the child, or (ii) has a right to contact with the child because a permanence order specifies arrangements for that contact. The individual is told the **date** of the hearing but is **not** told the time or the place of the hearing. The purpose of the notification is to explain when a contact direction review hearing must be held.
- 15.2 If an individual who has been notified contacts an SCRA office after receipt of the letter, particular care must be taken not to disclose information to them which they are not entitled to have.

16. Inviting Other People to a Children's Hearing

General

- 16.1 Section 78(2) gives the chair of the hearing authority to allow persons without a right of attendance to attend the hearing. When arranging a hearing, the reporter is to consider whether there is any other person whose attendance is likely to be necessary for the proper consideration of the matter before the hearing. If so, the reporter is to invite the person to the hearing in order that the chair of the hearing may consider allowing them to attend.

Professionals (other than instructed representatives)

- 16.2 The reporter is to consider inviting professionals who are working with a child and/or the relevant persons. When deciding whether their attendance is likely to be necessary for the proper consideration of the matter before the hearing, the reporter is to take into account (i) whether a report from the professional would be sufficient to assist the hearing, and (ii) the views of the child on who should attend (if known).

Carers

- 16.3 The reporter is generally to invite the child's carer(s) (if they are not relevant persons and notified on that basis).

Persons with ECHR interest in contact

- 16.4 The reporter is to invite anyone who has (i) established family life and an ongoing relationship with the child and (ii) is of sufficient age and maturity to participate in the hearing where:
- the hearing is likely to consider making a contact direction about them in a CSO, ICSO or interim variation where there is no existing contact direction about them, or is likely to consider making a different contact direction about them; or
 - the person has made clear³⁵ that they want the hearing to consider their contact with the child.³⁶

When inviting such people to attend, the reporter is also to invite them to provide written views about their contact in advance of the hearing.³⁷ The reporter is to include such written views within the hearing papers unless the reporter considers that the information is clearly not material to the hearing's consideration³⁸. The reporter is also to include in the hearing papers any written request to attend the hearing made by the person.

³⁵ This should be in writing if there is sufficient time.

³⁶ This may include a sibling who does not meet the participation criteria, for example because they have never lived with the child but do have established family life and an ongoing relationship.

³⁷ The letter to be used is available on CSAS and Connect.

³⁸ The reporter is to inform the individual of a decision to not include their written views in the papers.

If in any case the reporter considers that more extensive action by the reporter would be appropriate to facilitate a person's participation in a hearing, the reporter is to contact the Practice Team. For example, this might include providing information from the hearing papers in advance.

Other non-professional persons

- 16.5 If a non-professional person who does not meet the criteria in paragraph 15.4 above (nor has a right to attend nor is being invited as a carer) requests to attend the hearing the reporter is to include this information in the Hearing Arrangement Form³⁹. This is to enable the hearing to consider the matter if it wishes to do so. The information to be added to the Hearing Arrangement Form is to be along the lines of: *'X, brief designation (e.g. child's paternal uncle) has requested to attend the children's hearing, but the reporter has not invited them because it did not appear necessary or appropriate to do so.'* If the request was made in writing, the reporter may include the request in the hearing papers. This is likely to be appropriate, for example, if the request includes information about why the person thinks they should be allowed to attend. However, if the request to attend also includes the views of the person about the matters before the hearing, this makes it less likely to be appropriate to include the request. Each situation requires to be considered on its own merits.
- 16.6 The reporter may provide further explanation about their response to the request within the hearing if the hearing considers the matter and wishes the further explanation. If the hearing decides it is appropriate that the person be invited to attend or provide information for a deferred or subsequent hearing, the reporter is to issue the invitation.

17. Instructed Representatives (Solicitors and Advocacy Workers)

Solicitors

- 17.1 Where a solicitor is known to be instructed by a child, relevant person or participation individual, the reporter may inform them of the date, time and place of the children's hearing, using the standard letter for instructed representatives.
- 17.2 There is no obligation to provide hearing papers to solicitors acting for a child, relevant person or participation individual. Solicitors should seek to obtain papers from their client. However, if a solicitor is not able to obtain the papers from their client, the reporter may provide papers to the solicitor, subject to the relevant criteria set out below. (Further information is provided in the relevant Information Sharing guidance note on Sharing and Transferring Hearing Papers to Solicitors. There will be situations where doing so supports the fairness of the proceedings overall.

³⁹ The information to be included in the Hearing Arrangement Form is to be added in CSAS to the additional information tab on the hearing appointment. It will then pull through automatically to the 'Additional Details' box in the Hearing Arrangement Form .

- The reporter is to act on a request from a solicitor only where it is (i) by email from a cjsm account or from an email address that can be verified from the Law Society of Scotland's find a solicitor webpage, or (ii) a written request on the firm's letterhead.
- The request must clearly state that they are instructed to act for the relevant client.

17.3 Where the decision is made to provide hearing papers to a solicitor, written papers are to be provided only by email to a CJSJ email address.⁴⁰ Additional options are available for recordings. See Section 4 and Appendix D

Advocacy workers

17.4 Where an advocacy worker is known to be instructed by a child, the reporter may inform the advocacy worker of the date, time and place of the children's hearing, using the standard letter for instructed representatives.

17.5 No other information about the hearing is to be provided. This applies even if the advocacy worker has a mandate from the child.

18. Chief Social Work Officer (CSWO)

18.1 Any requirement to notify the Chief Social Work Officer (CSWO) of a hearing or pre-hearing panel or to send papers to the CSWO, is to be presumed to be fulfilled by sending the notification or papers to a social worker dealing with the child's case.

18.2 The reporter is to notify the CSWO of every children's hearing and pre-hearing panel even if there is no statutory duty to do so.

18.3 The reporter must provide a copy of the hearing papers to the Chief Social Work Officer (CSWO). As with any other duty to notify the CSWO, it is presumed to be fulfilled by sending the papers to a social worker dealing with the child's case.

18.4 The duty to provide a copy of the hearing papers to the CSWO does not apply to any report or other document given to the reporter by the local authority. However, to assist in the practical application of this duty, the reporter is to send the social worker the full hearing papers (including any report from the authority) – though not a report or document from the social worker where it is the only document being sent at that point to those with a right to papers.

18.5 The duty to provide papers to the CSWO only applies to a children's hearing. The reporter is not to send PHP papers to the CSWO.

⁴⁰ If a solicitor does not have a CJSJ email address they should be advised that registration is straightforward and can be accessed at <http://cjsj.justice.gov.uk>

19. National Convener

- 19.1 The National Convener is to be notified of all children's hearings and pre-hearing panels. This is dealt with by Head Office rather than individual local notifications being sent.

C. NOTIFYING HEARINGS' DECISIONS

20. Notifying Hearing Decisions - General

- 20.1 Other than as set out in this Practice Direction, the reporter has no discretion to notify anyone else of the outcome of a children's hearing or pre-hearing panel.
- 20.2 Appendix C details the provisions relating to notification of hearing decisions. (For PHP outcomes refer to Appendix B. Practice Direction 12 contains further detail about PHPs.)
- 20.3 For all hearings the following must get a copy of the full decision, reasons, and order at the latest within 5 days of the hearing's decision (day 1 being the day after):
- the child (subject to ability to understand, Rule 18)
 - relevant person
 - safeguarder
 - the Chief Social Work Officer⁴¹
 - any person who is providing a service under the terms of the order⁴²
- 20.4 For some hearings, the timescale for giving the decision is as soon as possible/practicable.

Where there has been a review of a determination of relevant person status, the timescale is **no later than 2 working days** from the day of the hearing. In effect, this means that the outcome from such a determination must be posted on the same day as the hearing. The requirement to comply with this timescale for this part of the determination is in addition to the reporter's duty to provide the hearing's full decision within 5 days of the hearing. If the hearing directs that the individual is no longer to be deemed a relevant person, that person still

⁴¹ Additional requirements when notifying a CSWO of decisions are set out in section 22

⁴² Any person (which includes both natural persons and organisations) specifically named in the order as providing a service, support or accommodation to the child. Examples would include:

- Foster carers where there is a measure requiring the child to reside with them (where they are not relevant persons with separate rights to be notified of the decision).
- A residential unit where there is a measure requiring the child to reside in the unit.
- A specific service where the order contains a measure requiring the child to attend appointments with that service.
- A specific individual or service where the implementation authority is required to arrange examination or treatment with that named individual or service.

gets a copy of the full decision, as there are full rights of appeal (s.142(4)(b)).

21. Participation Individuals

- 21.1 For notifying the decision of a PHP on whether an individual meets the participation criteria see Appendix B and Practice Direction 12.
- 21.2 If a children's hearing makes a contact direction in relation to a person with participation rights, the reporter must give the person a copy of the direction and the reasons for the direction.⁴³ This will be done by creating a separate version of the record of proceedings that only includes the relevant decision to make a contact direction in relation to the participation individual, and the reasons.⁴⁴
- 21.3 If the hearing does not make a contact direction, there is no statutory requirement to give the person with participation rights any information. However, if the person provided their views to the hearing (whether by attending the hearing or providing written views), the reporter is to inform them in writing that no contact direction was made about their contact.⁴⁵ The reporter may also include any information in the hearing's reasons relevant to why a contact direction was not made or to the expectations about how contact will operate. However, the inclusion of such information should take place only if the information is particularly significant and the individual is unlikely to learn of it from another source.
- 21.4 Similarly, where a hearing defers a decision, there is no statutory requirement to notify the participation individual of that outcome (although they will be notified of the deferred hearing). However, the reporter may notify the participation individual of the decision to defer if appropriate in the particular circumstances (for example, the deferral is likely to be for a long period).

22. Persons with ECHR Interest in Contact

- 22.1 If a person who meets the criteria in paragraph 15.4 is invited to attend the hearing, and has responded to that invitation in some way but is not present in the hearing for the decision about their contact, the reporter is to tell them in writing the terms of the contact direction if one was made or tell them that no contact direction was made about their contact. In exceptional circumstances, the reporter may also provide this person with information from the reasons for decision (or for why a contact direction was not made). This may be appropriate for example where the

⁴³ Rule 88A

⁴⁴ The letter to be used for notifying a participation individual of a hearing's decision is a single letter for all relevant hearing or PHP decisions.

⁴⁵ There is a separate letter to be used for the purposes of notifying a participation individual that the hearing did not make a contact direction.

reasons provide additional information about the expected operation of any contact.

23. Chief Social Work Officer (CSWO)

- 23.1 Any requirement to notify the Chief Social Work Officer (CSWO) about the decision of a hearing or pre-hearing panel is to be presumed to be fulfilled by notifying a social worker dealing with the child's case.
- 23.2 If the child is required to reside with someone other than the implementation authority or a relevant person, the reporter must give the CSWO the hearing's decision, reasons and a copy of the order immediately after the hearing, if practicable, and if not, by the end of the next working day. In other circumstances, the reporter must give the CSWO the hearing's decision, reasons and a copy of the order within 5 days beginning the day after the hearing.
- 23.3 The Act does not define what is meant by residing with someone other than the implementation authority. However, this is likely to be where a child is in an "out of authority" placement, or where the establishment is not owned and managed by the implementation authority. This is often the case when a child is placed in a secure unit. In any event, in practice, the head of a residential establishment is likely to require a form of legal authority before accommodating the child there. The position regarding foster carers is not clear at the present time.
- 23.4 The reporter is to give the social worker a copy of the decision, reasons and order immediately following the hearing or the next working day if any of the following applies:
- the hearing authorises secure accommodation,
 - the order includes a movement restriction condition,
 - the hearing requires the child to reside in a residential establishment,
 - the hearing requires the child to reside in an unnamed place of safety,
 - the hearing requires the child to reside with kinship carers who are not relevant persons, or
 - the hearing requires the child to reside with foster carers who are not relevant persons.

24. G4S

- 24.1 Where a children's hearing makes or removes a movement restriction condition, the reporter is to give G4S the information set out below on the same day, or if that is not practicable, on the next working day following the hearing, by secure email.⁴⁶ This is to enable the monitoring to take place as soon as possible, or stop as soon as possible, in line with the hearing's decision.

⁴⁶ For details see Practice Direction on Movement Restriction Conditions at paragraph 8.3

- A copy of the order containing the movement restriction condition, or
- written confirmation of the decision not to continue a movement restriction condition.

25. Others

- 25.1 There are miscellaneous other requirements for some hearings. The reporter may have to give additional persons notification of the decision (for example, the National Convener is to get the outcome of certain specified hearings), or the reporter may be required to send additional information (for example, the report of advice from an advice hearing). Appendix C sets out these additional requirements where applicable.

26. Police Scotland

- 26.1 Notifications to the police are dealt with by Head Office rather than individual local notifications being sent to the police.
- 26.2 Where a referral is received from the police (whether as a result of the child allegedly committing an offence or because of other concerns), the police must be notified of the following:
- The reporter's decision as to whether or not to refer the child to a hearing (the duty to notify where the child is not referred to a hearing comes from section 68 and the duty to notify where the child is referred to a hearing comes from Rule 12).
 - The decision of the children's hearing.
- 26.3 Where the reporter is dealing with a child who is over 16 or becomes 16, the police must be notified of the following:
- When a child subject to a CSO turns 16.
 - When a child with an open referral turns 16.
 - When a decision is made in relation to an open referral for a child aged 16 or over.
 - When a CSO is made for a child aged 16 or over.
 - When a child aged 16 or over ceases to be subject to a CSO.

APPENDIX A – NOTIFICATIONS OF HEARINGS AND HEARING PAPERS

INTRODUCTION

These Appendices set out who is to be notified of the different types of hearings that may be arranged and what papers they are to be given. For any particular category of person the correct notification must be used – different versions are provided for different circumstances, for example if the person is attending remotely or if the person has been excused from attending. Notification templates are available on CSAS and Connect. Some letters may be currently available only on Connect but will be added in due course.

Note that while the notification to the National Convenor is included here for completeness, there is no requirement for Localities to send any separate notification to the National Convenor.

The timescale specified for hearing papers applies to documents or information that the reporter holds or has received in time to meet those timescales. Where a document or information is received later than this, the timescale that applies is as soon as possible before the beginning of the children's hearing.

Abbreviations used:

RP = Relevant Person

PI = Person with participation rights

Person with significant involvement = person who appears to have current or recent significant involvement in the upbringing of the child

Person with ECHR interest = Person who meets the criteria at paragraph 15.4 of this Practice Direction

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
2nd working day hearing s.45 where child taken to a place of safety under a CPO s.46 where CPO authorising the prevention of removal of a child from a place	rule 39	As soon as practicable before the beginning of the children's hearing	<ul style="list-style-type: none"> • CPO/CAO applicant • person specified in the CPO • child • each RP • person with significant involvement • Person with ECHR interest • safeguarder • chief social work officer • panel members • National Convener 		As soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • person with significant involvement • the CPO applicant • person specified in the CPO • panel members • safeguarder • chief social work officer 	copy CPO; copy of the CPO (or CAO) application copy of any report or other document relevant to the hearing's consideration

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
CPO advice hearing s.50	rule 40	As soon as practicable after determining to arrange the hearing	<ul style="list-style-type: none"> • CPO/CAO applicant • specified person in the CPO • child • each RP • person with significant involvement • person who applied for the child protection order to be varied or terminated • safeguarder • chief social work officer • panel members • National Convener 		As soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • person with significant involvement • CPO/CAO applicant • person who applied for the child protection order to be varied or terminated • specified person in the CPO • panel members • safeguarder • chief social work officer 	copy CPO; copy of CPO or CAO application; copy of application to vary or terminate; any other relevant document or information

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
CPO grounds hearing s.69(2) and s.54	rule 29	As soon as practicable before the hearing. Every effort is to be made to post notice no later than 3 days before the hearing	<ul style="list-style-type: none"> • child • each RP • PI • person with significant involvement • person with contact under contact order or permanence order • person with ECHR interest • safeguarder • chief social work officer⁴⁷ • panel members • National Convener 	<p>In addition, child, RP and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3).</p> <p>The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.</p>	As soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social work officer 	COPY CPO standard papers
						<ul style="list-style-type: none"> • PI 	Restricted papers as specified in paragraph 13.2

⁴⁷ This is not stated in the rules but notice should be given to them.

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Grounds hearing where no CSO (except CPO grounds hearing and custody hearing) s.69(2)	rules 22, 23, 24, 27, 28	No later than 7 days before the hearing	<ul style="list-style-type: none"> child each RP PI person with significant involvement person with contact under contact order or permanence order person with ECHR interest safeguarder chief social work officer panel members National Convener 	In addition, child, RP and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3). The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.	No later than 3 days before the hearing	<ul style="list-style-type: none"> child each RP safeguarder panel member chief social work officer 	Statement of grounds Any requirement from sheriff under section 156 (3)(a) Any safeguarder's report (re current referral) Any LA report (re current referral) Any views of child given to reporter Any other material report or document
						<ul style="list-style-type: none"> PI 	restricted papers as specified in paragraph 13.2

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Grounds hearing where CSO (except CPO grounds hearing) s.69(2)	s.69(2)	No later than 7 days before the hearing	<ul style="list-style-type: none"> • child • each RP • PI • person with significant involvement • person with contact under contact order or permanence order • person with ECHR interest • safeguarder • chief social work officer • panel members • National Convener 	In addition, child, RP and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3) The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.	No later than 3 days before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel member • chief social work officer 	standard papers
						<ul style="list-style-type: none"> • PI 	restricted papers as specified in paragraph 13.2

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
custody hearing s.69(2) and s.69(3)	rule 29	As soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • PI • person with significant involvement • person with contact under contact order or permanence order • person with ECHR interest • safeguarder • chief social work officer⁴⁸ • panel members • National Convener 	<p>In addition, child, RP and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3).</p> <p>The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.</p>	As soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social officer 	As much of the standard papers as is available
						<ul style="list-style-type: none"> • PI 	restricted papers as specified in paragraph 13.2

⁴⁸ This is not stated in the rules but notice should be given to them.

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Hearing to consider further ICSO or interim variation during proof application s.96(2)	rule 41.	No later than 7 days before the hearing	<ul style="list-style-type: none"> • child • each RP • PI • person with significant involvement • person with contact under contact order or permanence order • person with ECHR interest • safeguarder • chief social work officer • panel members • National Convener 		no later than 7 days before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social work officer 	standard papers
						<ul style="list-style-type: none"> • PI 	restricted papers as specified in paragraph 13.2

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Direction from sheriff re established ground or ground accepted at the grounds hearing (child not subject to CSO) s. 119 and s.107(3)/s.108 *Different timescales apply where child subject to ICSO with a measure requiring child to reside in a place of safety s.119 and s.109(7)	rules 22, 23, 24, 25, 26, 31 and 33	no later than 7 days before the hearing	<ul style="list-style-type: none"> the child each RP PI person with significant involvement person with contact under contact order or permanence order person with ECHR interest safeguarder chief social work officer panel members National Convener 	If the statement of grounds was established, the child, RP, safeguarder and chief SW officer are also to be sent the established statement of grounds - no other agency is to be sent the statement of grounds. ⁴⁹	no later than 3 days before the hearing	<ul style="list-style-type: none"> child each RP any appointed safeguarder (except safeguarder report) panel members chief social work officer 	standard papers
						<ul style="list-style-type: none"> PI 	restricted papers as specified in paragraph 13.2

⁴⁹ An established statement of grounds must be marked as set out in the table of standard papers at paragraph 8.1 in the body of the Practice Direction.'

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Deferred review of deemed relevant person status s. 142(2)	rule 43	No later than 7 days before the hearing	<ul style="list-style-type: none"> • child • each RP • person with significant involvement • person with contact under contact order or permanence order • safeguarder • chief social work officer • panel members • National Convener 		As soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social work officer 	any relevant document or other information for the children's hearing (can be full papers available to original review)

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
emergency transfer s.143(2) and s.136	rule 36	as soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • PI • person with significant involvement • person with contact under contact order or permanence order • Person with ECHR interest • safeguarder; • chief social work officer* • panel members • National Convener 	*This is not stated in the rules but notice is to be given to them.	as soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social work officer 	as much of the standard papers as is available
						<ul style="list-style-type: none"> • PI 	restricted papers as specified in paragraph 13.2

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Review of contact direction s.126	rule 42	As soon as practicable and no later than 3 days after the “index hearing”	<ul style="list-style-type: none"> • child • each RP • PJ⁵² • person with significant involvement • person with contact under contact order or permanence order • person who requested a children’s hearing be held under section 126(2)(b) • person with ECHR interest⁵³ • safeguarder • chief social work officer • panel members • National Convener 		Wherever possible when sending the notification and no later than 3 days before the contact direction review hearing	<ul style="list-style-type: none"> • same as notifications 	copy of contact direction in the CSO, ICSO or MEO reasons for contact direction; any document or part of document which the reporter considers is relevant to the s.126 hearing

⁵² Only if the contact direction being reviewed relates to them. They are to be invited to attend as if they had an ECHR interest in contact, as they do not have a statutory right to attend a contact direction review.

⁵³ Only if the contact direction being reviewed relates to them.

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
criminal advice hearing Criminal Procedure (Scotland) Act 1995 s.49(1)(b), (3) or (6)	rule 44	no later than 7 days before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • chief social work officer • National Convener 		no later than 3 days before the hearing	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social work officer 	Remit under section 49 of Criminal Procedure (Scotland) act 1995. All decisions and reasons for decision made by all children's hearing and pre-hearing panels in relation to the child. There is no express power to include a report from the local authority but such a power is to be implied.

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Execution of warrant granted under s.123	rule 17	Under rule 17, hearing must be held wherever practicable on the first working day after the child was detained. No provision about notification but assume as soon as practicable	Who is to be notified is determined by the original purpose of the hearing (refer to appropriate section in the table)	<p>In addition, child, RP, CSWO and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3)</p> <p>The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.</p>	As for notifications, assume papers to be given as soon as practicable	Who is to be given papers is determined by the original purpose of the hearing (refer to appropriate section in the table)	what is to be given will be determined by the original purpose of the hearing (refer to appropriate section in the table)

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Receipt of safeguarder report rule 57 and s.119/137	rule 57	Treated as hearing. arranged under s.119 or s.137 (unless proof ongoing – nature of hearing then is not clear)	As for s.119 or s.137 hearing	<p>In addition, child, RP, CSWO and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3)</p> <p>The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.</p>	As for s.119 or s.137 hearing	As for s.119 or s.137 hearing	same papers as for s.119 or s.137 as well as safeguarders report

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
A hearing dealing with pre-hearing panel matters s.80(3) Notification of PHP matter to be sent in addition to letter notifying the substantive purpose of the hearing (see appropriate table for notification and papers for substantive hearing)	rule 52	As soon as practicable	<ul style="list-style-type: none"> child each RP any RP who may be undeemed (if any) an individual requesting a relevant person determination (if any) an individual who appears to have significant involvement (if any) person whose PI status to be determined by hearing safeguarder chief social work officer* panel members National convenor 	*This is not stated in the rules but notice is to be given to them.	Where practicable at least 4 days before the children's hearing (in practice it is likely always to be less than this otherwise a pre-hearing panel could be arranged)	<ul style="list-style-type: none"> child each RP (including any RP who may be undeemed); an individual requesting a relevant person determination an individual who appears to have significant involvement safeguarder panel members 	PHP Papers form Representations/ reports/documents provided by persons notified of the pre-hearing panel; Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter); Any other relevant document or part of document.
						<ul style="list-style-type: none"> person whose PI status to be determined by hearing 	Person whose PI status to be determined by hearing, sent the material relevant to determination

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Suspension hearing s.158(2)	rule 76	Hearing to be arranged as soon as practicable. Notification presumed to be as soon as practicable.	<ul style="list-style-type: none"> • child • each RP • safeguarder • chief social work officer • panel members • National Convener 		No reference in Rules. Reporter is to send as soon as practicable.	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members • chief social work officer 	<p>No reference in Rules to papers. Taken to be same papers as for hearing being appealed plus decision of that hearing, reasons for decision and any order.</p> <p>Any other relevant information (e.g. the request for the suspension hearing)</p>

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Direction to arrange hearing by sheriff in an appeal s.156(3)(a)		Follow the rules for notification of whichever hearing the Sheriff requires the Reporter to arrange.	Follow the rules for notification of whichever hearing the sheriff requires the reporter to arrange.		As for the type of hearing required by sheriff	As for the type of hearing required by sheriff	As for the type of hearing required by sheriff The interlocutor disposing of an appeal and the sheriff's note
Child subject to CSO moved to secure accommodation Secure Accommodation (Scotland) Regulations reg.7 and s.137	Rule 94	Review hearing to take place within 72 hours of placement in secure. No express timescale for notice - to be given as soon as practicable	As for review hearing		No express provision - papers to be given as soon as practicable.	As for review hearing	As for review hearing

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Child subject to ICSO or MEO moved to secure accommodation Secure Accommodation (Scotland) Regulations reg.8 and s.119/s.96(2)		Section 119 or 96(2) hearing to take place within 72 hours (unless application to sheriff for ICSO required). No express timescale for notice. Give as soon as practicable.	As for section 119 or 96(2) hearing		No express provision - papers to be given as soon as practicable	As for section 119 or 96(2) hearing	As for section 119 or 96(2) hearing

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Child accommodated under s.25 of the 95 act or subject to a permanence order moved to secure accommodation Secure Accommodation (Scotland) Regulations reg.9 and s.69(2)		Hearing to take place within 96 hours of placement in secure. No express timescale for notice. Give as soon as practicable.	As for grounds hearing: <ul style="list-style-type: none"> • child • each RP • PI • person with significant involvement • person with contact under contact order or permanence order • person with ECHR interest • safeguarder • chief social work officer • panel members • National Convener 	In addition, child, RP, CSWO and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3). The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.	No express provision-papers to be given as soon as practicable	As for grounds hearing	As for grounds hearing

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Review of secure accommodation authorisation where head of unit does not agree to implement Implementation of Secure Accommodation Authorisation Regulations 2013 reg. 9		as soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • person with significant involvement • Person with ECHR interest • safeguarder • CSWO who made the decision under regulation 4 or 7 • Head of Unit who made the decision under regulation 6 • panel members • National Convener 	<p>In addition, child, RP, CSWO and safeguarder are to be sent: the statement of grounds; any relevant requirement by the Sheriff under section 156 (3).</p> <p>The child and RP should also be sent the leaflet in relation to offences and retention of DNA for offence grounds.</p>	as soon as practicable before the hearing	<ul style="list-style-type: none"> • child • each RP • chief social work officer who made the decision under regulation 4 or 7 • Head of Unit who made the decision under regulation 6 • safeguarder • person with significant involvement • panel members 	<p>all decision and reasons by pre-hearing panels and hearings related to current proceedings;</p> <p>decision of the chief social work officer made under regulation 5;</p> <p>decision of the head of the unit made under regulation 6.</p>

APPENDIX B – PRE-HEARING PANELS

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Pre-hearing panel – to consider deeming only (not undeeming or excusing) s.79(2)(a) or (b)	rule 45 and 47	Whenever practicable at least 5 days before pre-hearing panel	<ul style="list-style-type: none"> • child • each RP • an individual requesting a relevant person determination • an individual with significant involvement • safeguarder • chief social work officer* • panel members • National Convener 	*This is not stated in the rules but notice is to be given to them.	Whenever practicable at least 3 days before pre-hearing panel	<ul style="list-style-type: none"> • child • each RP • an individual requesting a relevant person determination • an individual with significant involvement • safeguarder • panel members 	<p>PHP Papers form</p> <p>Representations/reports/documents provided by person notified which the reporter considers relevant to the deeming decision to be made;</p> <p>Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter);</p> <p>Any other relevant document or part of document</p>

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Pre-hearing panel – excusing child/RP only s.79(2)(c)/79(3)	rule 46 and 47	Whenever practicable at least 5 days before pre-hearing panel	<ul style="list-style-type: none"> • child • each RP • safeguarder • chief social work officer* • panel members • National Convener 	*This is not stated in the rules but notice should be given to them	Whenever practicable at least 3 days before the pre-hearing panel	<ul style="list-style-type: none"> • child • each RP • safeguarder • panel members 	PHP Papers form Representations/reports/documents provided by the child, relevant person or safeguarder; Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter). Any other relevant document or part of document.

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Pre-hearing panel – to consider deeming AND excusing (not undeeming) s.79(2)(a) or (b) AND (c)	rules 45 and 47	Whenever practicable at least 5 days before the pre-hearing panel notice	<ul style="list-style-type: none"> • child • each RP • an individual requesting a relevant person determination • an individual with significant involvement • safeguarder • chief social work officer* • panel members • National Convener 	*This is not stated in the rules but notice should be given to them.	Whenever practicable at least 3 days before the pre-hearing panel	<ul style="list-style-type: none"> • child • each RP; • an individual requesting a relevant person determination • an individual with significant involvement • safeguarder • panel members; 	<p>PHP Papers Form</p> <p>Representations/reports/documents in relation to deeming provided by persons notified which the reporter considers relevant;</p> <p>Representations/reports/documents in relation to excusing provided by the child, a relevant person or safeguarder</p> <p>Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter);</p> <p>Any other relevant document or part of document.</p>

		When	To Whom	Comments	When	To Whom	What
Pre-hearing panel – to consider undeeding whether or not also excusing (not deeming) s.79(2)(a) or (b) AND (c)	rule 45, 46A and 47	Whenever practicable at least 5 days before the pre-hearing panel notice	<ul style="list-style-type: none"> • child • each RP except RP who may be undeeded • each RP who may be undeeded • safeguarder • chief social work officer* • panel members • National Convener 	*This is not stated in the rules but notice should be given to them.	Whenever practicable at least 3 days before the pre-hearing panel	<ul style="list-style-type: none"> • child • each RP (including any who may be undeeded) • safeguarder • panel members 	<p>PHP Papers Form</p> <p>Representations/reports/documents provided in relation to undeeding by the child, relevant person or safeguarder which the reporter considers relevant to undeeding.</p> <p>If excusing is referred, representations/reports/documents provided by the child, relevant person or safeguarder in relation to excusing.</p> <p>Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter);</p> <p>Any other relevant document or part of document.</p>

		When	To Whom	Comments	When	To Whom	What
Pre-hearing panel – to consider undeeding AND deeming whether or not also excusing s.79(5A)(a) and 79(2)(a) or (b) AND (c)	rule 45, 46A and 47	Whenever practicable at least 5 days before the pre-hearing panel notice	<ul style="list-style-type: none"> • child • each RP except RP who may be undeeded • each RP who may be undeeded • an individual requesting a relevant person determination • an individual with significant involvement • safeguarder • chief social work officer* • panel members • National Convener 	*This is not stated in the rules but notice is to be given to them.	Whenever practicable at least 3 days before the pre-hearing panel	<ul style="list-style-type: none"> • child • each RP (including any who may be undeeded) • an individual requesting a relevant person determination • an individual with significant involvement • safeguarder • panel members 	<p>PHP Papers form</p> <p>Representations/ reports / documents in relation to deeming provided by child, relevant person, safeguarder, individual requesting to be deemed and individual with significant involvement which the reporter considers relevant to deeming;</p> <p>Representations / reports / documents in relation to undeeding provided by child, relevant person or safeguarder which the reporter considers relevant to undeeding;</p> <p>Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter)</p> <p>Any other relevant document or part of document.</p>

		When	To Whom	Comments	When	To Whom	What
Pre-hearing panel – to consider whether individual meets participation criteria (Section 79(2)(ba)) whether or not PHP considering any other matter	Rules 45A and 45B	Whenever practicable at least 5 days before the pre-hearing panel notice	<ul style="list-style-type: none"> child each RP individual whose PI status to be determined by PHP safeguarder chief social work officer* panel members 	*This is not stated in the rules but notice should be given to them.	Whenever practicable at least 3 days before the pre-hearing panel	<ul style="list-style-type: none"> child each RP safeguarder panel members 	PHP Papers Form Representations / reports / documents provided by child, relevant person, safeguarder, individual requesting to be considered a PI Oral representations made to the reporter by a person entitled to attend but unable to do so (these must be recorded by the reporter) Any other relevant document or part of document.
						<ul style="list-style-type: none"> individual requesting to be considered a PI 	Any of the above documents that are relevant to the question of whether the person meets the participation criteria

Type of hearing and section under which arranged	Relevant rules	Notifications			Papers		
		When	To Whom	Comments	When	To Whom	What
Notice of pre-hearing panel determination	rule 50	As soon as practicable after the pre-hearing panel	<ul style="list-style-type: none"> child each RP safeguarder chief social work officer person not deemed to be RP Individual whose PI status was determined by PHP SLAB* 				<p>Notice of any determination and reasons</p> <p>Person not deemed to be RP is given notice only of that determination and reasons</p> <p>Individual whose PI status was determined by hearing to be given that determination and reasons only</p> <p>*SLAB is notified only of (1) determination that CSO with secure accommodation authorisation is likely (2) determination and reasons that representation by a solicitor may be necessary and child/RP unlikely to arrange</p>

APPENDIX C – NOTIFICATIONS OF HEARING DECISION

Type of Hearing	Who is to be given notification of decision	Comments	Timescale	What is to be included with notification
<p>All hearings (rule 88 & 89)</p> <p>There are additional provisions which apply to particular situations and these are set out below.</p>	<ul style="list-style-type: none"> • child • RP • safeguarder • chief social work officer of the implementation authority/relevant authority • any person who under the order granted is responsible for providing any service, support, or accommodation in respect of the child 		within 5 days	<p>copy of decision of the hearing, reasons for that decision and any order made</p> <p>the chief social work officer should also be sent the accepted statement of grounds⁵⁴ if: the children's hearing considered a statement of grounds that was accepted at a grounds hearing (with or without amendment), <i>and</i> the hearing made, continued or varied a CSO.</p>
Where hearing considers a contact direction in relation to a PI's contact with the child	<ul style="list-style-type: none"> • PI 		within 5 days	Where contact direction made in relation to PI's contact: copy of contact direction, decision and reasons relevant to that contact direction

⁵⁴ The following is to be added to the accepted statement of grounds, below the SCRA logo, "Statement of grounds accepted at a children's hearing on [DATE]." The statement of grounds is to be sent to the chief social work officer even if it was accepted without amendment.

				Where contact direction not made but PI expressed views to hearing: Notification of decision not to make contact direction (see PD at para 21.3)
Where hearing considered contact in relation to a person with an ECHR interest in contact and the person had responded to the reporter's invitation in some way but was not present in the hearing for the decision about their contact.	<ul style="list-style-type: none"> • Person with ECHR interest in the contact 	This is not stated in the rules but notice should be given to them.	within 5 days	The terms of the contact direction made or that no contact direction was made (see PD at para 22.1)
Where CSO, ICSO or MEO requires child to reside with a person other than a RP or the implementation authority (rule 89)	<ul style="list-style-type: none"> • If social worker attends the hearing, copy of order must be given to the social worker if reasonably practicable • Otherwise copy of order must be given to chief social work officer 		immediately following the hearing, otherwise no later than end of the working day after the hearing.	copy of the order

Type of Hearing	Who is to be given notification of decision	Comments	Timescale	What is to be included with notification
warrant issued under section 123 (warrant to secure attendance) (rule 78)	<ul style="list-style-type: none"> • child • RP • safeguarder 		as soon as practicable	copy of the warrant
2 nd WDH (rule 91)	<ul style="list-style-type: none"> • child • RP • person with significant involvement • person who applied for CPO or CAO • person specified in the CPO • safeguarder • chief social work officer • any person responsible under the CPO for providing any service, support or accommodation 		as soon as practicable	decision and reasons for decision

Type of Hearing	Who is to be given notification of decision	Comments	Timescale	What is to be included with notification
Advice hearing in relation to application to terminate or vary CPO (rule 72)	<ul style="list-style-type: none"> • child • RP • safeguarder • sheriff who is to determine application • person who applied for CPO, CAO • person who applied for CPO to be varied or terminated • person specified in the CPO • person with significant involvement • person to whom the applicant for variation or termination of the CPO is required to give notice of the making of the application • chief social work officer 		as soon as possible	copy of the report of the advice given by the hearing

Type of Hearing	Who is to be given notification of decision	Comments	Timescale	What is to be included with notification
review of contact direction (rule 92)	<ul style="list-style-type: none"> • child • RP • PI (where contact direction relates to PI's contact with child) • safeguarder • individual with contact under a contact order or permanence order • person who requested hearing under section 126 • implementation authority where decision was to make CSO or ICSO and relevant authority for other cases • any person responsible under the order for providing any service, support or accommodation 		within 5 days	decision and reasons for decision
advice hearing in relation to permanence order or adoption where report required under section 141 (rule 65)	copy report to be sent to: <ul style="list-style-type: none"> • child • RP • safeguarder • court which is determining application • chief social work officer • couple or person making the adoption application if applicable 		within 5 days	copy of the advice report

Type of Hearing	Who is to be given notification of decision	Comments	Timescale	What is to be included with notification
hearing where report required under section 95 of Adoption and Children (Scotland) Act 2007 (rule 77)	<ul style="list-style-type: none"> • child • RP • safeguarder • court which is determining application • chief social work officer 		within 5 days	copy of the report
advice hearing under section 49 of Criminal Procedure (Scotland) Act 1995 (rule 75)	<ul style="list-style-type: none"> • child • RP • safeguarder • court which requested advice • chief social work officer 		as soon as possible	copy of the report giving advice of the hearing
review of decision not to implement secure accommodation authorisation (regulation 9) (rule 96)	<ul style="list-style-type: none"> • child • RP • safeguarder • chief social work officer who made the decision under regulations 4 and 7 • Head of Unit who made decision under regulation 6 		within 5 days	copy of decision and reasons for decision

Type of Hearing	Who is to be given notification of decision	Comments	Timescale	What is to be included with notification
review of determination that person be deemed to be a relevant person, section 142 (rule 66)	<ul style="list-style-type: none"> child RP individual in relation to whom determination was made 		no later than 2 working days from the day of the hearing	copy of the determination of the hearing and reasons.
breach of duties by implementation authority, section 146 (rule 67)	<ul style="list-style-type: none"> National Convener 		as soon as practicable	copy of the decision of the hearing copy of any report prepared by hearing
hearing request advice from National Convener (rule 79)	<ul style="list-style-type: none"> National Convener 		within 5 days	copy of the request for advice
hearing require referral under section 127 where failure to provide education for excluded pupil (rule 82)	<ul style="list-style-type: none"> National Convener 		as soon as practicable	copy of decision and reasons report made by hearing

Recordings for Inclusion in Hearing Papers

1. An audio and/or visual recording is a document for the purposes of the Children's Hearings (Rules of Procedure in Children's Hearings) (Scotland) Rules 2013.⁵⁵ Although recordings from children or relevant persons arise more frequently than from others, the same principle applies to all recordings whatever their source. The same principles apply to recordings as to any other documents:
 - (a) Where the recording is provided by the child or a relevant person in the current proceedings it must be provided to the hearing (Rule 26). This applies even if the recording is irrelevant to the hearing's decision. If a recording contains offensive or indecent material it is generally not to be provided (see paragraph 10.5 of the Practice Direction).
 - (b) Where the recording is provided by someone other than the child or a relevant person, it is to be provided to the hearing if it is relevant or material to the hearing's consideration (see 'Standard Papers' at paragraph 10.1 of the Practice Direction).
 - (c) Where the reporter provides any recording to the hearing, the reporter is required to provide the recording to the child, relevant person(s), any safeguarder and the chief social work officer, in accordance with the timescales set out in Appendix A of the Practice Direction.
2. Although the reporter regularly provides copies of written reports and documents containing information about parties or third parties, it is recognised that a recording of a person is by its nature more likely to be sensitive than written information about a person. Further, additional information governance requirements apply when providing information electronically. Therefore, the reporter may provide a recording by one or more of the following means:
 - (a) By providing an opportunity to view or listen to the recording at an SCRA office in advance of the hearing.
 - (b) By providing temporary access to the recording by means of Objective Connect (or other file sharing software which is approved for the purpose), where this is practicable and has been agreed with the recipient.⁵⁶
 - (c) By secure email, where the recipient has an email address which meets SCRA's security requirements, the size of the file permits and the recipient has agreed. Where the recipient's email address is a cjsm account, sending by secure email is

⁵⁵ In terms of the Interpretation and Legislative Reform Act 2010 (Scotland) Act 2010 section 25 and Schedule 1, "document" means anything in which information is recorded in any form (and references to producing a document are to be read accordingly).

⁵⁶ i.e. where the person involved has access to an email address, is willing to provide the address to the reporter and the reporter is able to verify the identity of the person in line with IG requirements and the person has consented in writing to receiving the recording via Objective Connect (or specific other file sharing software). Where recordings are being provided to cjsm email accounts, it is unlikely that the use of Objective Connect will be compatible.

likely to be preferable to the use of Objective Connect due to software compatibility issues.

3. In deciding which means of access to use, the reporter must give consideration to how the interests of any person featured in the recording (whether or not that person is a party to the hearing or is aware of the existence of the recording) can best be balanced with the requirement for the recording to be shared. The reporter is to have regard to the following factors:
 - (a) The sensitivity of the recording. The more sensitive the content⁵⁷, the more likely it is to be appropriate to provide access by listening/viewing at an SCRA office.
 - (b) Expectation of privacy. The more reasonable the expectation of privacy of anyone featured in the recording, the more likely it is to be appropriate to provide access by listening/viewing at an SCRA office.
 - (c) Consent. The clearer the consent to sharing a copy by those featured in the recording, the more likely it is to be appropriate to provide a copy.
 - (d) Practical issues. The greater the difficulties in providing a reasonable opportunity to access the recording at an SCRA office or other location, such as travel distance or the length of the recording, the more likely it is to be appropriate to provide a copy.
 - (e) Management of Confidentiality. The more the particular recipient is likely to understand and maintain the confidentiality of the information, the more likely it is to be appropriate to provide a copy. Providing a copy via Objective Connect provides more safeguards against inappropriate use than does secure email.
 - (f) Overall balance. The sensitivity of content and expectation of privacy will generally weigh more heavily than practicalities.
4. If a recording is being made available to an instructed solicitor, they are to be given the same means of access as their client unless exceptional circumstances apply.
5. If providing access by giving an opportunity to view/listen at an SCRA office, the reporter must ensure the person attending agrees not to make any electronic copy of the recording or part of the recording. Appropriate supervision proportionate to the situation must be provided.
6. If the reporter has given a person a reasonable opportunity to access a recording within the applicable notice period for hearing papers, no automatic unfairness arises if the person does not in fact access the recording.
7. The reporter is not to seek to have a recording played during a hearing, or rely on it being played during a hearing, as an alternative to making it available in advance of the hearing.

⁵⁷ The reporter is not to take proactive steps to investigate the views of any parties featured in the recording, or to inform them of its existence.

Short Timescale

8. See Section 7 of the Practice Direction for the approach to be taken where a recording is received too late for a copy to be sent or to afford a reasonable opportunity to access.

Recordings brought to the Hearing Centre or Hearing

9. If a person brings a recording to the Hearing Centre or hearing, the reporter's duties in relation to documents do not apply. See Practice Direction 11. The reporter's position is generally to be that if the hearing decides to take the recording into consideration, adjourning or deferring is more appropriate than playing it within the hearing.

Appeal Inventory

10. A recording which the hearing took into consideration is to form part of the inventory of documents in relation to any appeal against the decision. The reporter should liaise with the sheriff clerk about the best way to make the recording available to the sheriff.

Retention of recordings

11. Recordings are to be retained in line with the period applying to other documents relating to a child's case. The method and place of retention is to be in line with any operational or information governance guidance on the issue.

Content of Reporter Decision Letter to Child

The following examples of content are not exhaustive nor provided as ideal ‘correct’ examples. They are intended to show various considerations to be taken into account where relevant when the reporter is deciding the content of the letter.

1. KLARA

Klara, age 9, was referred by the police following an incident of domestic abuse by her father against her mother. The reporter’s final decision is to arrange a hearing. The reporter’s rationale for decision is recorded as:

CSO required for Klara because there is a very low likelihood of change due mainly to father’s attitude and motivation. As noted in child development, Klara is showing significant signs of her development being affected, and her physical safety may also be at risk. There is further information required about whether there are elements of coercive control in the father’s behaviour to the mother but sufficient information available to make the decision to refer Klara to a hearing . Klara does not want a hearing to be arranged but her reasons may show a limited understanding and in any event her preference is outweighed by the other factors.

Content of decision letter

- a) I have read your views that you do not want me to arrange a children’s hearing. However, I am concerned about you because I think your father’s behaviour is unsafe. I don’t think that things will get better for you without a children’s hearing.
OR
- b) I have read your views that you do not want me to arrange a children’s hearing. However, I am concerned about you because of your father’s behaviour.

COMMENTS

- Example a) might be preferred because it gives more specific reasoning – but on the other hand it is longer.
- Example a) by saying ‘I think’ reflects that the father’s behaviour is not yet formally determined.
- Example b) might be preferred because it is shorter and maybe easier for Klara to read.

2. KEVIN

Kevin, age 14, was referred by the police after being charged with assault to severe injury. The reporter’s final decision is to arrange a hearing. The reporter’s rationale for decision is recorded as:

CSO required as attempts to support Kevin on a voluntary basis have proved unsuccessful – also given the extent of concern for his welfare, the risk factors that led to that conclusion, and the lack of motivation from Kevin. Although Kevin’s view is that

a hearing should not be arranged, this is outweighed by other factors, especially the low motivation to change and risk of further offending.

Content of decision letter

- a) I have read your views that you do not need a children's hearing and that you will accept voluntary support. However, I do not think that supporting you on a voluntary basis has worked so far. The information I have suggests that you do not fully accept that what you did was wrong and are not really committed to changing your behaviour. I am concerned that you are likely to continue to offend.
OR
- b) I have taken account of your views that you do not need a children's hearing and that you will accept voluntary support. However, I do not think that supporting you on a voluntary basis has worked so far. I am concerned that your behaviour is likely to continue.

COMMENTS

- Example a) gives more specific detail about the reporter's reasoning which could be a strength.
- Example b) is shorter and maybe easier for Kevin to understand, which could be a strength.
- Examples a) and b) talk about offending. In national policy terms, the term "in conflict with the law" is preferred to "offending". However, the term "in conflict with the law" is very unlikely to be meaningful or appropriate in writing to a child or relevant person. The focus of the reporter's concern is the child's behaviour (whether or not it constitutes offending) so the reporter should refer to behaviour where possible. Occasionally it may be appropriate to use "offending" if there is a need to differentiate different types of behaviour. In example a) the final sentence could be removed. "Offending" is probably easier for a child or young person to understand but it may be possible to find a different way of expressing this to avoid using offending, e.g. "I am concerned that you are likely to continue to behave this way."