



# **Practice Direction 6**

## **Framework for Decision Making by Reporters**

Date Issued: 24 June 2013

Date Implemented: 26 January 2015

Date Last Revised: 13 November 2025

## **SUMMARY**

### **Children not subject to a compulsory supervision order**

- In making a decision about the initial action to be taken about a referral of a child, in deciding on the level of information required in order to make a final decision, the reporter is to consider:
  - The extent of concern regarding the child's welfare (taking into account the child's development, parenting and family and environmental factors);
  - The nature of the incident (the level of gravity of the incident) that led to referral (if a single incident); and
  - The level of co-operation and the impact of any current and/or prior intervention.
- In making a final decision on whether it is necessary for a compulsory supervision order (CSO) to be made in respect of a child, the reporter is to consider:
  - The extent of concern regarding the child's welfare (taking into account the child's development, parenting and family and environmental factors) - the greater the level of concern, the more likely that a CSO is necessary;
  - The history of co-operation with any previous intervention and the impact of any previous intervention - the lesser the degree of co-operation with, or the impact of, previous intervention, the more likely that a CSO is necessary;
  - The current motivation to change and willingness to co-operate with any intervention - the lesser the motivation to change, or the willingness to co-operate, the more likely that a CSO is necessary; and
  - The views of the child – if provided - on what decision the reporter should make.
- At the stage of making a final decision, the following options are available to the reporter:
  - Arrange a children's hearing.
  - Not to arrange a children's hearing – insufficient evidence.
  - Not to arrange a children's hearing – insufficient evidence and refer to LA.
  - Not to arrange a children's hearing – CSO not necessary.
  - Not to arrange a children's hearing – CSO not necessary and refer to LA
  - Not to arrange a children's hearing – current order/measures sufficient.
  - Not to arrange a Children's Hearing – No jurisdiction

### **Children subject to a compulsory supervision order**

- A reporter is only to refer a child subject to a compulsory supervision order to a children's hearing to consider a new statement of grounds if:
  - The reporter is of the view that the child's welfare requires that a specific new statement of grounds is considered by the hearing; or
  - The reporter is of the view that the referral indicates that the child's welfare requires that his/her compulsory supervision order is varied.
- In assessing whether or not either of these situations applies, the reporter is to take into account the following factors:
  - The nature of the current referral;
  - The response and attitude of the carers and/or child to the referral;
  - The nature of the current compulsory supervision order;
  - The co-operation with and progress of the current care plan;
  - The length of time since the last hearing; and
  - The views of the child – if provided - on what decision the reporter should make.
- The reporter is not to refer a child to a children's hearing to consider a new statement of grounds simply on the basis that there is a review hearing already scheduled to take place for another reason.
- At the stage of making a final decision, the following options are available to the reporter:
  - Arrange a children's hearing.
  - Not to arrange a children's hearing – insufficient evidence.
  - Not to arrange a children's hearing – current order/measures sufficient.

### **Children not subject to a compulsory supervision order but who have already been referred to a grounds hearing**

- As the reporter has already decided it is necessary for a CSO to be made in respect of the child, different considerations apply to those normally applicable where a child is not subject to a CSO – the factors to be considered are very similar to those for a child already subject to a CSO.
- The question for the reporter is whether the child's welfare requires that a specific new statement of grounds resulting from the new referral is considered by a grounds hearing.

- In assessing whether this applies, the reporter is to take into account the following factors:
  - The nature of the new referral
  - The response and attitude of the carers and/or the child to the referral
  - The views of the child – if provided - on what decision the reporter should make.
- At the stage of making a final decision, the following options are available to the reporter:
  - Arrange a children's hearing.
  - Not to arrange a children's hearing – insufficient evidence.
  - Not to arrange a children's hearing – current order/measures sufficient.

### **Reasons for Decision**

- The reasons for decision recorded by the reporter are to reflect the reporter's assessment of the principal factors in the decision. The reasons are to be relevant and sufficient, referring to relevant, reliable information, sufficient to justify the extent of the intervention (including any investigation that the reporter has undertaken).
- If the child provided their views on what decision the reporter should make, the reasons for decision are to reflect how those views were taken into consideration.

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## **1. Introduction**

- 1.1 Making decisions about referrals of children is a central role of the reporter. This practice direction provides a framework for reporters making these decisions.
- 1.2 The purposes of this Practice Direction are:
  - To assist reporters in:
    - Deciding on the initial action to be taken about the referral of a child;
    - Making the final decision about whether it is necessary for a compulsory supervision order (CSO) to be made in respect of a child; and
    - Deciding on the need to arrange a grounds hearing for a child who is already subject to a CSO.
  - To provide principles and guidance to reporters on the issues that are to be considered in coming to such decisions.
  - To assist reporters, and indirectly report providers, to work effectively and efficiently.
  - To balance appropriately the principle of proportionate intervention with the principle of investigating and responding to individual need.
  - To provide for transparency of decision-making by promoting consistent and structured recording of reasons for decision.
  - To equip reporters to adopt a consistent approach to decision making and to make appropriate decisions in a range of circumstances with variable information and assessments. The Framework is not intended to enable reporters to carry out a comprehensive assessment of risk or need but recognises that the reporter takes account of other professional assessments.

## **2. Background**

- 2.1 The investigation of children's circumstances following referral, and the making of decisions on the basis of investigation, are core tasks for reporters. Statute offers a wide discretion at the investigation stage ("The Principal Reporter may make further investigations relating to the child that the Principal Reporter considers necessary." Children's Hearings (Scotland) Act 2011, section 66(3)).
- 2.2 Given the breadth of that discretion, however, it is all the more important to set it in its proper context and to provide principles and guidance to Reporters on the issues that are to be considered in coming to a decision.
- 2.3 The European Convention on Human Rights and the UN Convention on the Rights of the Child also form part of the context for the work of

Reporters. Both require respect for family life but also justify proportionate intervention when needed to protect individual rights.

- 2.4 The need for intervention to be proportionate is reflected in section 28 of the Children's Hearings (Scotland) Act 2011 ("the Act"). While the Act does not explicitly state that the section covers actions and decisions by reporters, reporters are to adhere to a principle of proportionate intervention.
- 2.5 The scope of the discretion at section 66(3) of the Act recognises that some referrals will trigger a need for intensive, pro-active multi-agency intervention, whereas others will not.
- 2.6 At another level, neither reporters nor agencies involved in working with children and providing reports have limitless resources available. Reporters have a responsibility to work with those agencies in order to ensure that resources are used to the best possible effect for those children who require them.
- 2.7 Article 12 of the UN Convention on the Rights of the child provides that a child who is capable of forming their own views has the right to express their views and have them taken into account. This applies to the reporter's decision-making under section 69 about a child who has been referred. Therefore, in dealing with a referral the reporter will promote the opportunity for the child to give their views about what decision the reporter should make, and take any such views into account when making the final decision.<sup>1</sup>
- 2.8 In addition, the reporter will have regard to any broader views expressed by the child about their circumstances and what they would like to change or happen. The reporter will take these broader views into account, along with any other relevant information from any source, when considering the factors for decision-making specified in this Framework.

### **3. Using the Framework**

- 3.1 SECTION A of this Framework applies when a child is not subject to a CSO<sup>2</sup>. It sets out the principal factors that the reporter is to take into account at the stages of deciding on the initial action to be taken about a referral of a child, and making the final decision about the need for a CSO.
- 3.2 Professional judgement will always be required as to what investigation is appropriate in relation to the particular circumstances of an individual child at any given time. At any stage prior to making a final decision, further

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<sup>1</sup> The primary route is through the receipt of referral letter. See Practice Direction 5 at Section 8.

<sup>2</sup> Reference should be made to Section E for the situation where a child is not subject to a CSO but has already been referred to a grounds hearing.



information received may precipitate re-assessment against the criteria stated in the Framework, and thus a change in the investigation required.

- 3.3 SECTION B gives further guidance on what the reporter is to consider in assessing the “extent of the concern regarding the child’s welfare”, one of the principal factors at the stages of both deciding about initial action and making a final decision.
- 3.4 SECTION C gives further guidance on the consideration of the gravity of the referral incident, one of the principal factors at stage of deciding about initial action.
- 3.5 Section 69(1) of the Act says that the reporter must arrange a grounds hearing when the reporter considers that:
- a section 67 ground applies in relation to the child, and
  - it is necessary for a CSO to be made in respect of the child.
- The decision about whether a section 67 ground applies in relation to the child is an evidential one. The reporter must consider whether there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established.
- 3.6 This framework does not consider that assessment of evidence. Instead it applies to the assessment of whether a CSO is required, although it is recognised that there can be an overlap with the assessment of evidence.
- 3.7 SECTION D applies when a child who is already the subject of a CSO is referred to the reporter. It sets out the principal factors the reporter is to take into account in deciding on the initial action to be taken about a referral of such a child, and in making the final decision on the need to arrange a grounds hearing for a child.
- 3.8 SECTION E applies where a child who is not the subject of a CSO has already been referred to a grounds hearing.
- 3.9 SECTION F provides direction in relation to the recording of the reasons for both the initial action and final decision.

## SECTION A: Decisions about children who are not subject to a compulsory supervision order - the Basic Framework

### 4. Decisions about Initial Action

- 4.1 At the stage of deciding on the initial action to be taken in relation to the referral of a child, the reporter is to consider the following factors in deciding on the proportionate level of information required in order to make a final decision:

<p><b>1. The extent of concern regarding the child's welfare</b> - taking into account any previous knowledge of child and the likelihood of the reason for the referral recurring</p>	<p>The reporter is to consider the:</p> <ol style="list-style-type: none"> <li>1. child's development;</li> <li>2. parenting;</li> <li>3. family and environmental factors and in relation to all 3, is to consider:               <ol style="list-style-type: none"> <li>(a) strengths, and</li> <li>(b) weaknesses.</li> </ol> </li> </ol> <p>For a more detailed consideration of this, see Section B.</p>	<p>The greater the level of these concerns then the greater the information required – the greater the information required, the more likely it is that this will involve a comprehensive assessment of the child.</p>
<p><b>2. The nature of the incident that led to the referral</b> (if single incident)</p>	<p>The reporter is to consider the gravity and seriousness of the incident.</p> <p>For a more detailed consideration of this, see Section C.</p>	<p>The higher the gravity of the incident then the greater the information required -the greater the information required, the more likely it is that this will involve a comprehensive assessment of the child.</p>
<p><b>3. Co-operation / Impact of intervention</b></p>	<p>The reporter is to consider the level of co-operation with, and the impact of, any current and prior intervention (e.g. by health, SWD, education, voluntary agencies etc).</p>	<p>The lesser the co-operation or response, the greater the information required -the greater the information required, the more likely it is that this will involve a comprehensive assessment of the child.</p>

- 4.2 Having determined how much information required, the reporter is to consider what investigation is required in order to obtain that information.
- 4.3 Any investigation of a child is in itself an intervention in the life of the child and his/her family. The reporter is to consider the factors outlined in Section A to identify the key areas of concern and to decide what additional information (if any) is necessary to enable an appropriate final decision to be made.
- 4.4 For example, the reporter may already have a considerable amount of information regarding the child. Therefore, although the reporter may decide that extensive information is required in order to make a final decision, only a minimal investigation is required in order to obtain the additional information that is required.
- 4.5 There will always be gaps in the information available to the reporter. A key task for the reporter is deciding whether it is necessary to fill those gaps in order to come to a final decision. Further guidance regarding the judgement regarding the “Extent of Concern Regarding the Welfare of the Child”, and the information required to make this judgement, is contained in Section B.
- 4.6 When requesting a report as part of an investigation, the reporter is to provide the report writer with an indication of the particular issues or gaps in the existing information the reporter wants addressed in the report. The reporter is to provide the report writer with sufficient information about the nature of the concerns about the child to enable the report writer to compile their report effectively.
- 4.7 Different local authorities have different names for assessment reports provided by a social worker, with these reports having varying degrees of input from other agencies, and varying levels of assessment (from the fully comprehensive to a more basic level). In requesting such a report, the reporter is to be clear what report they are requesting, ensuring a proportionate approach in terms of requesting information and assessment.
- 4.8 Section 66(4) says that when investigating a referral of a child, the reporter may require a local authority to provide a report on the child and “any particular matter relating to the child specified” by the reporter. When requesting a report, the reporter is to indicate to the report writer any particular matters to be addressed in the report e.g. the views of the father alleged to have carried out domestic abuse against the mother; a risk assessment using a recognised suitable risk assessment tool in preparing a report on a child alleged to have committed a serious sexual offence.
- 4.9 Where the reporter’s assessment is:

- “Low”: regarding the “The extent of concern regarding the child’s welfare” (or there is no information to make such an assessment); and
- “Low”: regarding the “The nature of the incident that led to the referral” (or this is not applicable); and
- There are no outstanding referrals already under investigation; there is a presumption that
- there is no basis for further investigation through requesting a report from any agency, and
- the likely decision will be “not to arrange a children’s hearing”.

However, it remains the right of the child, if able to form their own views, to give their views on what decision the reporter should make and to have those views taken into account. The reporter is therefore not to reach a final decision until the child has had an opportunity to give their views<sup>3</sup>. If views are provided the reporter must take them into account in deciding whether further investigation is appropriate and/or a final decision can be made.

If the reporter does not follow the presumption of no investigation through an agency, the reporter is to justify this in the reasons recorded for the decision.

## 5. Final Decision Stage

- 5.1 The reporter is to take a final decision when the reporter has sufficient information in order to make a decision, or having made efforts to obtain further information that information is not likely to be forthcoming.
- 5.2 In deciding whether it is necessary for a CSO to be made in respect of a child, the reporter is to consider the following factors:

<b>1. The extent of concern regarding the child’s welfare</b> - taking into account any previous knowledge of child and the likelihood of the reason for the referral recurring	The reporter is to consider the: 1. child’s development; 2. parenting; 3. family and environmental factors and in relation to all 3, is to consider: (a) strengths, and (b) weaknesses.	The greater the level of concern, the more likely that a CSO is necessary
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<sup>3</sup> See Practice Direction 5 (Receipt of Referral and Registration) at Section 8 for direction on sending receipt of referral letters. The letter should specify that the reporter is considering not arranging a hearing. The letters to child, relevant persons and carers in this situation should generally allow two weeks for response.

	For a more detailed consideration of this, see Section B.	
<b>2. The history of co-operation</b> with previous intervention and impact of any previous intervention	The reporter is to consider the level of co-operation with, and the impact of, any previous intervention (with any agency).	The lesser the degree of co-operation with, or the impact of, previous intervention, the more likely that a CSO is necessary
<b>3. The current motivation to change / willingness to co-operate</b>	The reporter is to consider the current motivation to change and the willingness to co-operate with any intervention (with any agency).	The lesser the motivation to change, or the willingness to co-operate, the more likely that a CSO is necessary
<b>4. The views of the child about what decision the reporter should make</b>	The reporter is to consider the views of the child, if provided.	The greater the age and maturity of the child, the greater the weight to be attached to their views. However, the recording box is to contain a factual summary of the child's views, not the reporter's assessment of the child's views. The assessment is to be reflected in the rationale for decision box.

5.3 The following factors are not relevant in themselves at the stage of making a final decision:

- **Current Age**

The reporter is not to take a decision to arrange a grounds hearing or not to arrange a grounds hearing on basis of the child's age. However the age of the child will clearly be relevant to the assessment of the extent of the concern regarding the child's welfare (for example, in relation to the basic care required, the level of parental supervision that is appropriate, or the difference in age with offending associates). Also, the age and maturity of the child will affect the weight to be attached to their views, if provided, about what decision the reporter should make.

- **Gravity/Seriousness of Referral Incident**

The reporter is not to take a decision to arrange a grounds hearing or not to arrange a grounds hearing on the basis of the seriousness of the incident that led to the referral. However factors relating to the referral incident will clearly be relevant to the assessment of the extent of the concern regarding the child's welfare (for example, the parental misuse of alcohol during incident, or a child's substance abuse, attitudes to authority, or aggressive behaviour).

- **Availability of Service from Local Authority**

The reporter is not to refer a child to a grounds hearing to ensure that he/she receives a service from the authority. However a decision to refer to the local authority under section 68(5)(a) of the Act is to be informed by a commitment by the authority to provide a service or intervention that the reporter considers acceptable in relation to the child's needs and/or behaviour.

## **6. Deciding and Recording the Section 67 Ground to Apply to the Referral on CSAS (non-offence referrals only)**

6.1 Before making and recording a final decision in relation to a non-offence referral, the reporter is to make and record a decision about the ground to apply to the referral. Practice Direction 7 provides direction regarding this. This is not required where:

- the referral is an offence referral received in the format of a SPR2 from the police – CSAS automatically records this as an offence referral; or
- the reporter decides there is insufficient evidence of any ground in relation to a non-offence referral.

6.2 Where the reporter decides there is insufficient evidence of any ground in relation to a non-offence referral, the reporter still requires to record a final decision on the referral of 'not to arrange a children's hearing – insufficient evidence' or 'not to arrange a children's hearing – insufficient evidence and refer to LA' (see below).

## **7. Final Decision Options**

7.1 At the stage of making a final decision, the following options are available to the reporter:

### **1. Arrange a children's hearing**

This applies where the reporter considers that:

- there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established, and

- taking into account the factors in the framework, it is necessary for a CSO to be made in respect of the child.

**2. Not to arrange a children's hearing – insufficient evidence**

This applies where the reporter considers that there is insufficient evidence for there to be a reasonable prospect that a section 67 ground will be established<sup>4</sup>.

**3. Not to arrange a children's hearing – insufficient evidence and refer to LA**

This applies where the reporter considers:

- that there is insufficient evidence for there to be a reasonable prospect that a section 67 ground will be established<sup>5</sup>,
- but also that the child may benefit from the provision of advice, guidance and assistance from the local authority to them and their family on a voluntary basis<sup>6</sup>.

This decision is appropriate even where the local authority was providing such advice, guidance and assistance prior to the referral to the reporter.

**4. Not to arrange a children's hearing – CSO not necessary**

This applies where the reporter considers:

- that there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established, but
- That taking into account the factors in the framework, it is not necessary for a CSO to be made.

**5. Not to arrange a children's hearing – CSO not necessary and refer to LA**

This applies where the reporter considers:

- That there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established, but

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<sup>4</sup> Note that when this decision is made, the reporter is to record the reasons for there being insufficient evidence in the 'Rationale for Decision'

<sup>5</sup> Note that when this decision is made, the reporter is to record the reasons for there being insufficient evidence in the 'Rationale for Decision'

<sup>6</sup> The Act is clear that the option for voluntary measures applies whether the reason for not arranging a hearing is that no ground applies or that a CSO is not necessary. A child may benefit from a service even if no ground applies. The acceptance of any help and support is voluntary, and there is no prejudice to the child or family in the reporter referring the child to the local authority. In addition, the reporter has corporate parenting duties in relation to some children who are referred and should be using the available mechanism of voluntary measures to help put support in place if support would be helpful. The same approach is appropriate for all referred children.

- That taking into account the factors in the framework, it is not necessary for a CSO to be made,  
*and*
- also that the child may benefit from the provision of advice, guidance and assistance from the local authority to them and their family on a voluntary basis.

This decision is appropriate even where the local authority was providing such advice, guidance and assistance prior to the referral to the reporter.

#### **6. Not to arrange a children's hearing – current order/measures sufficient**

This applies where the reporter considers:

- That there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established,  
*but*
- the reporter has already referred the child to a grounds hearing, the proceedings are still ongoing with no CSO having been made, and the reporter considers that an additional statement of grounds is not required<sup>7</sup> (see paragraphs 18.3 and 18.4).

#### **7. Not to arrange a Children's Hearing – No jurisdiction**

This applies where, during the course of the reporter's investigation, it becomes apparent that the children's hearing would not have jurisdiction. The reporter is not to refer the child to the local authority for a service on a voluntary basis.

This is different from the situation where it is clear from the information first received that the children's hearing does not have jurisdiction. In that situation, the information does not constitute a referral and is not to be registered as one<sup>8</sup>.

### **8. Decisions about Children who do not have a CSO but who have already been referred to a Grounds Hearing**

- 8.1 Where the reporter is making a decision on a further referral of the child but has already referred a child to a grounds hearing and the proceedings are ongoing, different considerations apply. In such a situation, the reporter has already decided it is necessary for a CSO to be made in

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<sup>7</sup> Note that this section of the framework only applies to children who are not already subject to a CSO. This decision of 'Not to arrange a children's hearing – current order/measures sufficient' is more likely to be relevant where a child is already the subject of a CSO. See Section D below.

<sup>8</sup> Refer to section 3.2 of Practice Direction 5 in relation to questions of jurisdiction.



respect of the child. Therefore the question for the reporter is whether the child's welfare requires that a specific new statement of grounds resulting from the new referral is considered by a grounds hearing. This is the same question to be asked as when considering the referral of a child who is already the subject of a CSO. Reference should be made to SECTION E.

## **SECTION B - Factors to be Considered in Assessing the Extent of Concern about the Child's Welfare**

### **9. Introduction**

- 9.1 The key outcome that the reporter's decision is seeking to achieve for every child referred is the enhancement of the child's welfare, whether that be in terms of a reduction in the risk to the child, a reduction in the child's offending, an improvement in the child's life opportunities, or in many cases, a combination of all three. As a result, Section A of this Framework identifies the extent of the concern regarding the child's welfare as one of the principal factors in both the decision about initial action and final decision about the need for a CSO.
- 9.2 In considering the extent of the concern regarding the child's welfare, Section A of this Framework indicates that the reporter is to consider the child's development, the parenting and the family and environmental factors, and in relation to all 3 areas, is to consider the strengths and weaknesses.
- 9.3 In assessing the extent of the concern regarding the child's welfare, the reporter is to consider the likelihood of the reason for the referral recurring. The reporter is to take into account any significant delay since the referral incident in considering the likelihood of recurrence.
- 9.4 The table that follows gives specific aspects of the child's development, the parenting and the family and environmental factors that should be considered. It also provides examples of strengths and weaknesses in relation to these factors, and describes specific risk factors to be considered in relation to the risk of a young person re-offending and the risk of domestic abuse recurring.
- 9.5 In deciding on the investigation required at the stage of taking initial action, the extent to which such strengths and weaknesses are present will be a significant consideration. A key task is to balance appropriately proportionate intervention with the principle of investigating and responding to individual need. Having considered the information available from the current referral, and from any previous information available regarding the child and his/her family, (recognising that the available information may be limited at this stage) the reporter is required to exercise a professional judgement on the extent of the concern regarding the child's welfare.
- 9.6 At the stage of making a final decision, it is not intended that the reporter carries out a comprehensive assessment of risk or need but instead they

should take account of other professional assessments. However, the reporter is to consider to what extent the assessment received is sufficiently comprehensive to enable a decision to be made, while still recognising the principle of keeping any intervention proportionate.

- 9.7 The reporter is to gauge the quality of the information received and be alert to any significant gaps in that information, and then to analyse and assess the significance of that information.
- 9.8 There may also be situations where, having made efforts to obtain further information, that information is not likely to be forthcoming, or where the reporter requires to take a decision as a matter of urgency.
- 9.9 The factors detailed in the table below are intended to assist the reporter in making such judgements. However, the examples in relation to the factors are intended to be illustrative, not exhaustive. It is not a checklist and the reporter is to make a professional judgment regarding the extent of the concern regarding the child's welfare.
- 9.10 In using the Framework reporters require an appropriate knowledge and understanding of child development, assessing risk and need, and any relevant racial and cultural issues.
- 9.11 The structure of the table below is based primarily on the Department of Health's "Framework for the Assessment of Children in Need and their Families"<sup>9</sup>.
- 9.12 As part of their work in relation to "Getting it Right for Every Child", the Scottish Government has developed the My World triangle (see page 16 of "A Guide to Getting it Right for Every Child"). The Department of Health's assessment framework influenced the development of the My World triangle, although the My World triangle uses its own language. The titles of the sections in the My World Triangle are shown in brackets and italics in the table.
- 9.13 In addition to the table below, the reporter is to refer to the Practice Note on Decision Making in cases involving Domestic Abuse. It identifies a range of factors to consider when making a decision about a child where domestic abuse is a feature of the child's life.

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<sup>9</sup> Published jointly by the Department of Health, Department of Education and Employment, Home Office 2000

## Section B

### Factors relevant to the assessment of the extent of the concern regarding the welfare of the child

1. Child's Development (where the child is developmentally) ( <i>"How I grow and develop"</i> )		
Aspects to be considered	Examples of Weaknesses (risk/need factors)	Examples of Strengths (protective factors)
i. Health ( <i>"Being healthy"</i> )	Frequent casualty attendance; previous non-accidental injuries; unexplained physical injury; child's addiction issues impacting on child's health; physical disability; chronic illness; concerns regarding child's mental health	Good health; Good mental health
ii. Education ( <i>"Learning and achieving"</i> )	Not attending school; behavioural difficulties in school; learning difficulties; persistent low attainment/low achievement in class; problems with relationships with peers, such as being bullied, isolated or disliked; bullying others; specific educational needs not being met; disruptive behaviour in school; history of exclusion from school; problems with relationships with teachers;	Regularly attending nursery/school; having a positive experience of education; progress at school commensurate with ability

1. Child's Development (continued)		
Aspects to be considered	Examples of Weaknesses (risk/need factors)	Examples of Strengths (protective factors)
<b>iii. Emotional and behavioural development</b> <i>("Learning to be responsible"/ "Being able to communicate")</i>	Attachment difficulties; lack of appropriate self-control; not showing age-appropriate behaviour; hyperactivity; physically aggressive, verbally aggressive and abusive; excessive wariness and anxiety and child appears fearful of parent/ hostile towards parents; sexualised behaviour inappropriate for age; history of offending; behaviour is defiant of authority, including that of parents, school and police; intention to cause serious harm to other person or animal; poor control of temper; short attention span / is hyperactive; participates in reckless activity to get a "buzz"; lack of remorse for behaviour or unwillingness to accept responsibility for actions; antisocial or pro-criminal attitudes; anti-authority attitudes; lack of concern for the welfare or feelings of others;	Positive early attachments; Warm, secure and stable relationships with parents/carers; child is able to show appropriate compliance with boundaries in other settings such as school

<b>1. Child's Development (continued)</b>		
<b>Aspects to be considered</b>	<b>Examples of Weaknesses (risk/need factors)</b>	<b>Examples of Strengths (protective factors)</b>
<b>iv. Identity</b> <i>("Confidence in who I am")</i>	Child's negative view of him/herself, or negative self-image or self-esteem; Child's views self as a "trouble-maker" or "offender"	Positive self-esteem; Positive sense of racial and cultural identity
<b>v. Family and social relationships</b> <i>("Enjoying family and friends")</i>	Lack of a stable and affectionate relationship with parents/carers; poor relationship with siblings; age-inappropriate relationships with peers; isolated from peers; lack of age-appropriate relationships; few or no acquaintances or friends who represent positive role models;	Stable and affectionate relationships with parents/carers; Age-appropriate relationships with peers; Friends who represent positive role-models
<b>vi. Social presentation</b> <i>("Becoming independent, looking after myself")</i>	Poor cleanliness or personal hygiene; lack of age-appropriate understanding of social norms of behaviour and dress;	Understanding of social norms of behaviour; Appreciation of the need for cleanliness or personal hygiene
<b>vii. Self care skills</b> <i>("Becoming independent, looking after myself")</i>	Lack of early practical skills such as dressing and feeding ; lack of independent living skills(in relation to older children);	Having independent living skills (in relation to older children); Having the practical, emotional and communication skills for increasing independence

<b>2. Parenting</b> <b>(what the child's carers are doing that impacts on the child's needs and whether they are met)</b> <b>(<i>"What I need from people who look after me"</i>)</b>		
<b>Aspects to be considered</b>	<b>Examples of Weaknesses (risk/need factors)</b>	<b>Examples of Strengths (protective factors)</b>
<b>i. Basic care</b> <b>(<i>"Everyday care and help"</i>)</b>	Concerns regarding caregiver's motivation or ability to meet basic needs; Lack of co-operation with medical treatment; Physical neglect; Not ensuring child is appropriately dressed for the weather; Providing poor/inadequate diet; Not providing with appropriate health/dental care, or immunisations; Not ensuring adequate personal hygiene	Ability to meet the child's physical needs; Ability to respond to support and advice; Understanding of children's needs; Ensure adequate health care; Ensures child is provided with appropriate health and dental care; Provides nutritious diet
<b>ii. Ensuring safety</b> <b>(<i>"Keeping me safe"</i>)</b>	Not ensuring child is adequately protected from danger, including unsafe adults or other children; Perpetrator of domestic abuse exposes child to their behaviour, or the aftermath of that behaviour; Lack of supervision appropriate to age; Lack of knowledge of child's activities and whereabouts when out of the home; Lack of recognition of hazards and danger in the home and elsewhere; Poor hygiene in home Has made threats to harm the child (e.g. in context of domestic abuse);	Recognition of harm by parents and ensuring protection from harm; Parent takes protective measures appropriate to child's age and stage of development

<b>2. Parenting (continued)</b>		
<b>Aspects to be considered</b>	<b>Examples of Weaknesses (risk/need factors)</b>	<b>Examples of Strengths (protective factors)</b>
<b>iii. Guidance and boundaries</b> <i>("Guidance, supporting me to make the right choices")</i>	Not providing the child with clear or consistent boundaries or effective discipline; inadequate supervision of child by parents; parents have difficulty in controlling child's behaviour; lack of concern at child's anti-social or offending behaviour; Not demonstrating or providing guidance on, the management of anger, or consideration for others; Caregiver's unrealistic expectations of the child; Inappropriate discipline of child, such as excessive use of physical punishment or overly strict rules;	Parent provides clear boundaries and effective discipline; Supervision and monitoring of child's whereabouts as appropriate to the child's age and development; Parent shows an awareness of the importance of guidance and boundaries; Parent has been willing to implement strategies suggested by practitioners
<b>iv. Stability</b> <i>("Knowing what is going to happen and when")</i>	Not providing sufficiently stable family environment to enable child to develop and maintain a secure attachment to primary carer; History of regular changes of address; Failure to meet child's need for continuity in relationships; Emotional stability and support during changes in family structure or housing change;	Parent ensures secure attachments are not disrupted; Consistent response by parent to similar behaviour



2. Parenting (continued)		
Aspects to be considered	Examples of Weaknesses (risk/need factors)	Examples of Strengths (protective factors)
<b>v. Emotional warmth</b> <i>("Being there for me")</i>	Not meeting the child's needs for secure, stable and affectionate relationships with significant adults; Little evidence of parental approval or praise; Child is scapegoated within family Early bonding difficulties; Persistent criticism and hostility; Active emotional abuse; Poor relationship with child: Has used the child to control or threaten another carer (in context of domestic abuse);	Meeting child's emotional needs, including the need for a secure and affectionate relationship with significant adults; Parents meet child's needs for praise and encouragement
<b>vi. Stimulation</b> <i>("Play, encouragement and fun")</i>	Not promoting child's learning and intellectual development; Not promoting social opportunities; Lack of encouragement to attend school (or equivalent educational/ social opportunities); Collusion in child not attending school	Promoting the child's development through encouragement, stimulation and promoting social opportunities

<b>3. Family and Environmental Factors</b> <b>(factors that impact on parenting or on where the child is at developmentally)</b> <b>(“My wider world”)</b>		
<b>Aspects to be considered</b>	<b>Examples of Weaknesses (risk/need factors)</b>	<b>Examples of Strengths (protective factors)</b>
<b>i. Family history and functioning</b> <b>(“Support from family, friends and other people”)</b>	Concerns regarding the impact of negative family relationships on child, including the impact of domestic violence, or bullying/abuse by or towards siblings; Anti-social behaviour or offending by adults in household; Effect of parent’s mental or physical health on capacity to meet child’s needs; Effect of parent’s substance misuse on capacity to meet child’s needs; Lack of acceptance by family; History of concerns regarding other siblings Parent’s negative experience of care/abuse as a child;	Family has sought help and responded positively to intervention in the past; Positive acceptance of the child by family; Parents use strategies to minimise the impact of their lifestyle upon the children

<b>3. Family and Environmental Factors (continued)</b>		
<b>Aspects to be considered</b>	<b>Examples of Weaknesses (risk/need factors)</b>	<b>Examples of Strengths (protective factors)</b>
<b>ii. Network of Support / Wider family</b> <i>(“Support from family, friends and other people”)</i>	Lack of supportive friends or extended family; Negative contributions by extended family / friends Isolation; some friends or associates are known offenders or exhibit antisocial attitudes or behaviour	Extended family members take an interest in the child; Supportive network of family or friends; Network of attachment figures available in extended family/carers; Access to formal support resources – eg family centre Child is a member of a club, or has a mentor
<b>iii. Housing</b> <i>(“Comfortable and safe housing”)</i>	Lack of the basic amenities and facilities for age and development of child; Overcrowding;	Suitable accommodation for age and development of child; Access to, and willingness to work with housing support personnel
<b>iv. Income</b> <i>(“Enough money”)</i>	Lack of provision for the child e.g. use of income by parent on his/her own needs to detriment of child (whether or not due to addiction issues); Debt	Ability and willingness to work with financial and budgeting advice; Household income managed efficiently

<b>3. Family and Environmental Factors (continued)</b>		
<b>Aspects to be considered</b>	<b>Examples of Weaknesses (risk/need factors)</b>	<b>Examples of Strengths (protective factors)</b>
<b>v. Family's social integration</b> <i>("Belonging")</i>	Family are socially isolated; Family is seen by the rest of the neighbourhood as 'antisocial' or are scapegoated; Family the object of racial or other prejudice; Lack of acceptance of child by peer group and wider society	Family participate in neighbourhood events and organisations
<b>vi. Community Resources</b> <i>("Local resources"/"School")</i>	Area of high levels of poverty, drug abuse or poor housing; Area of high anti-social behaviour; School unable to meet specific educational needs	Parents seek to protect the child from the negative impact of the environment; Family makes use of local resources e.g. GP. Voluntary groups, library, SW; Child has access to other stimulating settings, eg day care, family centre, extended family

## **SECTION C - Gravity of Incidents**

### **10. Introduction**

- 10.1 At the stage of deciding on the initial action to be taken in relation to the referral of a child, the gravity of the referral incident is a relevant consideration. This section of the Framework for Decision Making provides direction on the assessment of the gravity of referral incidents.
- 10.2 It is important to note that the assessment of gravity relates only to a single incident, for example a single offence committed by a child or a single incident of domestic violence. Although recurring incidents may each be of “low gravity”, the fact that they are recurring will be a particularly relevant consideration in assessing the “extent of the concern regarding the child’s welfare” when at stage of deciding on initial action to taken and making the final decision about the child.
- 10.3 If a referral relates to an ongoing situation rather than a single incident (for example, a referral in terms of section 67(2)(a) or (m)), the reporter is to consider factors that make the referral more “serious” in the assessment of the “extent of concern regarding the child’s welfare”.

## 11. Gravity of Offences Committed by a Child

- The following table provides examples of the types of offences that are to be presumed to be of high, moderate or low gravity.
- Factors arising in relation to a particular offence in a referral may result in a reporter deciding that an offence should “move” between ratings of gravity – however only in exceptional circumstances would such a factor result in an offence moving from a “High” rating to a “Low” rating or vice versa. Factors that will always result in an increase in a gravity rating are:
  - where the offence has a racial motivation (except an offence of racially aggravated behaviour in terms of section 50A(1)(b) and (5) of the Criminal Law (Consolidation) (Scotland) Act 1995 as it has such a motivation by definition);
  - where the offence was directed at a vulnerable victim (for example an elderly person or repeat victim); and
  - where the offence has a significant impact on the victim.

GRAVITY	EXAMPLES
<b>High</b>	<ul style="list-style-type: none"><li>• assault with a weapon (whether or not injury caused)</li><li>• theft of motor vehicle/s 178 (1)(a) of Road Traffic Act 1988</li><li>• sexual offences involving coercive sexual behaviour</li><li>• Misuse of Drugs Act 1971 - supply of drugs</li><li>• intentional fireraising</li><li>• robbery</li><li>• Road Traffic Act 1988 offences – driving with no insurance, licence etc</li><li>• Possession of knife or offensive weapon</li></ul>
<b>Moderate</b>	<ul style="list-style-type: none"><li>• assault resulting in injury, or assault on police officer</li><li>• theft by housebreaking</li><li>• Misuse of Drugs Act 1971 – possession of drug other than cannabis</li><li>• racially aggravated behaviour (section 50A(1)(b) and (5) of Criminal Law (Consolidation) (Scotland) Act 1995)</li></ul>
<b>Low</b>	<ul style="list-style-type: none"><li>• theft by opening a lockfast place (from vehicle)</li><li>• theft, including shoplifting</li><li>• drinking alcohol in a public place (contrary to local byelaws)</li><li>• vandalism</li><li>• breach of the peace</li><li>• assault with no or minor injury caused</li><li>• • Misuse of Drugs Act 1971 - possession of cannabis</li></ul>

## 12. Gravity of Offences Committed Against Children

- The following table is intended to provide examples of the types of offences that are to be presumed to be of high, moderate or low gravity.
- Factors arising in relation to a particular offence in a referral may result in a reporter deciding that an offence should “move” between ratings of gravity – however only in exceptional circumstances would such a factor result in an offence moving from a “High” rating to a “Low” rating or vice versa. If a child is particularly vulnerable due to age, or other factors (e.g. learning difficulties), that should always result in an increase in a gravity rating.

GRAVITY	EXAMPLES
<b>High</b>	<ul style="list-style-type: none"><li>• evidence of deliberate intent to harm the child, physically or emotionally</li><li>• physical abuse causing bruising in child aged under 4</li><li>• physical abuse causing fractures in any child</li><li>• sexual offence involving coercive behaviour</li><li>• sexual offence where victim not of similar age</li></ul>
<b>Moderate</b>	<ul style="list-style-type: none"><li>• physical abuse causing bruising (unless child aged under 4)</li><li>• physical assault with implement, where no bruising or other injury caused</li><li>• section 12 of Children and Young Persons (Scotland) Act 1937 involving child being left unattended</li><li>• section 12 of Children and Young Persons (Scotland) Act 1937 involving child being cared for by person under the influence of alcohol</li><li>• offence involving sexual exhibitionism</li></ul>
<b>Low</b>	<ul style="list-style-type: none"><li>• sexual offence committed by person of similar age and not involving coercive behaviour</li></ul>

### 13. Gravity of Incidents of Domestic Abuse

- The reporter is to consider the following factors in an assessment of the gravity of an incident of domestic abuse. As more than one of the factors could be present in a single incident, they are not presented in the form of a table of examples of high/moderate/low incidents.

<b>Factors that give rise to an increase in the gravity of an incident:</b>
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- |   |
|---|
| <ul style="list-style-type: none"><li>• child directly physically harmed during the incident</li><li>• child used as a way to get at the other parent e.g. direct threats to harm the child</li><li>• child showed extreme emotional distress during or after incident</li><li>• incident involved the use of a weapon or other implement</li><li>• incident involved credible threats of death</li><li>• incident caused serious physical injuries or involved sexual violence</li><li>• incident involved a violation of “no contact” interdict or bail condition</li></ul> |
|---|

Note that the presence or threat of violence can significantly impact on the whole of a child’s life, and this must be taken into consideration in assessing the “extent of the concern regarding the child’s welfare”.



## **SECTION D - Decisions about children who have a CSO**

### **14. Introduction**

- 14.1 As with children referred to the reporter who do not have a CSO, the key outcome that the reporter's decision is seeking to achieve for every child referred is the enhancement of the child's welfare.
- 14.2 Before considering the reporter's role in making decisions on children referred who have a CSO, it is important to consider the functions of the children's hearing where the child already has a CSO.
- 14.3 When a child has a CSO the unique functions that the children's hearing performs are:
- To review the CSO and decide whether to continue, vary or terminate the order;
  - To consider any statement of grounds and decide, amongst other things, whether to refer the grounds to the sheriff for proof;
  - To provide advice to the court in relation to permanency plans or where the child has been prosecuted;
  - To consider whether to impose duties on the local authority in the CSO and then directing that the National Convenor takes enforcement action where the duties have not been complied with.
- 14.4 These functions of the children's hearing can only be accessed through the reporter. In some situations this is through an administrative process (for example, arranging the review hearing when requested by the local authority, relevant person or child). However, where a child who is already subject to a CSO is referred to a children's hearing to consider a new statement of grounds (thus triggering a review of the CSO if the new grounds are accepted or established), it will be as a result of a discretionary decision of the reporter.
- 14.5 As with all referrals received by the reporter, the reporter must be satisfied that there is sufficient prima evidence for there to be a reasonable prospect that a section 67 ground will be established
- 14.6 A reporter is only to refer a child subject to a CSO to a children's hearing to consider a new statement of grounds if:

- The reporter is of the view that the child's welfare requires that a specific new statement of grounds is considered by the hearing; or
  - The reporter is of the view that the referral indicates that the child's welfare requires that his/her CSO is varied.
- 14.7 In assessing whether or not either of these situations applies, the reporter is to take into account the specific factors set out in the following table.
- 14.8 These factors are intended to assist reporters in assessing whether or not either of these situations applies. The factors should not be considered in isolation from each other.
- 14.9 The extent to which any of the factors applies in a particular case will be a matter for professional judgement in relation to the case.
- 14.10 The reporter is not to refer a child to a children's hearing to consider a new statement of grounds simply on the basis that there is a review hearing already scheduled to take place for another reason.

## 15. Factors to be considered in decision where the child has a CSO

<b>The nature of the current referral</b>	<p>The reporter is always to consider whether there is a need for the drafting and establishment of any significant new statement of grounds.</p> <p>The higher the gravity of the incident the more likely it is that a further hearing will be needed.</p> <p>However, the reporter is to have regard to the nature of the previously established or accepted statement of grounds.</p> <p>The more similar the current referral is to the statement of grounds which have been established or accepted (especially in relation to patterns of behaviour such as lack of parental care or non school attendance) the less likely it is that the reporter will need to refer the child to a hearing.</p>
<b>The response and attitude of the carers and/or the child to the referral</b>	<p>Where there is an acceptance by the carers and, if applicable, the child, that the incident which led to the referral occurred and that something needs to be done about it, the less likely it is that the reporter will need to refer the child to a hearing.</p>

<b>The nature of the current CSO</b>	<p>Where there is an existing measure on the CSO that addresses the referral, the less likely it is that the reporter will need to refer the child to a hearing.</p> <p>If a measure on the CSO is not being complied with, the local authority have a duty to request a review of the CSO.</p>
<b>The co-operation with and progress of the current care plan</b>	<p>To assess this, the reporter is to have regard to the information that the reporter already has in relation to the child's case, for example:</p> <ul style="list-style-type: none"> <li>• the recorded decision of the reporter to refer the child to a hearing;</li> <li>• reports from the local authority;</li> <li>• the referral history (including the recorded decisions by the reporter); and</li> <li>• the most recent Reasons for decision of the hearing.</li> </ul> <p>The greater the levels of co-operation and the greater the progress in the care plan, the less likely it is that the reporter will need to refer the child to a hearing.</p> <p>In assessing the levels of cooperation and progress in the care plan, the reporter is to have regard not just to whether the family are making themselves available to services but the impact of the intervention in addressing the child's needs.</p>
<b>The length of time since the last hearing</b>	<p>The more recently that the child has attended a hearing, the less likely it is that the reporter will need to refer the child to a hearing. It takes time for care plans to achieve their aims.</p> <p>Full assessments in reports for children's hearings take a significant period of time for workers to complete, reducing the time they spend carrying out direct work.</p> <p>In relation to offence referrals received, reference should be made to Practice Direction on Offending Issues</p>
<b>The views of the child about what decision the reporter should make</b>	<p>The reporter is to consider the views of the child, if provided. The greater the age and maturity of the child, the greater the weight to be attached to their views. However, the recording box is to contain a factual summary of the child's views, not the reporter's assessment of the child's views. The assessment is to be reflected in the rationale for decision box.</p>

## 16. Decision about initial action

- 16.1 At the stage of deciding on the/ initial action to be taken in relation to the referral of a child, if the reporter's assessment is "low" regarding the gravity of the incident that led to the referral and there are no other referrals under investigation, best practice for reporters is to telephone to speak to the allocated social worker to advise them of the referral and ascertain if there are any further concerns in respect of the child. If it is not possible to do this or no further concerns arise from the telephone call, there is a presumption that no further investigation is required through any agency and that the reporter is likely to decide "not to arrange a children's hearing."
- 16.2 However, it remains the right of the child, if able to form their own views, to give their views on what decision the reporter should make and to have those views taken into account. The reporter is therefore not to reach a final decision until the child has had an opportunity to give their views<sup>10</sup>. If views are provided the reporter must take them into account in deciding whether further investigation is appropriate and/or a final decision can be made.
- 16.3 Any departure from the presumption that further investigation through any agency is not necessary requires to be justified in the reasons recorded for the decision.
- 16.4 Where further investigation through an agency is needed, whether before or after receipt of the child's views, the purpose of it is to obtain enough information to enable the reporter to make a final decision based on the factors specified in the table.

## 17. Final Decision Stage

- 17.1 At the stage of making a final decision, the following options apply:
1. **Arrange a children's hearing**  
This applies where the reporter considers that:
    1. there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established: and

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<sup>10</sup> See Practice Direction 5 (Receipt of Referral and Registration) at Section 8 for direction on sending receipt of referral letters. The letter should specify that the reporter is considering not arranging a hearing. The letters to child, relevant persons and carers in this situation should generally allow two weeks for response.

2. taking into account the factors in the framework, the reporter considers either:

- the child's welfare requires that a specific new statement of grounds is considered by the hearing; or
- the referral indicates that the child's welfare requires that his/her CSO is varied.

**2. Not to arrange a children's hearing – insufficient evidence.**

This applies where the reporter considers that there is insufficient evidence for there to be a reasonable prospect that a section 67 ground will be established<sup>11</sup>.

**3. Not to arrange a children's hearing – current order/measures sufficient.**

This applies where the reporter considers that:

- there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established; and
- it is appropriate for this referral to be addressed within the child's current order - taking into account the factors in the framework, the reporter does not consider that either:
  - the child's welfare requires that a specific new statement of grounds is considered by the hearing; or
  - the referral indicates that the child's welfare requires that his/her CSO is varied.

There are other reasons for not arranging a children's hearing available in the drop-down list (insufficient evidence and refer to LA, CSO not necessary and no jurisdiction). However, these options are not relevant when a child is already the subject of a CSO.

17.2 In all cases where a referral is received for a child subject to a CSO, the reporter is to notify the lead professional of the referral and the reporter's decision.

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<sup>11</sup> Note that when this decision is made, the reporter is to record the reasons for there being insufficient evidence in the 'Rationale for Decision'

## **SECTION E - Decisions about children who do not have a CSO but have already been referred to a Grounds Hearing**

### **18. Introduction and Factors**

- 18.1 This Section applies in the situation where a child is not subject to a CSO, but has been referred to a grounds hearing with those proceedings ongoing, and a further referral is then received.
- 18.2 As the reporter has already decided it is necessary for a CSO to be made in respect of the child, different considerations apply to those set out in Section A. The factors to be considered are very similar to those for a child already subject to a CSO.
- 18.3 The question for the reporter is whether the child's welfare requires that a specific new statement of grounds resulting from the new referral is considered by a grounds hearing.
- 18.4 In answering this question, the reporter is to take account of the following factors:

<b>The nature of the new referral</b>	<p>The reporter is always to consider whether there is a need for the drafting and establishment of any significant new statement of grounds.</p> <p>The higher the gravity of the incident the more likely it is that a further hearing will be needed.</p> <p>However, the reporter is to have regard to the nature of the current grounds being considered by the children's hearing (whether or not any related proof application is ongoing). Where the proof application is ongoing, the reporter is also to consider whether it is appropriate to seek to amend the statement of grounds to reflect the new referral<sup>12</sup>.</p> <p>The more similar the current referral is to the current statement of grounds (especially in relation to patterns of behaviour such as lack of parental care or non school attendance) the less likely it is that the reporter will need to refer the child to a hearing to consider the new statement of grounds.</p>
<b>The response and attitude of the</b>	<p>Where there is an acceptance by the carers and, if applicable, the child, that the incident which led to the</p>

<sup>12</sup> See paragraph 5.9 of Practice Direction 23 on Court Applications regarding the amendment of the statement of grounds.

<b>carers and/or the child to the referral</b>	referral occurred and that something needs to be done about it, the less likely it is that the child's welfare requires that a specific new statement of grounds is considered.
<b>The views of the child about what decision the reporter should make</b>	The greater the age and maturity of the child, the greater the weight to be attached to their views. However, the recording box is to contain a factual summary of the child's views, not the reporter's assessment of the child's views. The assessment is to be reflected in the rationale for decision box.

## 19. Final Decision Options

19.1 As with a child who is already subject to a CSO, the 3 options available for a final decision are:

### 1. **Arrange a children's hearing**

This applies where the reporter considers that:

- there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established; and
- taking into account the factors above, the reporter considers the child's welfare requires that a specific new statement of grounds is considered by the hearing

### 2. **Not to arrange a children's hearing – insufficient evidence.**

This applies where the reporter considers that there is insufficient evidence for there to be a reasonable prospect that a section 67 ground will be established<sup>13</sup>.

### 3. **Not to arrange a children's hearing – current order/measures sufficient**

This applies where the reporter considers that:

- there is sufficient evidence for there to be a reasonable prospect that a section 67 ground will be established, *but*
- taking into account the factors above, the child's welfare does not require that a specific new statement of grounds is considered by the hearing.

<sup>13</sup> Note that when this decision is made, the reporter is to record the reasons for there being insufficient evidence in the 'Rationale for Decision'

## SECTION F - Recording Reasons for Decisions

### 20. Recording Reasons for Decision

20.1 The reasons recorded by the reporter:

- for a child who is not subject to a CSO, are to reflect the reporter's assessment of the principal factors in Section A;
- for a child who is subject to a CSO are to reflect the reporter's assessment of the principal factors in Section D.
- for a child who is not subject to a CSO but has been referred to a grounds hearing with those proceedings ongoing, and a further referral is then received, are to reflect the reporter's assessment of the factors in Section E<sup>14</sup>. The reporter is also to state that the child has already been referred to a children's hearing to explain why the reasons do not reflect the reporter's assessment of the factors in Section A.

In all cases, the reporter is also to record why their assessment of the relevant factors has led to the particular decision or investigative actions.

20.2 The reporter's reasons are also to be relevant and sufficient, referring to relevant, reliable information, sufficient to justify the extent of intervention (including any investigation that the reporter has undertaken) and the decision.

20.3 Where the Framework provides for a particular presumption about a factor (e.g. an offence is low gravity), the reporter does not require to provide any reasons for following this presumption beyond noting that the Framework was followed. However, if the reporter does not follow any presumption (for example, considering a particular offence of vandalism to be moderate or high gravity), the reporter requires to explain the reasons for doing so.

20.4 Similarly, when the application of the Framework is tending to point towards a particular decision, but the reporter takes a different decision, the reporter requires to provide clear and robust reasons.

20.5 Detailed direction on the recording of reasons in CSAS is provided in the appendix below.

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<sup>14</sup> As the investigation form for a child not subject to a CSO (on the Need for Compulsory Supervision tab of the investigation form) reflects the factors in Section A of this framework, the reporter is to record their assessment of the factors in paragraph 18.4 in *any* of the text boxes on the Need for Compulsory Supervision page, recording N/A or no information in the other boxes. However, this approach is not required where the child has been referred to a grounds hearing and is subject to an interim compulsory supervision order, as the investigation form (on the Children Subject to a CSO tab) will then reflect the factors in Section D of this framework.



## Appendix 1 – Recording of reasons on CSAS

Section E sets out the general requirements for reporters when recording decisions on children. This appendix provides more specific direction regarding what the reporter is to record in the various pages of CSAS when making a decision about a child.

### Children not subject to a CSO

#### Investigation Form

Linked Referrals      **Evidence**      Need for Compulsory Supervision      Investigative Actions

Does any s67 Ground potentially apply?	<p><b>Select yes/no</b></p> <p><b><i>This is a high level consideration on receipt of the referral designed to identify those referrals where the information in the referral indicates no potential for a ground to apply and there is no other open referral being investigated, and therefore no justification for further investigation. It is not a detailed consideration of sufficiency of evidence and is not to be updated after the initial consideration. Therefore it is likely to be very rare to say that no s67 ground potentially applies.</i></b></p>
Reasons for Conclusion	<b><i>Record brief reasons for the conclusion.</i></b>

Linked Referrals      Evidence      **Need for Compulsory Supervision**      Investigative Actions

Extent of Concern About Child's Welfare	
Child Development	<ul style="list-style-type: none"> <li><b><i>Record the key strengths, weaknesses and gaps in relation to the 3 aspects of the assessment triangle - (i) Child's Development, (ii) Parenting, (iii) Family and Environmental Factors</i></b></li> <li><b><i>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date<sup>15</sup>.</i></b></li> </ul>
Parenting	
Family & Environmental Factors	
Conclusion Regarding Extent of Concern About Child's Welfare	<b><i>Record the assessment of the extent of concern for the child's welfare – high, medium, low or no information</i></b>
Reasons for Conclusion	<b><i>Record why the key strengths and weaknesses in relation to the 3 aspects of the assessment triangle have led to the conclusion regarding extent of concern about child's welfare</i></b>

<sup>15</sup> For example, where the initial referral says there are concerns about the father's abuse of alcohol, this would be recorded as a weakness in relation to Family and Environmental Factors. However, if the investigation indicated this concern was historic, this would be reflected in the updated recording in relation to Family and Environmental Factors e.g. 'Although the initial referral suggested that the father frequently abuses alcohol, the investigation showed there is no evidence this is a current concern.'

Nature of Incident (Initial Action Only)	
Nature of Incident (most serious)	<ul style="list-style-type: none"> <li>• <b>Record the assessment of the gravity of the incident – high, medium, low or not applicable</b></li> <li>• <b>Record this only at the stage of taking initial action about a referral – this factor is not relevant in itself at the stage of a final decision</b></li> <li>• <b>If more than one incident is being investigated, the assessment should relate to the most serious incident</b></li> </ul>
Reasons for Conclusion	<ul style="list-style-type: none"> <li>• <b>Record the reasons for the assessment of the gravity of the incident</b></li> <li>• <b>Record only when taking initial action, not when making the final decision</b></li> <li>• <b>If a particular presumption is followed (e.g. an offence of vandalism is low gravity), the reporter does not require to provide any reasons for following this presumption beyond noting that the Framework was followed.</b></li> <li>• <b>However, if the reporter does not follow any presumption (for example, considering a particular offence of vandalism to be moderate or high gravity), the reporter requires to explain the reasons for doing so.</b></li> </ul>

History of Co-operation/Impact of Intervention	
History of Co-operation/Impact of Intervention	<ul style="list-style-type: none"> <li>• <b>Record the assessment of the history of co-operation and the reasons for this</b></li> <li>• <b>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date</b></li> <li>• <b>Record this when taking initial action about a referral and making the final decision</b></li> </ul>

Current Motivation to Change/Willingness to Co-operate (Final Decision Only)	
Current Motivation to Change / Willingness to Co-operate	<ul style="list-style-type: none"> <li>• <b>Record the assessment of the current motivation and the reasons for this</b></li> <li>• <b>Record only the relevant information at time of making the final decision</b></li> <li>• <b>Record this only when making final decision</b></li> </ul>

Child's Views (Final Decision Only)	
Child's View on what decision the reporter should make	<ul style="list-style-type: none"> <li>• <b>Record factual summary of child's view (not an assessment)</b></li> </ul>

Investigative Actions	
Investigative Actions	<ul style="list-style-type: none"> <li>• <b><i>On the Need for Compulsory Supervision page will be recorded the conclusions about the the 3 principal factors at the initial action stage and the reasons for those conclusions</i></b></li> <li>• <b><i>Record the investigative actions to be taken as the result of those conclusions and the nature of the information being sought</i></b></li> <li>• <b><i>These investigative actions should be updated if additional investigation is required in the light of information received</i></b></li> </ul>

Non-Offence Referrals	
Final Non-Offence Referral Decision	<b><i>Select the final decision in relation to the non-offence referrals: To arrange a Children's Hearing/Not to arrange a Children's Hearing</i></b>
Reason for not arranging a Children's Hearing	<b><i>Where the final decision is not to arrange a children's hearing, select from:</i></b> <ul style="list-style-type: none"> <li>• <b><i>insufficient evidence</i></b></li> <li>• <b><i>insufficient evidence and refer to LA</i></b></li> <li>• <b><i>CSO not necessary</i></b></li> <li>• <b><i>CSO not necessary and refer to LA</i></b></li> <li>• <b><i>current order/measures sufficient</i></b></li> <li>• <b><i>no jurisdiction</i></b></li> </ul>
Rationale for Decision	<ul style="list-style-type: none"> <li>• <b><i>On the Need for Compulsion page will be recorded the conclusions about the 3 principal factors at the final decision stage and the reasons for those conclusions.</i></b></li> <li>• <b><i>In this box, record the reasons why those conclusions have led to the final decision.</i></b></li> <li>• <b><i>Do not repeat conclusions that were explained on the Need for Compulsion page</i></b></li> <li>• <b><i>Where the decision is that there is insufficient evidence, or no jurisdiction, record the reasons for that decision here</i></b></li> <li>• <b><i>In this box, record the assessment of the child's view (if received) on what decision the reporter should make/how the was taken into consideration. Where the decision is different to what the child thinks it should be, briefly record the child's view and what has caused a different decision<sup>16</sup>. Where the</i></b></li> </ul>

<sup>16</sup> Examples: (i) '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 other factors.' (ii) '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.'

	<b>decision accords with the child's view, it will generally be sufficient to simply record this<sup>17</sup>.</b>
Grounds to Apply	
<ul style="list-style-type: none"> <li>• <b>Record a decision about the ground to apply</b></li> <li>• <b>Refer to Practice Direction 7 for direction regarding this decision</b></li> <li>• <b>This is not required where the referral is an offence referral</b></li> </ul>	
Insufficient Evidence Of Any Ground	<ul style="list-style-type: none"> <li>• <b>Select yes / no</b></li> <li>• <b>If no is selected:</b> <ul style="list-style-type: none"> <li>○ <b>do not record any ground above</b></li> <li>○ <b>record an 'insufficient evidence' decision (either with or without also referring the child to the LA) and the rationale for that decision above</b></li> </ul> </li> </ul>

Offence Referrals	
Final Offence Referral Decision	<b>Select the final decision in relation to the offence referrals: To arrange a Children's Hearing / Not to arrange a Children's Hearing</b>
Reason for not arranging a Children's Hearing	<b>Where the final decision is not to arrange a children's hearing, select from:</b> <ul style="list-style-type: none"> <li>• <b>insufficient evidence</b></li> <li>• <b>insufficient evidence and refer to LA</b></li> <li>• <b>CSO not necessary</b></li> <li>• <b>CSO not necessary and refer to LA</b></li> <li>• <b>current order/measures sufficient</b></li> <li>• <b>no jurisdiction</b></li> </ul>
Rationale for Decision	<ul style="list-style-type: none"> <li>• <b>On the Need for Compulsory Supervision page will be recorded the conclusions about the the 3 principal factors at the final decision stage and the reasons for those conclusions</b></li> <li>• <b>In this box, record the reasons why those conclusions have led to the final decision.</b></li> <li>• <b>Do not repeat conclusions that were explained on the Need for Compulsory Supervision page</b></li> <li>• <b>Where the decision is that there is insufficient evidence, or no jurisdiction, record the reasons for that decision here</b></li> <li>• <b>In this box, record the assessment of the child's view (if received) on what decision the reporter should make/how the view was taken into consideration. Where the decision is different to what the child thinks it should be, briefly record the child's view and what has caused a different decision<sup>18</sup>. Where the decision accords with the child's view, it will generally be sufficient to simply record this<sup>19</sup>.</b></li> </ul>

<sup>17</sup> Example: 'The decision is in line with Karim's view.'

<sup>18</sup> Examples: (i) '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 other factors.' (ii) '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.'

<sup>19</sup> Example: 'The decision is in line with Karim's view.'

## Children subject to a CSO

### Investigation Form

Linked Referrals    **Evidence**    Children Subject to a CSO    Investigative Actions

Does any s67 Ground potentially apply?	<p><b>Select yes/no</b></p> <p><i>This is a high level consideration on receipt of the referral designed to identify those referrals where the information in the referral indicates no potential for a ground to apply and there is no other open referral being investigated, and therefore no justification for further investigation. It is not a detailed consideration of sufficiency of evidence and is not to be updated after the initial consideration.</i></p> <p><i>Therefore it is likely to be very rare to say that no s67 ground potentially applies.</i></p>
Reasons for Conclusion	<b>Record brief reasons for the conclusion.</b>

Linked Referrals    Evidence    **Children Subject to a CSO**    Investigative Actions

Nature of Current Referrals	
Nature of Current Referrals	<ul style="list-style-type: none"> <li>• <b>Record the assessment of the nature of the current referral</b></li> <li>• <b>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date</b></li> </ul>

Response and attitude of the carers and/or the child to the referral(s)	
Attitude to Current Referrals	<ul style="list-style-type: none"> <li>• <b>Record the assessment of the response and attitude of carers and/or child to the referral</b></li> <li>• <b>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date</b></li> </ul>

Nature of the current CSO	
Nature of Current CSO	<ul style="list-style-type: none"> <li>• <b>Record the assessment of the nature of the current compulsory supervision order</b></li> <li>• <b>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date</b></li> </ul>

Co-operation with and progress of the current care plan	
Progress of Current Care Plan	<ul style="list-style-type: none"> <li><b><i>Record the assessment of the child and family's co-operation with and progress of care plan</i></b></li> <li><b><i>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date</i></b></li> </ul>

Length of time since last hearing	
Length of Time Since Last Hearing	<ul style="list-style-type: none"> <li><b><i>Record the assessment of the length of time since the last hearing</i></b></li> <li><b><i>What is recorded is to reflect the reporter's current assessment of the information updating any existing recorded information which has become out of date</i></b></li> </ul>

Child's Views	
Child's View on what decision the reporter should make	<ul style="list-style-type: none"> <li><b><i>Record factual summary of child's view (not an assessment)</i></b></li> </ul>

Linked Referrals   Evidence   Children Subject to a CSO   **Investigative Actions**

Investigative Actions	
Investigative Actions	<ul style="list-style-type: none"> <li><b><i>On the Children Subject to a CSO page will be recorded the conclusions about the the 5 principal factors and the reasons for those conclusions</i></b></li> <li><b><i>Record the investigative actions to be taken as a result of those conclusions and the nature of the information being sought</i></b></li> <li><b><i>These investigative actions should be updated if additional investigation is required in the light of information received</i></b></li> </ul>

**Linked Referrals**   Evidence   Children Subject to a CSO   Investigative Actions

Non-Offence Referrals	
Final Non-Offence Referral Decision	<b><i>Select the final decision in relation to the non-offence referrals: To arrange a Children's Hearing / Not to arrange a Children's Hearing</i></b>
Reason for not arranging a Children's Hearing	<b><i>Where the final decision is not to arrange a children's hearing, select from:</i></b> <ul style="list-style-type: none"> <li><b><i>insufficient evidence</i></b></li> </ul>

	<ul style="list-style-type: none"> <li>• <b>current order/measures sufficient</b></li> </ul>
Rationale for Decision	<ul style="list-style-type: none"> <li>• <b>On the Children Subject to a CSO page will be recorded the conclusions about the 5 principal factors at the final decision stage and the reasons for those conclusions.</b></li> <li>• <b>In this box, record the reasons why those conclusions have led to the final decision.</b></li> <li>• <b>Do not repeat conclusions that were explained on the Children Subject to a CSO page</b></li> <li>• <b>Where the decision is that there is insufficient evidence, record the reasons for that decision here</b></li> <li>• <b>In this box, record the assessment of the child's view (if received) on what decision the reporter should make/how the view was taken into consideration. Where the decision is different to what the child thinks it should be, briefly record the child's view and what has caused a different decision<sup>20</sup>. Where the decision accords with the child's view, it will generally be sufficient to simply record this<sup>21</sup>.</b></li> </ul>
Grounds to Apply	
<ul style="list-style-type: none"> <li>• <b>Record a decision about the ground to apply</b></li> <li>• <b>Refer to Practice Direction 7 for direction regarding this decision</b></li> <li>• <b>This is not required where the referral is an offence referral</b></li> </ul>	
Insufficient Evidence Of Any Ground	<ul style="list-style-type: none"> <li>• <b>Select yes / no</b></li> <li>• <b>If no is selected:</b> <ul style="list-style-type: none"> <li>○ <b>do not record any ground above</b></li> <li>○ <b>record an 'insufficient evidence' decision and the rationale for that decision above</b></li> </ul> </li> </ul>

Offence Referrals	
Final Non-Offence Referral Decision	<b>Select the final decision in relation to the non-offence referrals: To arrange a Children's Hearing/Not to arrange a Children's Hearing</b>
Reason for not arranging a Children's Hearing	<b>Where the final decision is not to arrange a children's hearing, select from:</b> <ul style="list-style-type: none"> <li>• <b>insufficient evidence</b></li> <li>• <b>current order/measures sufficient</b></li> </ul>
Rationale for Decision	<ul style="list-style-type: none"> <li>• <b>On the Need for Compulsory Supervision page will be recorded the conclusions about the the 3 principal factors at the final decision stage and the reasons for those conclusions</b></li> <li>• <b>In this box, record the reasons why those conclusions have led to the final decision.</b></li> </ul>

<sup>20</sup> Examples: (i) '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 other factors.' (ii) '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.'

<sup>21</sup> Example: 'The decision is in line with Karim's view.'

	<ul style="list-style-type: none"> <li>• <i>Do not repeat conclusions that were explained on the Children Subject to a CSO page</i></li> <li>• <i>Where the decision is that there is insufficient evidence record the reasons for that decision here</i></li> <li>• <i>In this box, record the assessment of the child's view (if received) on what decision the reporter should make/how the view was taken into consideration. Where the decision is different to what the child thinks it should be, briefly record the child's view and what has caused a different decision<sup>22</sup>. Where the decision accords with the child's view, it will generally be sufficient to simply record this<sup>23</sup>.</i></li> </ul>
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<sup>22</sup> Examples: (i) '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 other factors.' (ii) '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.'

<sup>23</sup> Example: 'The decision is in line with Karim's view.'