

Guide to the Child Welfare Report (March 2016: First edition)

This guide was prepared by the Scottish Government. It outlines the role of child welfare reporters, who may be appointed by the court when the court has been asked to resolve a dispute between parents. Where the guide says “parent”, it also includes others who may be involved in a child’s upbringing. And where the guide says “your child”, this means the child at the centre of the court case – whether you are a parent, grandparent, sibling, or another person with a close connection to the child.

If you do not have a solicitor, where the guide refers to your solicitor, this means you.

The Government is also preparing a separate guide for children on child welfare reports.

What is a child welfare report?

Where parents cannot agree about their child’s upbringing, they can ask the court to decide matters.

The Children (Scotland) Act 1995 gives the court power to make orders about a child. For example, the court could make a “residence order” saying who a child should live with, or a “contact order”, saying who a child should spend time with.

The court’s paramount consideration is what is best for the child.

Sometimes the court needs more information to help it make a decision. The court may ask for a “child welfare report”. This is prepared by a “child welfare reporter” appointed by the court.

What is the reporter’s role?

The court which appointed the reporter will have set out what the court wants the reporter to do and who the reporter should interview. Your solicitor should receive a copy of this information from the court. The reporter may ask your solicitor for other information which has been given to the court.

In some cases, the court will ask the reporter to speak to a third party such as your child’s GP, health visitor, or school. The reporter may also wish to speak to your GP or another professional who has information which will help the court to make a decision. The reporter should only ask for information relevant to the remit.

You may be asked to sign a mandate authorising the release of information about you or your child. It is important to sign mandates. If you decline to do so, the court may make an order to obtain the information.

The report will often include recommendations. It is the sheriff or judge who will decide whether to make an order and if so what order to make.

Speaking to the parents

Family disputes can be very emotional. It can be tempting to tell the reporter everything about your case.

A friend, relative or support worker may accompany you when you are interviewed by the reporter. Any friend, relative or support worker should not be involved in the case and should not attempt to answer any of the questions put to you by the reporter.

Try to focus on the questions the reporter asks you. The reporter will only be able to discuss matters which fall within the terms of the appointment.

Remember that the reporter is appointed by the court and their job is to help the court make a decision about what is best for your child. It is important that you tell the reporter the truth. The reporter will reflect accurately what you say.

Speaking to your child

Your child's views are important. The court may ask the reporter to speak to your child. Remember that although the court will carefully consider any views your child expresses, its decision is based on what it thinks is best for your child. This will not necessarily be the same as what your child says.

The reporter might ask to meet your child in a neutral venue. The reporter may also want to see your child spending time with the other parent and may also want to see your child alone.

It is important that you do not try to influence what your child will say or how your child will behave in front of the reporter.

What qualifications and experience will the reporter have?

Most reporters are practising solicitors. Many are family lawyers. Some reporters have other backgrounds, such as in social work or in teaching.

The court will select the reporter from a list of those approved by the court. The reporter should be aware of issues affecting child welfare including:

- domestic abuse;
- mental health;
- addiction;
- cases where a parent has undue influence over a child (sometimes known as parental alienation).

The report will outline the reporter's qualifications.

The reporter has a certificate of membership of the Protecting Vulnerable Groups (PVG) scheme and is subject to on-going monitoring.

The duties of a child welfare reporter mean that the reporter may have to spend time alone with children. Membership of the PVG scheme helps to ensure that a reporter does not have a known history of harmful or inappropriate behaviour towards children.

What will be in the report?

The report will include:

- The reporter's remit
- A summary of the report's recommendations
- The information which the reporter has gathered. This could include your child's views.
- Information about any allegations of abuse raised with the reporter.

When will I see the report?

The reporter should normally give your solicitor a copy of the report three working days before the court hearing where the report is to be considered. You should read the report as soon as possible.

What if I disagree with the report?

If you disagree with something in the report, your solicitor should raise this with the court.

What if I want to complain about the reporter?

If you wish to complain about the manner in which a reporter has performed this function and the reporter is a solicitor, solicitor advocate, or advocate, the Scottish Legal Complaints Commission (SLCC) can consider a "conduct complaint" about the reporter¹. This is about a legal professional's behaviour and fitness to carry out work. Because the reporter is acting for the court, the SLCC cannot consider a "service complaint" in relation to a reporter.

If the reporter is not a legal professional, it may be possible to make a complaint to their organisation/professional body, in line with their complaints procedures.

Sharing the report

The report is owned by the court. Under no circumstances should you publish it. This means you should not put the report or any quotations from it on social media such as Facebook or Twitter.

If you wish to discuss the report with an advisor, friend or family member, that is fine as long as you make it clear that the information should not be passed on. You should be aware that if you share it with someone who is subsequently called as a

¹ <http://www.scottishlegalcomplaints.org.uk/making-a-complaint.aspx>

witness in the case, that may affect the court's consideration of that person's evidence.

Who will pay for the report?

The court rules say that normally you and the other parent should split the costs of the report equally. The court may decide that the costs should be split unequally and that one parent should pay more than the other.

This guide

The production of a guide to the child welfare report was one of the recommendations of a group chaired by the Scottish Government. You can find more information about the group's work on the Scottish Government's website².

Scottish Government
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² <http://www.gov.scot/Topics/Justice/law/17867/reporters>