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Introduction

SOCIAL WORK REPORTS IN CHILD CARE CASES

The courts in Scotland need and use child care social work reports in:

- all adoption cases, including Convention adoption order applications;
- applications for authority to take a child abroad for adoption, under s.59 of the Adoption and Children (Scotland) Act 2007;
- all permanence order applications, whether authority for adoption is sought or not;
- applications for amendment of permanence orders to include authority for adoption; and
- private law cases such as divorce, dissolution of civil partnerships and applications under s.11 of the Children (Scotland) Act 1995.

They may also be useful and/or asked for in applications for variation or revocation of permanence orders.

It is crucial that the local authority or adoption agency court report gives a full and clear social work account and assessment of the case for the benefit of the court, to provide a clear background to all the other information which the court will receive. The social work report is a vehicle for presenting considerable and significant information to the court.

This guide is designed to help in the writing of these reports by:

- advising what information needs to be provided in reports; and
- suggesting how that information can best be presented.

It is crucial to remember that:

- **whatever the application, the court should always be provided with full, up-to-date information about a child's circumstances; and**
- **the final decision is for the court, so all concerns must be reflected in the reports to allow the best one to be made for the child.**

LEGISLATION AND ABBREVIATIONS

There are various pieces of primary and secondary legislation which are crucial to child care cases and are mentioned throughout the guide. They are listed below with the abbreviations used in the text. Other legislation is mentioned in full where it occurs. Some other abbreviations are also listed.

ECHR	European Convention on Human Rights 1950, brought into UK law by the HRA 1998
Hague Convention	Convention on Protection of Children and Co-operation in respect of Intercountry Adoption concluded at The Hague on 29 May 1993
1958 Act	Matrimonial Proceedings (Children) Act 1958 This is the Act under which courts often ask for reports from local authorities in private law cases, sometimes referred to as 'Mat Pro Reports'.
1995 Act	Children (Scotland) Act 1995
DPA 1998	Data Protection Act 1998
2002 Act	Adoption and Children Act 2002
2007 Act	Adoption and Children (Scotland) Act 2007
PVG Act 2007	Protection of Vulnerable Groups (Scotland) Act 2007
2011 Act	Children's Hearings (Scotland) Act 2011
OCR	Act of Sederunt (Sheriff Court Ordinary Cause Rules) 1993 These are the sheriff court rules which apply to private law family cases, originally made in 1993 and considerably amended since then.
RCS	Rules of the Court of Session 1994 These are the court rules covering all cases in the Court of Session, originally made in 1994, and considerably amended since then. Family actions are dealt with in Chapter 49 and adoption and permanence cases are dealt with in Chapter 67, although other provisions in the RCS are applicable for general matters.

2009 Regulations	Adoption Agencies (Scotland) Regulations 2009 These are SSI 2009/154 and have been amended by the Adoption Agencies (Scotland) Amendment Regulations 2010, SSI 2010/172.
Foreign Adoptions Regulations 2009	Adoptions with a Foreign Element (Scotland) Regulations 2009, SSI 2009/182, amended by SSI 2010/173 and SSI 2011/159. These cover all overseas adoptions – see Chapter 9.
Sheriff Court Adoption Rules 2009	Sheriff court rules for 2007 Act cases These are in the Schedule of the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009, SSI 2009/284, as amended.
CSO	Compulsory supervision order
PO	Permanence order
POA	Permanence order with authority for adoption
PRRs	Parental responsibilities and rights
r. or rr.	Rule/rules
reg. or regs.	Regulation/regulations
s. or ss.	Section/sections of an Act
SI	Westminster Statutory Instrument, e.g. regulations
SSI	Scottish Statutory Instrument, e.g. regulations

PRINCIPLES WHICH APPLY IN DIFFERENT CASES

The writer of a social work report should bear in mind the principles outlined below when preparing the report, and remember that the court will also have to make its decision using the same principles.

In reaching **any decision about adoption**, courts and adoption agencies have duties to follow certain principles, set out in ss.14 (in Appendix I) and 28(2) of the 2007 Act. They must:

- treat the child's welfare throughout his/her life as the paramount consideration;
- have regard to the views of the child, so far as practicable and taking account of his/her age and maturity;

- have regard to the child's religious persuasion, racial origin and cultural and linguistic background so far as is practicable;
- not make arrangements or an order for adoption unless the arrangements/order are/is the best thing for the child;
- have regard to the value of a stable family unit in the child's development; and
- have regard to the likely effect on the child of making an adoption order.

Similar principles apply to local authorities' planning for **POs and POAs**, under s.17 of the 1995 Act and the Looked After Children (Scotland) Regulations 2009. And they apply to court decisions in applications for both these orders, under s.84 of the 2007 Act, and under s.14 as well in POAs. They must:

- treat the child's welfare throughout his/her childhood (in POs) or life (in POAs) as the paramount concern/consideration;
- have regard to any views the child may express, so far as is practicable and taking account of his/her age and maturity;
- have regard to the child's religious persuasion, racial origin and cultural and linguistic background; and
- have regard to the likely effect on the child of making the order.

In private law cases, courts must also consider the same principles, in s.11 of the 1995 Act. They must:

- treat the child's welfare as its paramount consideration;
- have regard to any views as the child may express, so far as is practicable and taking account of his/her age and maturity; and
- have regard to the likely effect on the child of making the order.

They must also take account of the child's religious persuasion, racial origin and cultural and linguistic background so far as is practicable. This is not in s.11 of the 1995 Act but in an appeal judgement from the Court of Session: *Osborne v Matthan* 1997 SLT 811 (18 October 1996).

TYPES OF ADOPTION

There are two types of adoption:

- agency adoption, where the child is placed by an agency with prospective adopters who have been approved by it or another agency.

- non-agency adoption, where the child has not been placed for adoption by an agency. The adoption may be a relative or step-parent one, or by foster carers, or an intercountry case, or any other adoption.

TYPES OF ADOPTION AGENCIES

There are two types of adoption agencies:

- local authority adoption agencies; and
- registered adoption services, as defined in s.2(3) of the 2007 Act, that is registered voluntary agencies providing adoption services.

Every local authority must have an adoption service, s.1(1) of the 2007 Act. Registered adoption services must be voluntary agencies in terms s.59(3) of the Public Services Reform (Scotland) Act 2010. Both types of agencies are registered with and inspected by the Care Inspectorate, under the 2010 Act. Adoption agencies in England, Wales and Northern Ireland are agencies under the 2007 Act, for the purposes of placing children for adoption and report writing.

CURATORS AND REPORTING OFFICERS

In all adoptions, s.59 applications and POs and POAs, there must be further court reports from *curators ad litem* and reporting officers. Curators are appointed in all these applications and give overviews of cases, taking account of children's welfare as paramount and giving children's views. Reporting officers are appointed in almost every case. They are concerned with the agreement or otherwise of birth parents to adoption, and also seek the formal consent of children to adoption, when children are aged 12 or over.