

# **PREPARING SCHEDULE 2 REPORTS**

## **Introduction**

The purpose of these notes is to help social workers in England and Wales who have to write Schedule 2 reports in adoption proceedings.

Some people are dismayed at the thought of writing a Schedule 2 report. It can seem a mammoth task, and social workers often find it difficult to make time to do it. It seems a burden for which they see no reward. These notes are intended to make it a little easier.

A Schedule 2 report must be provided to any court which is considering a freeing application or an adoption application. This could be a magistrates' court, a county court or the High Court. The information required in the report is outlined in detail in Schedule 2 at the back of the Adoption Rules 1984\*

## **Why have I been asked to do this?**

The Adoption Rules 1984 came into operation on 27 May 1984 at the same time as other changes in adoption law and procedure, such as the introduction of 'freeing for adoption' and of new Adoption Agencies Regulations.†

Adoption law, and the regulations and procedures under it, are designed to protect children (as far as possible) from being adopted into inappropriate or unsatisfactory families. The requirement for reports under Schedule 2 enables the court to have full information about cases in advance of any hearing, giving it time to consider all the facts so that it can make the best possible decision, based on the 'welfare principle'.

The implementation of the Children Act 1989 in October 1991 brought about minor changes to adoption law and to the court rules, as well as considerable changes in practice. Concern about delays in adoption has given rise to further guidance from both the Department of Health (DH) and the courts (Children Act Advisory Committee Best Practice Guidance, July 1997). The Allocation of Proceedings Order\*\* provided for the way in which cases under the Children Act or the Adoption Act could be transferred between the magistrates' family proceedings court, the county court and the High Court.

A Schedule 2 report is designed to inform the court of all the important details about the child and her/his birth family, and also about the prospective adopters. It sometimes seems to the social worker as if the amount of detail required is excessive and repetitive, but the report is designed to cover the court's needs in all possible cases, and any of it may be vital when it comes to a hearing. In addition, the report asks the local authority to explain its actions or investigations in the case, and to set out its opinions and conclusions for the court to consider.

The report is different from a report by a guardian *ad litem*†† particularly in that it sets out the local authority's or agency's position. The Guardian must then comment on that. Also, the Guardian must scrutinise the Schedule 2 report, and give the court a second opinion, which may vary from that of the local authority or adoption agency.

## **When are reports needed?**

Schedule 2 reports are needed:

- in "freeing for adoption" applications, from the

\*Adoption Rules 1984, Statutory Instrument 1984 no 265, HMSO. (Amended by the Adoption (Amendment) Rules 1991 S1. 1991 no 1880 HMSO.) Magistrates' Courts (Adoption) Rules 1984. Statutory Instrument 1984 no 611 (L.5) HMSO (Amended by Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991 S1. 1991 no 1991 HMSO.)

†Adoption Agencies Regulations 1983. Statutory Instrument 1983 no 1964, HMSO.

\*\*The Children (Allocation of Proceedings) Order 1991 Statutory Instrument 1991 no 1677 HMSO.

††Since April 2001, the title "guardian *ad litem*" has been replaced by "children's guardian".

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adoption agency applying for the freeing order (rule 4(4));

- in adoption applications, from the agency which placed the child (rule 22(1));
- in adoption applications when children have not been placed by an agency, from the local authority which has been notified under s.22 (1) of the Adoption Act 1976 of the applicants' intention to adopt (rule 22(2)).

#### **Freeing application (Rule 4(4))**

When an adoption agency applies for an order freeing a child for adoption it is asking for parental responsibility to be transferred to the agency. The agency must include three copies of its Schedule 2 report when lodging a freeing application.

If the adoption agency is a local authority, the child is usually already looked after, and there will be a social worker allocated to the case who should have background knowledge about the decision to apply for a freeing order. There may also be a family placement worker who knows a good deal about the prospective adopters (if they have already been identified). These two people will have to collaborate in preparing the Schedule 2 report.

Where a local authority has asked a voluntary agency to find a family for a child, collaboration will be needed in preparing the report. The degree of this will depend on the extent of the task allocated by the local authority to the voluntary agency and whether this includes work with the child, perhaps with an assessment or preparation for placement. One or both adoption panels will already have considered the child and Form E should contain most of the information needed.

When two or more workers have to collaborate in writing the report, it is more satisfactory if one of them takes on the role of "editor" and collates the information, puts the report together, makes copies, and submits them to the court. It must of course be made clear to the court which information is contributed by which worker.

#### **Children placed by an adoption agency (Rule 22(1))**

When a child is placed for adoption by an adoption agency, that agency must let the court have three copies of a Schedule 2 report within six weeks of receiving notice of the hearing. This gives the Guardian or reporting officer time to complete their task and provide their report. The court should be consulted if anything is unclear about the application

or there are exceptional reasons preventing the completion of the report on time.

Once again there may be one, two or more social workers who have to combine their efforts to produce the necessary information. An assessment of the suitability of the prospective adopters for the child needs to be included.

#### **Local authority notified of an adoption application (Rule 22(2))**

Under section 22(1) of the Adoption Act 1976, applicants for an adoption order (where the child was not placed by an adoption agency) are required to notify their local authority of their intention to apply for an adoption order. In such cases, the child becomes a "protected" child, and the authority must (under section 33 of the Adoption Act 1976) provide welfare supervision until an order is made.

These cases are likely to fall into one of the following categories:

- Step-parent adoptions, where one of the child's birth parents together with his or her new spouse, applies for an adoption order;
- Adoption by close relatives;
- Adoption of a child from overseas;
- Adoption by private foster carers;
- Adoption by local authority foster carers whose application has not been endorsed by the placing agency.

All of these raise particular issues and, in the case of adoption of a child from overseas, many additional issues to address – such as the appropriateness of any transracial placement, racism the child may encounter in the extended family or community, and the lawfulness of the child's entry to the UK.

Under an amendment made to the Adoption Act 1976 by the Children Act (Section 22(1)(A)), the would-be applicants must give notice to the local authority not more than two years before their application is lodged with the court. Unfortunately, there is no minimum period between giving the notice and making the application, but there must be at least three months between the notice and the making of an adoption order. Rule 22(2) requires the local authority to submit the Schedule 2 report within six weeks of receiving from the court a notice of hearing under rule 21. Many of the families covered by this section are not previously known to the local authority, and a social worker new to the family must begin to get to know them, invite their trust and report on the application in what may be little more than six weeks. A tall order!

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Usually, where the child is “protected” and there is a welfare supervisor, the social worker carrying out the welfare supervision will prepare the Schedule 2 report. Because the report must be submitted within six weeks of the notice of hearing, and there may be many complicated matters to investigate, it is important that a social worker be allocated as soon as possible after the notification is received. Where there are staff shortages, and considerable pressure of work, this is often difficult. But it has to be remembered that these children may be as much in need as children brought to the notice of a local authority in other ways. Under s.22(3)(b) of the Act, the local authority has an obligation to investigate whether the placement was lawful. If there is a possibility that it was not, it is better for this to be discovered as soon as possible, and legal advice sought.

### **Sources of information for report writers**

A great deal of information is needed to complete a Schedule 2 report properly. Much of it is detailed, and it needs to be accurate. Thorough checking of hearsay data is essential; inaccurate information can cause difficulties for the social worker in court and even discredit the whole report. In addition, an adopted person who later sought factual information from the report could be seriously misled. Where hearsay information is included it should be identified as such.

### **Children and their families known to the adoption agency**

For these cases there will be files full of information: care records, copies of birth certificates, handover reports, BAAF Forms E (*Details of a child needing family placement*) and A (*Medical report on birth parents*), court reports from previous hearings, assessment reports by other professionals, review forms. Nevertheless, be cautious! Much of the information in local authority files will have been garnered at times of crises, in emotional situations and when mutual trust between the social worker and client may well have been absent. The data may be very subjective and even inaccurate, and its sources may need to be examined by checking against documentary evidence such as birth certificates and hospital, court or prison records. The children (if they are of a suitable age) and their parents can, of course, provide a lot of information.

### **Adopters approved by an adoption agency (including many intercountry adopters)**

Adopters who have been approved by an adoption

agency will have adoption files usually containing:

- the original letter asking to be considered as adopters;
- an application form to the agency;
- BAAF Form F, or other adoption panel report;
- medical report;
- a copy of the relevant certificates, e.g. marriage or death certificate or divorce/separation order;
- assessment records by adoption worker;
- references.

Other material submitted to the Adoption Panel may come in useful, and information provided by the adopters themselves is invaluable.

### **Families not known to an adoption agency or local authority**

In these cases the writer of the report must start from scratch. It is often helpful when explaining the position of the welfare supervisor (and Schedule 2 writer) to show the family the Schedule 2 format, which explains the need for detailed information. A simplified version can be given to the family so that they can read it through and discuss it before the next visit and, if appropriate, put some of the information in writing ready for the next meeting. This gives a basis for further discussion and obviates the need for long question-and-answer sessions.

Again, second-hand information needs to be checked. Where there may have been an acrimonious divorce, information (such as an ex-husband’s criminal record, or an ex-relative’s mental illness) needs to be verified very carefully, and not included where there are doubts about the truth of the statements.

Ask the family in advance for as many documents as you are going to need, so that they will have time to find them.

### **The report itself**

If you are writing about a group of brothers and sisters, you must write a separate report about each child. A lot of it may be repetition, but each child deserves her/his own report, with personal variations.

Keep the format (at the back of the Adoption Rules) beside you as you write, and it will guide you. If there are any Forms E, F, A, and medical forms, have them handy too.

Use the headings and numbers exactly as they are given to you, but do not just use the numbers and

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letters with a single word answer. Make each into a sentence so that it makes sense on its own. It seems very repetitive, but it is necessary. Remember that sections of the report may be read independently. Start each section on a new page.

These notes now take you through the report section by section.

## **1 The child**

- a)** You will need to see a copy of the birth certificate (or some other legal document in, say, intercountry adoptions) to verify the basic facts.
- b)** If the child's parents were not married at the time of his or her birth, the father will not have parental responsibility, unless he has acquired it either by formal agreement with the mother or by court order. A child is legitimated if the parents subsequently marry. A child born to a married woman is presumed to be the child of the mother's husband unless there is proof that the husband could not be the father. Occasionally, a mother may make a sworn statement that her husband is not the father of the child, but if this is the case you should take legal advice on how to complete this section.
- c)** "Nationality" is a legal term, not a descriptive one. If it is an adoption from overseas, you may need to verify the nationality by seeing a passport. A child's nationality will usually depend on that of his or her parents but the country of birth will often be relevant also. You may need to consult the Home Office for accurate information, or to obtain legal advice from someone with knowledge of the nationality laws of the parents' country of origin.
- d)** Try not to be too subjective in describing the child. Maybe she/he can help you by describing her/himself. Give factual details of height, build and any special distinguishing features, but avoid such words as "pretty", "appealing" or "undersized". The court will usually see the child for itself.
- e)** You may need some help from carers in describing a child's personality. A shy child is hard to get to know, and a boisterous child may not display the more subtle sides of her/his personality to you. Social development is easier, and (up to five years old) you can measure this against Vera Fahlberg's "developmental milestones".\*
- f)** The religion of a child is understood to be the religion of the child's parents – unless the child has made a conscious choice her/himself. You may need to refer to a religion not familiar to you. There may have been ceremonies in the child's life, such as a baptism or a barmitzvah, which you will need to acquaint yourself with.
- g)** In describing any legal proceedings or orders relating to the child, you may need the assistance of your legal department. If possible, ensure that you see copies of the relevant orders.
- h)** Include half-brothers and half-sisters under this heading. Try to verify the proper names and dates of birth of all siblings, and what arrangements or orders have been made for their care or residence. People are not always clear about these things, and you may need to check the facts with the relevant local authority legal department or with court records.
- i)** Find out all the relatives that the child sees or has contact with. In order to assess relationships, you need to talk to the child, and also to carers who may have observed such access.
- j)** Give a chronological list of placements, describing what sort of care was provided in each, and what kind of bonds and attachments were made.
- k)** If the child is already with prospective adopters, give the date the child was placed, and whether it was originally a fostering placement, a placement approved by the adoption panel, or a non-agency placement.
- l)** Give an educational history including any comments from teachers, both now and in the past. Do not try to make an assessment yourself of educational attainments – get one from the current teacher.
- m)** In describing the child's health, remember that your medical adviser will be compiling the summary and comments under paragraph 7(a) (or that a Schedule 3 report will have been submitted in a non-agency application). Your task is to describe any special needs of the child – medical, social or educational.
- n)** It is important to investigate what financial rights, interests or claims the child may have. If you think that there may be any, check the legal situation with your legal adviser.
- o)** In order to understand the child's wishes and feelings in the matter of adoption, you will need to spend time with the child, probably at least some of it alone. You will need to find ways of allowing the child to speak freely; you should also observe non-verbal indications of the child's

\*See Fahlberg, V (1994) *A Child's Journey through Placement*, BAAF

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attachments and the nature of those attachments. This is a very important part of the report, and the court will wish to know that you have spent time assessing the child's views. Your assessment should be based on your own observations, and not simply on asking the child directly or accepting the views of others.

- p) Other relevant information you should consider is the child's view of her/his ethnicity and culture, and background; the child's understanding of the events in her/his past; and how she/he is likely to adapt to a new environment.

## **2 Both birth parents – including fathers without parental responsibility**

Each parent should be described separately. The facts about a putative father are very important even if he does not have parental responsibility (for the child's information, as well as for the court) and should be established whenever possible. This may be a very sensitive issue, particularly in a step-parent adoption; however, the mother must be told that information about the birth father is needed, and that it is best if he is interviewed.

- a) Try to verify full names, dates and places of birth.
- b) Before giving a person's marital status, check marriage details (with a marriage certificate if possible) and divorce details, with dates.
- c) The quality of the relationship between the birth parents should be described, including any separations, violent incidents and injunctions as well as any caring and loving episodes. In commenting on the stability of the relationship, avoid guessing how long it will last – simply give an indication of how well-established it is, and whether it fulfils a need for either parent.
- d) As with describing the child, try not to be too subjective in describing the parents. Think what the effect of what you say may be on the adopted person, if she/he comes back and finds this report when you are no longer there to explain what you meant.
- e) Do not make unsubstantiated judgements about the parents of a child. It is unfair and could get you into difficulty in court. Try to reach a balanced view about the parents' personalities. Bear in mind that the court is likely to allow parents to see this part of your report (Rule 53(2) Adoption Rules 1984).
- f) A person's religion is not only what they practise now, but also what ceremonies (such as baptism) they have participated in and what religion their family of origin practised.

- g) Educational attainments should include not only examination results and qualifications, but also the kind of school attended, the degree of literacy reached and particular skills acquired.
- h) A history of employment (or a reason for non-employment) should be given. Also comments about any hobbies or special interests.
- i) Details of the extended family will give an idea of the social, educational and cultural background of the child and parents.
- j) The wishes and feelings of people about the proposed adoption should not be too difficult to elicit. Feelings about the religious or cultural upbringing of the child need to be noted, as does a lack of interest in the matter. Section 7 of the Adoption Act 1976 requires an adoption agency 'to have regard ... to any wishes of a child's parents and guardians as to the religious upbringing of a child'.
- k) It is not satisfactory to say that certain facts are 'not known'. You need to explain why not. Give details of what efforts you have made to trace people you have not been able to contact.
- l) Other relevant information might be general facts about conditions in the country of origin (for a child from abroad), or the particular circumstances of a parent who consents reluctantly to the adoption.

## **3 Guardian(s)**

This refers to guardians under the Children Act 1989 or any previous legislation such as the Guardianship of Minors Act 1971 (i.e. not a person with a residence order but a person appointed as a guardian where a child's parent has died). This is not to be confused with the new term "Children's Guardian" which replaces the term "guardian ad litem".

- a) You must interview any guardian and give details as for the parents under paragraphs a), f), j) and l).

## **4 Prospective adopters**

If one of the adopters (as in a step-parent adoption) is a birth parent, you do not need to repeat the information here, but merely state the fact.

- a), b), c) and d) are basic details, required as for the child and birth parents.
- e) In a step-parent adoption, you will need to have discussed with the applicants why they do not wish to apply for a residence order.
- f) Section 15(3) of the Act prevents the court making an order on the application of one parent alone unless the other parent is dead or cannot be

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found, or there is some reason to justify excluding the other parent, and the court must record the reason.

- g)** A married person cannot adopt without his/her spouse unless the court is satisfied that the spouse cannot be found, or the couple are permanently separated, or that the other partner is physically or mentally ill and cannot therefore apply.
- h)** and **i)** are as for the child and the birth parents.
- j)** This is an important section. It is particularly relevant if this is a cross-cultural or transracial placement. Try to find out what the prospective adopters really intend to do, not just what they say they will do.
- k)** and **l)** are as for the child and birth parents.
- m)** Try not to be subjective and judgemental in this section. Confine yourself to facts. Consider home ownership and facilities in the neighbourhood as well as size, condition and state of the house and garden.
- n)** Details of income and expenditure should be given, including benefits, allowances and unusual expenses – such as a particularly large car for a big family.
- o)** and **p)** are self-explanatory.
- q)** You will need to interview all other members of the family individually to complete this section.
- r)** In order to assess prospective adopters' ability to bring up children, you will need to make some sort of assessment of the stability and development of any other children in their care. This need not be a study in depth, but needs to be a credible comment.
- s)** Some of the applicants' understanding of the nature of adoption may have come from you, the writer of the report. You need to be sure that the full significance of parental responsibility is clear. Particularly in a step-parent adoption, the facts that a birth mother will share her responsibilities equally with her husband and will be shown on the new birth certificate as the adoptive mother, need to be explicit.
- t)** and **u)** Consider whether prospective adopters have realistic expectations of the child; how they will cope with the adolescent years; and whether they expect the child to succeed where they failed, or follow them into a career or business. Include consideration of the adopter's willingness to discuss with the child his or her birth family and heritage.
- v)** Under the Adoption Allowances Regulations a decision about any adoption allowance which is to be paid must be made before the order is made.

Check this with adoption panel minutes and the file.

- w)** Personal referees are not required in relative or step-parent adoptions. Police references about adoption applicants in agency cases will have been taken up by the agency. In non-agency cases, the local authority is required to make enquiries of the police in respect of the applicant(s) and adult members of the household.\* Clearly, any relevant conviction or caution should be included in the report.
- x)** Other relevant information might include the attitudes of prospective adopters to people from different ethnic backgrounds, to the birth parents and to the history of the child; and the length of time prospective adopters have already cared for the child, and their relationship with her/him.

## **5 Actions of the adoption agency or local authority**

- a)** Reports with 'freeing for adoption' applications or agency placements:
  - i)** An account of an agency's actions must include mention of all counselling undertaken, and who took the initiative in suggesting adoption – the agency, the birth parents, or the would-be adopters. It must also include a record of all notices and written information given. This needs a careful perusal of the file and/or adoption panel reports.
  - ii), iii) and iv)** These details should be available from adoption panel presentations.
- b)** Reports where the local authority has been notified:
  - i) and ii)** These facts can be very brief.
  - iii)** Section 11 of the Adoption Act 1976 prohibits the private third-party placement of a child for adoption, except with a close relative.

## **6 Generally**

- a)** This section is for informing the court if there is any question of a respondent being a minor (i.e. under 18). It also gives an opportunity for the report-writer to comment on any learning disability or concerns about the mental health of a respondent. You should have medical evidence to support this information.
- b)** This section allows agencies to suggest whether any other person should be made a respondent. It is unlikely that this will not already have been

\*See Children (Protection from Offenders) (Miscellaneous Amendments) Regulations 1997 SI 1997/2038.

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dealt with, but if in doubt consult your legal adviser.

## 7 Conclusions

- a) This section must be completed by your agency's medical adviser. In the case of non-agency applications (other than step-parent cases) the court will also have the health reports under Schedule 3 filed by the applicants. In the case of agency applications, none of this detailed information will have been provided to the court. The purpose of this section of the report is to enable the court to know and understand the implications of any relevant medical conditions of the child, birth parents and prospective adopters. This will include consideration of the implications of absence of information, for example, where there is no medical history of the birth father, and of factors which may affect the life expectancy of the adopters or the child.
- b) Give an opinion about whether adoption is in the long-term best interests of the child, with reasons.
- c) Give a brief summary of the effects of the adoption on the birth parents.
- d) Give your opinion on how the adoption will affect the adopters in the long-term.
- e) Your view on whether a residence order would be a better option, and if so, why. This will be particularly important in step-parent cases.
- f) A concluding statement of whether or not an adoption order should be made, and if not, what you would propose.

## Pitfalls and problems

- When writing a Schedule 2 report for each of several siblings, it is easy to overlook differences in parentage, legal status, history and special needs. Remember to see them as individuals.
- Be wary of treating something as a fact simply because it is often repeated in the files. If in doubt, check it.
- Information which is given to you by one person about another may be incorrect, so try to get the information directly from the individuals concerned.
- Occasionally circumstances change between the writing of your report and the hearing. This may seem very alarming, as you may feel your report is no longer valid; but don't worry – you have the option of submitting an addendum to your report, or bringing it up to date verbally in court. If you have important information in advance of the hearing which substantially affects your

recommendations, it is important that you submit this as early as possible.

- If you are not recommending an adoption order, or if there is a major difference of conclusion between you and the Guardian or any of the parties, you may need legal support in court. You should press for this, if it is not readily forthcoming.

## What happens to the report?

All the following may read the report.

### The court

The court sees both the Schedule 2 report and the Guardian or reporting officer's report in advance of the hearing. This means that the judge or magistrates (and the clerk of the Court, who advises the magistrates) should have time to study the facts and opinions in those reports, and consider them, before any evidence is presented. The Schedule 2 report, of course, is submitted weeks before any hearing, and the Guardian's report should also be received in good time for the court to consider it.

The court is entitled to ask for a further report from the Schedule 2 writer, if it is felt that all matters are not covered sufficiently. The court may then indicate what particular aspect it wants the report to expand upon.

The Schedule 2 writer may well be asked to give evidence about the report in court. If this worries you, remember that your employer (the agency or local authority), as a party to the proceedings, is entitled to be legally represented at the hearing.

### The Children's Guardian or Reporting Officer

When the report is submitted to the court, a copy is sent to the Guardian or reporting officer. This is the only person (outside the court) who is automatically given the whole report.

The Guardian or reporting officer will normally use the report as a start to their investigations. Usually, therefore, they do not begin to work on the case until the Schedule 2 report is received. It is quite common for the Guardian or reporting officer to raise subjects referred to in the report with the applicants, the parents or the child.

If the Guardian discovers further information about a person or the situation generally, she/he may want to discuss it with the Schedule 2 writer. If you also wish

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to make more enquiries and submit an addendum to your Schedule 2 report, you may do so up to the date of the hearing.

### **People involved in the adoption proceedings**

A birth parent or prospective adopter – or the child in the High Court – may be allowed, by a direction of the court, to see all or part of the report, particularly those parts which refer to them (Rule 53(2)).

Remember to start each section of the report on a fresh page, so that the report can be easily divided and parts of it distributed if necessary.

### **The adopted person**

In time the child may read the Schedule 2 report. A very important point to remember is that the report will remain on the child's adoption file. This file must be kept for 75 years (Adoption Agencies Regulations 1983). If the adopted person comes back to the agency for information as an adult, it will often be this document which contains the most useful summary of all the information. It may well be that from it the adopted person will form an impression of her/his origins and family and the reasons for the adoption. Every word should therefore be written with this (as well as the court hearing) in mind.

Once submitted, the Schedule 2 report is the property of the court. Copies of it, therefore, may not be given to anyone, except by order of the court. This is not to say that, before it is submitted, the contents may not be discussed with any or all of those reported on. The copy retained by the agency or local authority will, of course, be subject to the same confidentiality as all adoption records, and be kept in a secure place.

### **Summary**

- The purpose of the Schedule 2 report is to ensure that the court has all the necessary details in advance of the hearing.
- The report will be read by the Guardian, and possibly all the people referred to. Start a new page for each section.
- Be thorough. Check facts. Do not be judgemental or too subjective in your descriptions.
- Be sensitive to underlying feelings of anxiety, particularly in people who have never before been visited by a social worker. Explain your role, and enlist their help wherever possible.
- The report may take anything between ten and 15 hours to write, depending on how much accurate information has already been collected.

*This edition has been revised by Deborah Cullen, Legal Group Secretary, BAAF and is based on an earlier version prepared by Vivien Biggs in 1989.*

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