

SECTOR-WIDE GUIDANCE ON WRITING A SECTION 7 REPORT

USING THE NATIONAL TEMPLATE

LEGAL FRAMEWORK

1. Section 7 reports are those reports ordered by the court further to Section 7 (s7) of the Children Act 1989, which says that a court considering any question with respect to a child under this act may:

- (a) ask an officer of Cafcass or Cafcass Cymru, or
- (b) ask a local authority to arrange for (i) an officer of the authority or (ii) such other person as the authority considers appropriate e.g., an independent social worker, to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

2. The report can be oral, or in writing depending on what the court orders. The court may also write clear instructions/directions into the court order about the specific issues they want to hear about and this is preferred judicial practice set out in the Child Arrangements Programme 2014. In cases of domestic abuse and violence particular regard should be given to the requirements of the Family Procedure Rules PD 12J.

3. The matters which need to be addressed and how the welfare officer carries out their duties is contained within the Family Procedure Rules 2012 (PD16A Part 6), which sets out the following duties:

- Contact or seek to interview such persons as appropriate or as directed
- Obtain such professional assistance available if considered appropriate or ordered
- Notify the child of the contents of the report (as considered appropriate in accordance with the child's age and understanding and in a manner appropriate to the child's age and understanding)
- Attend hearings as directed
- Advise court of the child's wishes and feelings where these are ascertainable
- Advise court if a child should be joined as a party to the proceedings
- File the report and serve copies on the parties in accordance with the court timetable

4. The Social Worker/Family Court Adviser who is preparing a s7 report is obliged by rule 16.33 of the FPR to have regard to the principle that delay is prejudicial to the child's welfare and she/he also has to have regard to the welfare checklist.

5. As with court reports in care proceedings, s7 reports should be cross-referenced to other relevant reports, such as carer assessments, reports from professionals who know the child and/or family.

SOCIAL WORK DOMAINS

6. Most reports will be commissioned because of concerns about a high risk of harm and/or a risk of high conflict within the family which has a damaging impact on a child. Historically, these court reports put the emphasis on the welfare checklist, which is consistent with the prevailing terminology at the time. For social workers writing court reports today, it is better to think of domains of child protection (safeguarding), child development, child mental health and dispute resolution.

SAFEGUARDING/CHILD PROTECTION – CHECKS

7. The Child Arrangements Programme includes mandatory police and local authority checks on applicants and respondents in those family court cases likely to be subject of a s7 report. This is an essential safeguard.

DISPUTE RESOLUTION

8. Many reports ordered by the court are ordered because of a high level of conflict between the child's parents and/or carers. A core skill in court welfare work is dispute resolution. This is an umbrella term for related disciplines including the various models of mediation, such as therapeutic mediation and child-inclusive mediation; family meetings and family group conferences; and negotiations. Care should be taken to assess for suitability and viability first. Some family situations, particularly those involving serious violence or the potential for serious violence, are unsuitable for dispute resolution until such time as the risk reduces to a safe enough level for the vulnerable child/children/adults concerned.

PRACTICE ISSUES

9. Practice needs to be authoritative, for two main reasons. Firstly, time to complete your report may well be short and each interview matters. Social Workers and Family Court Advisors need to be clear with parties to the case and with others they talk to, what the purpose of their contact and interview is and how the process will go e.g. an adult attachment interview, a restorative justice focus etc. Interviews with parents are likely more often than not to take the form of 'courageous conversations' in which established views are challenged so that either conflict can be reduced, domestic abuse is assessed and that the parents and/ or carers have a greater understanding of their child's daily lived experience and wishes for the future. A strong focus on the child is crucial whilst still listening to parents and carers about their concerns and to show empathy with them.

10. Secondly in the situations practitioners face, parents and carers can show high levels of anger and distrust, as well as a lack of emotional readiness to focus on what is best for the child. Techniques such as motivational interviewing and mentalisation aim to reduce the temperature and level of conflict so that more responsible communication can take place. In short, you are trying to build relational capability.

11. A major safeguarding issue in private law cases is the importance of protecting the child from emotional harm that can accompany relationship breakdown, where there are high levels of conflict, domestic abuse and continuous post-separation conflict which makes safe dispute resolution hard to achieve. This can include protracted litigation and also correlates with higher than usual rates of non-payment of child support (Kelly, 2000). In extreme cases, children are 'weaponised' and are recruited by one or both parents as 'child soldiers' (a term used by Mrs Justice Parker). You should routinely consider which of any linked suite of assessment tools might support your work on this case as the tools help you to establish the level and impact of behaviour such as parental conflict and parental alienating, as well as helping you to assess whether contact is safe to go ahead and on what basis.

12. Whilst every child is unique, children can be classified into vulnerable groups for the purpose of considering most section 7 applications, with the emphasis being put on reducing the child's vulnerability and exposure to conflict and harm :

- Children who experience domestic violence and/or abuse, where the impact on them will be painful and frightening.
- Children whose mental health is at risk because they are living in a situation of high conflict for some time
- Children who resist contact, either because that is their choice for reasons they are clear about or because they have been 'alienated' by one parent against the other
- Children where there are allegations of sexual abuse
- Children who need safe permanent care with an authorised carer within a legal framework

13. Social workers and family court advisors have a responsibility to assist courts with case management, especially in protracted cases or cases that risk becoming protracted. Your responsibility is to be clear about the child's timescale for when decisions need to be made and when the actions you recommend should be taken.

14. Courts now use very few experts so you will be expected to demonstrate advanced social work expertise and to answer many of the questions that would in previous times be put to experts. Social Workers and Family Court Advisors are the voices of the child in court and experts about the child. That does not mean you should give a professional opinion on a matter you are neither qualified nor experienced enough to comment on. Care should be taken to give your professional view about how important 'facts' are both to the child or the determination of the case by a judge or magistrate, to assist the court in determining whether in exceptional circumstances a fact finding hearing or further evidence is necessary.

DOMESTIC ABUSE AND VIOLENCE

15. Please note that where domestic abuse is a feature in the history of the case the court has particular requirements and you should ensure that any report understands and addresses the requirements of Practice Direction 12J (see Domestic Abuse Additional Guidance).

16. Before you write your report ensure you are familiar with any current national or local guidance in respect of factors to be taken into account when determining whether to make child arrangements orders in such cases where there has been domestic abuse. To assist social workers and family court advisers in the risk assessment of domestic abuse in private law proceedings CAFCASS have published a Practice Pathway: a structured approach to risk assessment in Domestic Abuse. In addition, local authorities will have professional support and additional guidance available to social workers.

COMPLETING THE TEMPLATE

BASICS

17. Please use paragraph numbers within each section of the template to enable the reader to be able to reference your report with ease.

18. Ensure that a signed and dated version of the report is sent to the court, and added to the child's records. Check whether you are also required to serve the report on the parties to the proceedings.

Section 1: Family Profile

19. Make sure to indicate which of the adults and children listed are parties to the proceedings, and the subject of the application/ report.

20. In some cases a genogram may assist to understand the dynamics in the family – if so incorporate a genogram into the report, but only where relevant to the issues to be determined.

SECTION 2: SUMMARY OF APPLICATION AND MAIN ISSUES

21. Stating clearly the nature of the application before the court, and defining the issues in the case, will inform the reader so that they do not have to speculate as they read your report, nor will be they as tempted to turn to your conclusions and recommendations without reading through your case analysis as a whole.

22. Identify issues which have emerged from your enquiries. The issues are not always the same as the application. For example, whilst the application may be for a Prohibited Steps Order, the issue in the case may be the controlling behaviour linked to personality problems of one parent. Or the application may be for a Child Arrangements Order, with the issue in the case being whether a parent's drug use is sufficiently stabilised to allow for safe enough parenting. In nearly all cases, there is not one single static factor but several dynamic factors combining, so the issues are nearly always about whether damaging factors for children can be sufficiently mitigated.

SECTION 3: ENQUIRIES UNDERTAKEN FOR THIS REPORT

23. This section should include an outline which :

- Lists all the documents you have read in preparation for writing the report.
- References any reports/statements you have not read, which might be considered to be of significance, for example if you have not had sight of the court bundle or an expert report.
- Lists the meetings, appointments and phone conversations you have had with the child/ren, parents, family members and professionals.
- Refers to police and local authority checks undertaken.

24. In this section set out key and relevant information that arose in your contacts with family and professionals, be selective to highlight information that matters, rather than simply providing a narrative account. Information arising from any meetings with the child should be contained in the child impact analysis.

SECTION 4: THE RELEVANT CHRONOLOGY

25. The chronology should contain only those incidents or sequence of incidents which are relevant to the application or to the situation the child faces, and which are essential to the understanding of the issues for the child and their vulnerability.

26. Where there are numerous examples of a specific incident, the incident itself should be recorded with the dates of identical or similar incidents inserted in brackets after the brief description.

27. It is essential to comment on the significance of the incident or sequence of incidents with reference to the impact on the child or the carer of the child. It is often the emotional or psychological timeline for the child that matters most, more than the incidents between parents and/or carers, except in so far as they impact on the ability to offer care for the child.

28. You should note in the final column the source of the information and whether the incident is agreed or disputed by the parties.

SECTION 5: CHILD IMPACT ANALYSIS

29. All reports must start with the child and stay with the child. The child should ‘leap off the page’ because it is the depth of understanding about the child that adds most value not just for the child but for the court. The court can usually hear the adult perspectives in the case from other sources, notably the adults themselves in submissions, schedules of findings etc. For you, when approaching your professional task and because you will only have limited time, the adult narratives are relevant mostly only in terms of what they mean for the development, health and well-being of the child in question.

30. Traditional welfare reports often understated child protection concerns, particularly the incidence and prevalence of domestic violence. As a result, many children and vulnerable parents were insufficiently protected by a style of social work that could not ‘see’ hidden harm and violence, including its impact on a child. Any cases involving domestic abuse and violence must consider any harm which the child, and the parent with whom the child is living, has suffered as a consequence of that violence or abuse, and any harm which the child, and the parent with whom the child is living, is at risk of suffering if a child arrangements order is made.

31. The impact on the child of the proceedings, and what is being asked for by the parent/carers, should be assessed. You should demonstrate an understanding of what it is like to be the child every day. That will inevitably draw you as a practitioner into understanding the nature and quality of the child’s attachments and any risks the child has faced or might continue to face.

32. As part of your child impact analysis, consider the impact of the dispute on the child or children in terms of the adverse or purposive impact of delay; whether the current proceedings is escalating tension or worsening/hardening positions and relationships; and what can be done to bring the proceedings to the speediest possible safe and productive conclusion.

33. You can draw upon victim impact statements to think about child impact, and also assess the child’s resilience level, how that varies and what sources of support are available for the child, if any.

34. The welfare checklist remains the reference point in law. When writing a report, you should consider those sections of the checklist which are relevant to a particular child. You should analyse within those factors the relevance and the vulnerability that results for that child, if indeed it does. The emphasis throughout your report should be on the impact of family circumstances and the family environment on the child in question.

35. Specifically the following welfare checklist factors should be considered in this section where they are relevant (and only if they are relevant):

- The wishes and feelings of the child concerned
- The child’s physical, emotional and educational needs
- The likely effect on the child if circumstances changed as a result of the court’s decision

- The child's age, sex, backgrounds and any other characteristics which will be relevant to the court's decision
- Any harm the child has suffered or may be at risk of suffering

SECTION 6: EVALUATION OF THE EVIDENCE

36. This part of the report allows you to reference and address the capability of the child's parent/carers, or any other person the courts find relevant in meeting the child's needs (so addressing section (f) of the welfare checklist).

37. It helps to narrow or unbundle the issues raised by parents and to get to the heart of what matters for the child and how the parents/carers can best respond to their child or children's needs. You will be assessing parental capacity in this respect and the capacity to change. Where change is complex and needs time and support, you should use the recommendations section in the report template to set out any additional professional intervention you think is needed.

38. In evaluating the evidence your professional judgment should be derived from the factors in the case you assess to be most significant. At the heart of your judgment should be what you see as the best way forward for the child. You should give clear reasons. There is no need to repeat earlier sections of your report, especially narrative.

SECTION 7: RECOMMENDATIONS

39. In this section you will be considering the range of options available to the court (per section (g) of the welfare checklist).

40. Your recommendations should be as detailed as the situation facing the child warrants. They can be recommendations about the legal framework for the child, the quantum of time you think a child should spend with each parent/carer or the behavioural changes, usually for parents, that will promote the child's healthy development. In relation to such behavioural change, it helps all concerned to be specific and to be the 'voice of the child', as well as the lead social work professional. The standard you should keep in mind is whether your recommendations will improve the child's quality of life, in the short-term and in the long-term.

41. The reference in the template to 'agreed future actions' by one or both parents, is that actions agreed upon are more likely to be implemented than recommendations which have neither been worked through with the parent/s nor bought into. In this respect, you are seeking a sustainable outcome for the child.

42. Finally, the reference to post-proceedings support is so that it is clear what support is needed to sustain any significant change in family dynamics or functioning and to ensure that the court order your proposed is effective. This is important as what you are proposing could well involve a substantial change programme for the child, the success of which will require the people around the child to think and behave differently. Such a level of change is difficult to make in the first place and difficult to sustain. That is where the support comes in. Support may be informal, or through a locally available programme or service. You should make yourself familiar with local available programmes and signpost or refer, depending on circumstances at the time