Review of Part 1 of the Children (Scotland) Act 1995 and creation of a family justice modernisation strategy

Response of the Children and Young People's Commissioner Scotland

Obtaining the views of a child

1 Should the presumption that a child aged 12 or over is of sufficient age and maturity to form a view be removed from sections 11(10) and 6(1)(b) of the 1995 Act and section 27 of the 2011 Act?

Children have the right to express their views and have those views given due weight when adults are making decisions that affect them, as outlined in Article 12 and General Comment 12 of the UNCRC. Article 3 of the UNCRC states:

> *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."*

This presumption should be replaced with a new presumption that all children should have the opportunity to express their views and, in line with UNCRC article 12 and General Comment 12, these should be given due weight in accordance with their age and maturity.

Paragraph 20 of General Comment 12 makes it clear that States should not begin with a presumption that any child is unable to express their views:

> *"States parties shall assure the right to be heard to every child "capable of forming his or her own views". This phrase should not be seen as a limitation, but rather as an obligation for States parties to assess the capacity of the child to form an autonomous opinion to the greatest extent possible. This means that States parties cannot begin with the assumption that a child is incapable of expressing her or his own views. On the contrary, States parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them; it is not up to the child to first prove her or his capacity."*

It is important that it is absolutely clear that the ability to give views is separate from the age of legal capacity. In our work with children with experience of domestic abuse, we found that the two concepts were often conflated, with the result that children under the age of 12 did not always have their views taken into account.

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2 How can we best ensure children's views are heard in court cases?

There needs to be a duty on the courts to seek the views of all children. Where this is not possible, the court must make clear why. A variety of means of giving their views are important. Some of the children we spoke to during our Power Up Power Down research told us that they would like to speak to the judge directly, but this won't be appropriate for all children. Where judges are speaking directly with children they must have appropriate training and they need to do this in a child friendly manner. This may mean a change to normal court procedures.

The use of Form F9, even in its amended form, is unlikely to be appropriate for most children. Children should be encouraged to use a variety of methods to express their views and should be supported in doing so by someone with appropriate training. This may be a child support worker or some other person who the child already knows.

We recognise that this presents a significant departure from current practice and that as a result, many amongst the judiciary and sheriffs will require training to do this well.

3 How should the court's decision best be explained to a child?

There needs to be a duty upon the court to ensure that the outcome and any orders are explained to children. This should include why the decision as made and also how the court took account of the views of the child. This needs to be done in a way which is appropriate for the individual child and provides them with opportunities to ask questions. A letter to the child is unlikely to be achieve this, although in providing a useful record the child can refer to in the future it may be useful in addition to a personal explanation. It may be that the court needs to seek support from other agencies to do this and it is likely that it will require specific training for judges. It is important that it is not left to one of the parties.

4 What are the best arrangement for child welfare reporters and curators ad litem:

A new set of arrangements should be put in place that would manage and provide training for child welfare reporters.

We feel that it is important that this role is taken within the remit of the courts. At present, the funding of court welfare reporters by parties produces inequalities of access and can result in the appearance of a lack of independence. In particular, the children of parties who are not legally aided but on low incomes face a significant barrier to having their views heard and best interests considered.

The reality is that a large proportion of court welfare reports are already funded by the state, via Legal Aid. Whilst there will be cost implications of extending this provision to all children, it is important to end what is effectively a discriminatory system.

We believe that increased prominence being given to children's view and best interests will have a positive influence on the amount on the extent of repeat litigation and that this would mitigate the increase in costs.

Centralised funding of court welfare reporters would remove any impression that of bias in favour of the party who is funding the reporter. Centralisation would also ensure consistency and quality and the development of comprehensive training for all reporters. At the moment the unregulated system results in highly variable practise. There is a need for a transparent and consistent recruitment, selection and monitoring systems. Training should be provided to all reporters and must be grounded in children's rights and include an awareness of human rights, domestic abuse, child development and different ways of seeking the views of children and young people. The development of a centralised management process should build on lessons learned from the implementation of central management for safeguarders, which has been considered excessively complex and onerous.

Commission and diligence

5 Should the law be changed to specify that confidential documents should only be disclosed when in the best interests of the child and after the views of the child have been taken into account?

This is a complex situation in which the ECHR Article 6 (fair trial) and Article 8 (privacy and family life) rights of the parties and the child need to be carefully balanced. One way in which this may be achieved is to ensure that specifications are tightly drawn, with the applicants stating what is sought and why. It would be appropriate to take account of the views and best interests of the child when discussing applications.

Contact

6 Should Child Contact Centres be regulated?
Yes

Regulation of child contact centres will ensure consistency of practice and facilities. We are of the view that the Care Inspectorate is best places to do this but that inspection must not be excessively rigorous and should take account of the range of locations used as contact centres, particularly in rural areas, which may serve other purposes at other times. Regulation should result in improving standards but not in a reduction in provision.

Training of staff, suitability of premises and the ability to provide a safe environment in situations where there may be parental conflict or domestic abuse must be considered as part of inspection criteria.

We feel that an additional benefit of regulation will be a clarification of the purpose of contact centres. We continue to be concerned that they are sometimes used to facilitate ongoing contact which is not in the best interests of the child and in some cases where contact of any kind is unsafe.

7 What steps should be taken to help ensure children continue to have relationships with family members, other than their parents, who are important to them?

Children have a right to continued contact with members of their family, if it is safe and in their best interests for them to do so and giving due weight to their views. Family can be understood to have a broad meaning and include former step-parents, foster parents, step-siblings, foster siblings and family friends with whom they have had a close relationship. Reports should identify those who the child feels are important to them to ensure that these relationships are considered.

Ongoing relationships are particularly important for care experienced children and young people and it is important that this is facilitated and supported by the state. This must be properly resourced. The First Minister has made commitments to listen to the views of care experienced children and government must take account of the views being expressed on this as part of the care review.

8 Should there be a presumption in law that children benefit from contact with their grandparents?

No

As discussed in our response to question 7 it is in the best interests of children to maintain relationships with those important to them, where it is safe and in their best interests. However, we feel that it is not consistent with children's rights to have presumptions relating to specific adults.

9 Should the 1995 Act be clarified to make it clear that siblings, including those aged under 16, can apply for contact without being granted PRRs?

Yes

Clan Child Law provide examples, in their response to this consultation, of instances where the court has been reluctant to grant contact orders relating to siblings and that despite the legislation requiring the court to have regard to the child's views regarding contact this does not always happen. We therefore support Clan's call for the legislative to be amended to clarify this.

10 What do you think would strengthen the existing guidance to help a looked after child to keep in touch with other children they have shared family life with?

Children have a right to continued family life under ECHR Article 8 and this can be interpreted as extending to a right to continued contact with their extended family including siblings. It is appropriate to take a broad definition of sibling to include all children with whom the child has shared a family life. This is particularly important for looked after children who may have had a number of placements.

For this right to be realised it is necessary for children to be properly supported in realising this right. Contact with siblings must be given the same importance as contact with parents and this would best be achieved by placing a legal duty on local authorities to promote and facilitate sibling access, as suggested by Clan Child Law in their response to this consultation, however the state must support local authorities in meeting this duty by ensuring sufficient funding is in place to do so.

11 How should contact orders be enforced?

Option two: alternative sanctions. (eg unpaid work, attending a parenting class or compensation)

We believe that, whilst it is necessary to ensure contact orders can be enforced, it is important to reduce the number of cases in which orders are breached. As previously discussed, it is children's right under Article 12 of the UNCRC to have their views taken into account when decisions are made about them, and explicitly in administrative proceedings about them. This is particularly important where contact is concerned. Yet we continue to hear of instances where, for example, contact is ordered in respect of a child under 12 who does not wish to have contact, but not in respect of an older sibling.

We believe that were children's views and best interests placed at the centre of all contact decisions, the number of children ordered to have contact with a parent they do not wish to see will reduce. Where contact is ordered in these cases, both children and parents are placed in very difficult situations. Were courts to fully take account of the views and best interests of the child, it would be, for example clearer whether a parent was obstructing contact or simply unable to force their child to attend.

It is also important, when considering breaches of contact orders, to explore the reasons why contact is not occurring and whether this can be addressed.

We acknowledge that there are a small number of cases in which one or other parent repeatedly breaches contact orders and that there is a need for sanctions for this. However, we are of the view that any decision about such sanctions needs to take account of the best interests of the child. It is seldom in the best interests of a child to imprison their primary care giver.

Cross border cases within the UK: jurisdictional issues

12 Should the definition of "appropriate court" in the Family Law Act 1986 be changed to include the Sheriff Court as well as the Court of Session?

Not Answered

13 Are there any other steps the Scottish Government should be taking on jurisdictional issues in cross-UK border family cases?

We are aware of instances where other UK courts have taken jurisdiction inappropriately and agree that consistent rules are needed across the UK, along with the flexibility to transfer a case as is possible within European jurisdiction under Brussels BIS II. This will require joint working across UK jurisdictions.

Parentage

14 Should the presumption that the husband of a mother is the father of her child be retained in Scots law?

No

We are in favour of a single system for the registration of all births, based on that currently in operation for unmarried heterosexual parents. This would remove potential discrimination against children depending on the relationship status or sexuality of their parents. Whilst any change would only apply to children registered from the time of introduction, it would ultimately result in it being much easier for service providers such as schools and the health service to understand who has PRRs, which at present can cause some confusion.

15 Should DNA testing be compulsory in parentage disputes?

No

These decisions should be taken on a case by case basis, taking into account the views of the child and giving them due weight according to their age and maturity.

Parental Responsibilities and Rights

16 Should a step parents parental responsibilities and rights agreement be established so that step parents could obtain PRRs without having to go to court?

No

On balance we are of the view that it is important to retain some safeguards, to ensure that decisions are made in line with the child's best interests and taking account on their views. Any process should require the consent of a child with capacity and it should be explicitly clear that more than two people can have PRRs.

17 Should the term "parental rights" be removed from the 1995 Act?

No

Parents are given rights to enable them to meet their parental responsibilities and help them exercise their children's rights on their behalf, as outlined in article 5 of the UNCRC. Every child has the right to their parents being involved in their upbringing, where it is safe for them to do so and states have an obligation to provide parents with support in doing this, as outlined in Article 18 of the UNCRC. The term parental rights can be important to ensure some vulnerable parents receive the support they need to fully participate in their child's upbringing.

The concept of parental rights can be important in ensuring that parents have access to the support they are entitled to. An important example is parents with learning disabilities, whose rights to support when raising their child are outlined in the UN Covention on the Rights of Disabled People Article 18. There is significant case law that highlights the importants of the concept of parental rights in these situations, for example A Local Authority vs G (2010).

18 Should the terms "contact" and "residence" be replaced by a new term such as "child's order"?

Not Answered

Whilst we do not feel strongly that the legislative terminology needs to change, there is a need to ensure that the language used on a day to basis, with children, young people and their families, is understandable to them. There is no reason why the day to day language used with children cannot be different from the legal language.

We share the concern expressed by Clan Child Law that the term "Child's Order" could be misinterpreted as suggesting the order applies to the child, not the parents.

19 Should all fathers be granted PRRs?

No

There are a number of situations where this may not be safe or in children's best interests. In particular, it is not appropriate for a father of a child conceived through rape to automatically be given PRR, nor for the mother to have to apply for them to be removed. On balance, therefore, we are comfortable with the current situation, whereby it is possible for PRRs to be given to the father consensually or an application to made by a father to be added.

20 Should the law allowing a father to be given PRRs by jointly registering a birth with the mother be backdated to pre 2006?

No

Notwithstanding any issues about the retrospective application of responsibilities, we believe that at this point any change is of limited use. A process exists whereby this can be achieved and at this point those children affected by this are already over 12 years old. By the time legislation was introduced, passed and commenced, very few would still be under the age of 16.

21 Should joint birth registration be compulsory?

No

This is potentially unworkable in some instances, for example where the father is not known or uncontactable; or in cases of rape. It could present a barrier to registration which would be a breach of children's right under UNCRC article 7 and it would be inappropriate to deny this right in order to ensure both parents are named at initial registration. The existing system provides mechanisms to add the father at a later date if necessary.

22 Should fathers who jointly register the birth of a child in a country where joint registration leads to PRRs have their PRRs recognised in Scotland?

Yes

This should not be made over-complicated by a detailed scrutiny of comparative systems of birth registration and parental rights and responsibility in international law, which would be difficult for services to administer on a daily basis. Joint recognition should simply be recognised as such. This already applies for marriages in almost all instances.

23 Should there be a presumption in law that a child benefits from both parents being involved in their life?

No

If any presumption regarding contact is created, it must be focussed on the child and their best interests and views. There will be situations where it is not safe nor in the best interests of the child to have the involvement of one or both of their parents. Any presumption must also take account of the child's right to have their views given due weight, taking into account their age and maturity.

24 Should legislation be made laying down that courts should not presume that a child benefits from both parents being involved in their life?

No

Our view is that this is not necessary.

25 Should the Scottish Government do more to encourage schools to involve non-resident parents in education decisions?

Yes – other (please specify).

A legal requirement to provide non-resident parents with information about their child's education already exists, in the Pupils' Educational Records (Scotland) Regulations 2003. There would be no addition benefit gained from putting either the enrolment form or annual update form on a statutory basis. We believe this issue is best addressed through guidance.

We have concerns that the current regulations mean that information can be shared with a parent (resident or non-resident) against the wishes of a child with legal capacity, indeed against the wishes even of a child aged 16 or over. This is inconsistent to children's right to privacy as enshrined in Article 8 of the ECHR and Article 16 of the UNCRC. It is also inconsistent with existing rights in the Age of Legal Capacity (Scotland) Act 1991 and the General Data Protection Regulation. This could impact upon children's willingness to seek support from their school, through a fear that information could be disclosed to a parent from whom they were estranged. Section 6 of the regulations does provide a number of exemptions, for example in terms of sensitive personal information or where providing the information may cause harm to the child or another person. This would include, for example, details of health or disabilities or information regarding referrals to external services. We are aware of instances where such information has nonetheless been released and are concerned that awareness of these exemptions is inconsistent.

Any guidance issued to address issues relating to parent's access to information about their child's education must be clear about the very limited information, covered by the regulations, which can be released without the consent of the child or resident parent. It should provide clear guidance to schools in how to respond to such requests whilst respecting the child's right to privacy regarding other aspects of their lives which schools may have records of, including details of how to vet and, if necessary, redact information before release. The situations in which section 6 of the regulations apply should be clearly explained.

Education Authorities should ensure that all communications systems used in their schools, including but not limited to SEEMIS, are capable of listing more than one primary contact, so that all parents receive all communications. Manual work around of these systems can result in non-resident parents (and fathers more generally, as a result of the mother often being listed as the primary carer by default) being excluded from communications.

It is the responsibility of the non-resident parent to ensure their child's school has up to date contact details for them.

26 Should the Scottish Government do more to encourage health practitioners to share information with non-resident parents if it is in the child's best interests?

Yes – other (please specify).

Our position on this is in line with our views on educational records, as described in our answer to the previous question. As the consultation document outlines, the BMA already issue guidance on this. Any Scottish Government guidance to health practitioners must include details of when information should not be shared and the privacy rights of children under Article 8 of the ECHR and Article 16 of the UNCRC.

In their response to this consultation, CELCIS outline the issues relating to corporate parents' access to information relating to children in their care, particularly where they are placed in a different area from one they are usually resident in. We

recommend this issue be explored further to ensure children's best interests and rights are realised.

27 Does section 11 of the 1995 Act need to be clarified to provide that orders, except for residence orders, or orders on PRRs themselves, do not automatically grant PRRs?

Yes

We believe clarification is required as we have heard of examples where this has been misunderstood, particularly in the case of sibling applications (see our answer to Question 9).

28 Should the Scottish Government take action to try and stop children being put under pressure by one parent to reject the other parent?

No

It is a normal part of human relations that we are influenced by those around us, particularly our families. It is not unusual for parents to occasionally make a negative comment about the other parent, even where there is no background of conflict. We agree with Clan Child Law that any attempt to legislate against such influence risks being in breach of the child's right to family life as enshrined in Article 16 of the UNCRC and Article 8 of the ECHR.

We feel that the appropriate way to deal with allegations of undue influence is for courts to become more skilled at obtaining and taking into account the views of children. A focus on children's rights and an effective mechanism for them to express their views to the court, independently from either parent, as discussed in our answer to question 4 would mitigate against situations where either parent has attempted to influence the views of the child.

We note that "Parental Alienation Syndrome" has been robustly discredited. Allegations that children have been put under pressure to express particular views or reject a parent have been made by both resident and non-resident parents and in cases where this is a history of domestic abuse by both abusing and non-abusing parents.

29 Should a person convicted of a serious criminal offence have their PRRs removed by the criminal court?

No – leave as a matter for the civil courts.

A criminal court is not the appropriate forum to consider children's rights. They need to be considered on the basis of the child's best interests, taking into account their views, in a setting where this is the primary focus. Removal of parental rights inevitably impacts upon the rights of the child and this must never be used as a criminal sanction. Where concerns exist, criminal courts should refer these matters to a Children's Hearing.

Child Abduction by parents

30 Should the reference in section 2 of the 1995 Act to "exercising" parental rights be changed to reflect that a person may not be exercising these rights because the child is now outwith the UK?

Not Answered

31 Should section 6 of the Child Abduction Act 1984 be amended so that it is a criminal offence for a parent or guardian of a child to remove that child from the UK without appropriate consent?

It is important to take measures to prevent abduction of children, however this proposal has the potential to impact on the child's right to a normal family life, if it were enacted in such a way that one parent had the right to refuse the other permission to take the child on a family holiday or for the child to participate in a school trip abroad. Any legislation must therefore take a proportionate approach and ensure that this does not occur.

Domestic Abuse

32 Should personal cross examination of domestic abuse victims be banned in court cases concerning contact and residence?

Yes

The protections given to vulnerable witnesses should be consistent across all proceedings, not just domestic abuse. This should be extended to all vulnerable witnesses in line with practice in the criminal courts.

33 Should section 11 of the 1995 Act be amended to provide that the court can, if it sees fit, give directions to protect domestic abuse victims and other vulnerable parties at any hearings heard as a result of an application under section 11?

Yes

34 Should subsections (7A)-(7E) of section 11 of the 1995 Act containing a list of matters that a court shall have regard to be kept?

Yes –retain as currently.

We believe this is seldom used but useful legislation that can protect children.

35 Should section 11 of the 1995 Act be amended to lay down that no further application under section 11 in respect of the child concerned may be made without leave of the court?

Not Answered

36 Should action be taken to ensure the civil courts have information on domestic abuse when considering a case under section 11 of the 1995 Act?

Yes

It must be clear in guidance that courts should consider the impact of domestic abuse and resulting risk of harm to child, even in cases where there are no criminal proceedings.

37 Should the Scottish Government do more to promote domestic abuse risk assessments?

Yes

It is unclear what is meant by this. Better awareness and understanding of domestic abuse as a course of behaviour which causes harm to children is important, across all sectors, however a range of risk assessments exist and it is not clear whether the proposal is for these to be used by the courts. It would be inappropriate for the court to use as evidence a risk assessment that was prepared for a different purpose, particularly as this could risk disclosure of important information relating to safety planning. Where information is shared as a result of risk assessments, this must be with the consent of any child with capacity and of the non-abusing parent.

38 Should the Scottish Government explore ways to improve interaction between criminal and civil courts where there has been an allegation of domestic abuse?

Yes

During the passage of the Domestic Abuse (Scotland) Act 2017, we highlighted the harm that is done to children when they live in an environment where domestic abuse is present. It is important for civil courts to take account of proceedings in the criminal courts, even when the charges do not directly refer to harm done to a child. Courts must take account of bail conditions and non-harassment orders when considering making a contact order.

Court Procedure

39 Should the Scottish Government introduce a provision in primary legislation which specifies that any delay in a court case relating to the upbringing of a child is likely to affect the welfare of the child?

We are aware of cases that have lasted far too long, resulting in children's rights being breached. However, progressing a case without fully considering it risks

breaching article 6 of the ECHR or making decisions which are not in the best interests of the child.

We feel that a more appropriate way of address this is through effective case management and ensuring that the state meets its obligations under article 6 by ensuring courts have the resources they need to deal with cases effectively and efficiently. We are aware that the Sheriff Principal in Glasgow has issued a practice note in relation to hearings proceedings that has been effective in addressing this.

40 Should cases under section 11 of the 1995 Act be heard exclusively by the Sheriff Court?

No

Whilst these cases are rare, it may be in the best interests of the child for decisions about them to be made in court which is also hearing any divorce proceedings.

41 Should a check list of factors for courts to consider when dealing with a case be added to section 11 of the 1995 Act?

Yes

See question 34.

Alternatives to Court

42 Should the Scottish Government do more to encourage Alternative Dispute Resolution in family cases? Please select as many options as you want.

Yes – other.

Mediation and alternative dispute resolution (ADR) can be an important way of reducing conflict within family disputes, meaning that parents are able to jointly make decisions which are in the best interests of their child. Family Group Decision Making is another alternative. Any process must be undertaken facilitated by someone with appropriate training, including an awareness of children's rights, of domestic abuse and of the impact of power imbalances on the effectiveness of the process. There must also be a mechanism through which the child's views can be obtained and expressed in a safe way.

We not that both Scottish and international research has shown that, of the small number of cases which reach the courts, at least half contain some element of domestic abuse. Mediation may not be appropriate in these cases and may inadvertently perpetuate harm to the non-abusing parents and/or the child.

43 Should Scottish Government make regulations to clarify that confidentiality of mediation extends to cases involving cross border abduction of children?

Yes

This is important to ensure that the child's rights in terms of Article 16 of the UNCRC and Article 8 of the ECHR are not breached.

44 Should Scottish Government produce guidance for litigants and children in relation to contact and residence?

Yes

Yes. It should be the court's priority to ensure all their information is produced in a way which is accessible to young people. This would also benefit and better equip them to exercise their parental responsibilities and rights. Legal language can present a barrier to children, young people and their parents and it's use when speaking with children, even in a court setting, is entirely inappropriate.

Birth Registrations

45 Should a person under 16 with capacity be able to apply to record a change of their name in the birth register?

Yes

The current situation is not in line with children's rights in terms of the UNCRC, nor with existing Scots law on legal capacity. The current situation has resulted in children being able to change their name via a statutory declaration, if they have capacity in terms of the Age of Legal Capacity (Scotland) Act 1991, but not being able to record that change with the Registers of Scotland until they are 16.

46 Should a person who is applying to record a change of name for a young person under the age of 16 be required to seek their views?

Yes

Where a child has capacity (in terms of the Age of Legal Capacity (Scotland) Act 1991) it should be the child who makes the application. The views of the child should be sought in all instances and there should be a presumption that a child's name cannot be changed against their will. We would consider that the majority of children are able to express a clear view on the name they are known by. Where a child's views are not sought there must be clearly documented reasons for doing so.

There needs to be further consultation regarding questions 45 and 46 as they will require changes in practice for Registers of Scotland, however this will be necessary in order to correct a process which currently does not take sufficient account of children's rights.

47 Should S.I. 1965/1838 be amended so that a father who has a declarator of parentage and has PRRs can re-register the birth showing him on the birth certificate?

Yes, but only with the consent of any child with capacity.

Children's Hearings

48 Do you think the Principal Reporter should be given the right to appeal against a sheriff's decision in relation to deemed relevant person status?

Yes

Yes, on balance, although we note that this may result in a delay in proceedings. However, this can be a protective factor and enable decisions to be challenged where the child is unable to say so.

We note with concern that the current arrangements do not require sheriffs to take account of the child's views or best interests relating to relevant person status.

49 Should changes be made which will allow further modernisation of the Children's Hearings System through enhanced use of available technology?

Yes

We support this in principle, but it needs to be properly resourced and alternatives to appearing in person should only be used when it is the child's choice and not for expediency or cost reasons. It is important, when these decisions are made, to be clear of the difference between participation and attendance.

Such technology would also facilitate other participants to attend via video link if that was in the best interests of the child, for example an abusive parent could be required to attend via video link, allowing the child to feel safer attending in person.

50 Should safeguarder reports and other independent reports be provided to local authorities in advance of Children's Hearings in line with other participants?

Yes

This is generally in the best interests of the child and ensures all parties have access to the same information. Any information which is being shared should be explained to the child.

51 Should personal cross examination of vulnerable witnesses, including children, be banned in certain 2011 Act proceedings.

Yes

See our answer to previous questions regarding vulnerable witnesses. These protections should be extended to all settings, including Children's Hearings.

This issue was addressed in a paper by the Scottish Children's Reporter Administration and Scottish Government which was presented to the Scottish Civil Justice Council's Family Law Committee in December 2016 and we agree with the recommendation in that paper that the Rules be amended to prohibit (unless exceptional circumstances apply) personal examination of child and vulnerable witnesses in proceedings under parts 10 and 15 of the Children's Hearings (Scotland) Act 2011.

Domicile of persons under 16

52 Should section 22 of the 2006 Act which prescribes where a child is deemed to be domiciled be amended?

Not Answered

Conclusion

53 Do you have any comments about, or evidence relevant to:

Not answered

54 Do you have any further comments?

Yes

During the initial, informal consultation conducted prior to this consultation, we were asked our opinion on the introduction of a Code of Conduct for lawyers. We were in favour of this and wonder why this proposal was not included in this consultation.