

**FAMILY LAW COMMITTEE OF THE SCOTTISH CIVIL JUSTICE COUNCIL
INFORMATION PAPER BY THE SCOTTISH GOVERNMENT ON CHILD
WELFARE REPORTERS: POSSIBLE RE-ESTABLISHMENT OF THE WORKING
GROUP**

1. This is an **open** information paper by the Scottish Government.
2. As the Committee will be aware, the [Children \(Scotland\) Act 2020](#) contains provisions on establishing a register of Child Welfare Reporters. These provisions in the 2020 Act have not been implemented, although the Scottish Government has carried out a [consultation](#) on implementation and an [analysis](#) has been carried out of the responses to that consultation.
3. The provisions in the 2020 Act followed:
 - A [scoping study](#) in 2011 of the commissioning, preparation and use of what were then known as Bar Reports;
 - A [working group](#) established by the Scottish Government on Bar Reporters.
4. Those attending this working group were:
 - members of the judiciary;
 - Lord President's Private Office;
 - Law Society of Scotland;
 - Judicial Institute;
 - the Scottish Courts and Tribunals Service;
 - the Family Law Association;
 - the Faculty of Advocates;
 - Scottish Women's Aid;
 - Families need Fathers (now Shared Parenting Scotland);
 - the Scottish Legal Aid Board; and
 - the Scottish Government.
5. Outputs following the scoping study and the working group included:
 - Steps were taken to ensure that Reporters are members of the Protecting Vulnerable Groups (PVG) scheme.
 - [A public facing guide](#)
 - [Information for children.](#)
 - [Instructions for reporters](#)
 - [Court rules](#)
6. The rules made provision so that a child welfare reporter can only be appointed to undertake enquiries and report where the court is satisfied that the appointment is in the best interests of the child, and that the appointment will promote the effective and prompt determination of an issue.

7. Where a reporter is appointed to seek the views of a child the interlocutor must specify the issues in respect of which views are to be sought. Where the reporter is appointed to undertake enquiries and report the interlocutor must specify the enquiries to be undertaken, and the issues to be addressed in the report. These matters may be specified in an annex to the interlocutor (Form F44).
8. The interlocutor must also specify the date by which the report is to be submitted. Where the sheriff has appointed a child welfare reporter with a view to the report being considered at a hearing, the date specified must be no less than three clear days before that hearing, unless cause exists for specifying a later date.
9. The rules also contain a presumption that the cost of a report will be met equally between the parties.
10. The rules make separate provision regarding the appointment of local authorities to investigate and report under section 11 of the [Matrimonial Proceedings \(Scotland\) Act 1958](#)
11. After the changes to the rules, the Scottish Legal Aid Board prepared a [report](#) in 2017 for this Committee.
12. The Lord President noted when the working group was in place that in relation to a proposed training scheme for reporters there would need to be a clear power to enable reporters to be regulated¹. A key aim of the provisions in the 2020 Act is to ensure that child welfare reporters are fully trained, experienced and qualified.
13. Points were raised on reporters in the research published earlier this year on [Domestic Abuse and Child Contact: The Interface Between Criminal and Civil Proceedings - SCCJR](#) (see page 36).
14. The Scottish Government is considering re-establishing for a short period the working group. If the Scottish Government does re-establish the working group, membership would be along similar lines as before although we would wish to ensure social work colleagues were involved too. A final decision on re-establishing the working group has not been taken and detailed terms of reference have not yet been drawn up.
15. In broad terms, however, there would only be a small number of meetings (2 or 3) and the working group would be asked for views on:
 - whether the changes made following the literature review and the previous working group are working in practice;
 - whether any further changes or guidance would be useful before the register is introduced;

¹ The exchange of letters at the time between the Scottish Government and the Lord President and Sheriffs Principal are available [here](#)

- the outcomes of the implementation consultation and on next steps (including what is needed by way of training) whilst recognising the current very challenging budgetary position.

16. The Family Law Committee is invited to **note** this paper.

Scottish Government
October 2023