

## Response ID ANON-4MEW-7C2P-S

Submitted to Registers of child welfare reporters, curators ad litem and of solicitors who may be appointed when an individual has been prohibited from conducting their case themselves

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### Part 1: Introduction

### Part 2: Register of Child Welfare Reporters

#### 1 Who should provide the operation and management of the register of child welfare reporters?

the Scottish Government should contract this out to a third party

Why did you select your answer?:

The Scottish Association of Social Work (SASW) is part of the British Association of Social Workers, the largest professional body for social workers in the UK. BASW UK has 21,000 members employed in frontline, management, academic and research-positions in all care settings. There are over 10,000 registered social workers in Scotland, around 1,500 of whom are SASW members. This comprises staff working in local government and the independent sector, across health and social care, education, children and families, justice services, as well as a growing number of independent practitioners. SASW's key aims are: Improved professional support, recognition, and rights at work for social workers; better social work for the benefit of people who need our services and a fairer society.

SASW supports the development of a centralised register, on the basis that this will result in greater consistency in terms of appointment process, complaints procedure and training requirements. It will minimise any 'postcode lottery' in relation to quality of, and access to, child welfare reporters across the country, giving greater effect to Scotland's commitment to being 'the best place in the world to grow up', and to the UNCRC.

SASW suggests the Scottish Government tender this out to a third party, which brings the benefit of added expertise, much in the same way that Children's 1st is contracted to manage the Safeguarders panel and Aberlour Child Trafficking Guardians. Its worth noting, however, that any tendering process could be time consuming and does not come without risks – SASW is concerned that the current 2022 timescale is too optimistic. Consideration must be given to the impact delays in developing the new register could have on children and families in the interim. Employing learning from similar tendering exercises could help to mitigate this.

#### 2 Do you agree/disagree with the proposed process for including an individual on the register of child welfare reporters?

Agree

Why did you select your answer?:

SASW agrees with the proposed stepped process for including an individual on the register. It is essential that those applying clearly met the eligibility criteria, to ensure the best possible individuals with the most appropriate skills and experience carry out this role moving forward. Indicating what geographical areas candidates will be willing/able to work in also welcomed, as this will ensure there is sufficient coverage across the country, and that individuals are appropriately geographically placed to carry out this work. The return of a clear disclosure certificate is also essential, given the nature of the role.

#### 3 Do you agree/disagree that child welfare reporters should be included on the register for a three year period?

Agree

Why did you select your answer?:

SASW agrees that child welfare reporters should be included on the register for a period of three years, but only based on a successful annual appraisal, and ability to clearly demonstrate and evidence that individuals continue to have the necessary skills and experience to carry out the role. Annual appraisals provide the opportunity to establish training needs, to identify ways of closing knowledge and skills gaps and to ensure quality thresholds are continuously met.

#### 4 Do you agree/disagree with the proposed reappointment process for child welfare reporters?

Agree

Why did you select your answer?:

The reappointment process for child welfare reporters should not be automatic once this three-year period ends, or indeed for the duration of this three-year tenure. As outlined above, we support the use of an annual appraisal to monitor the performance of individuals on the register and suggest that the quality and efficacy of reports produced by individuals be monitored and analysed as part of the appraisal process, with a view to establishing their continued place on the register. We welcome the outcome of such appraisals being contingent on an individual remaining in their role for the duration of the three-year period. This level of quality assurance is in the best interests of Scotland's children and young people. We suggest that the views of children and young people on their experience of working with individual child welfare reporters be included as far as possible within the appraisal process.

Investment in regular national recruitment campaigns to raise awareness of the CWR role amongst different professional groups – particularly social workers – should be considered.

5 For each of the following categories of people, should they be ineligible for inclusion on the register of child welfare reporters?

5a - an individual directly involved in the establishment, maintenance, operation or management of the register of child welfare reporters:  
Yes

5a - an individual employed by the SCTS:  
Yes

5a - a member of the judiciary:  
Yes

5a - a member of the Scottish Government or junior Scottish Minister:  
Yes

5a - an individual barred from regulated work with children by virtue of the Protection of Vulnerable Groups (Scotland) Act 2007:  
Yes

Why did you select your answers?:

SASW agrees that all the categories of people listed above should be ineligible for inclusion on the register of child welfare reporters. For the first four, there is a clear conflict of interest for individuals in these categories undertaking this role. Those who are barred from regulated work with children should not be eligible due to the risk they present to children and young people.

6 Is there anyone else who should be ineligible for inclusion on the register of child welfare reporters?

Yes

If you answered yes please provide details. :

Those who cannot evidence any experience of meaningful work with children and young people should be ineligible.

7 Do you agree/disagree with the approach proposed when an individual is removed from the register of child welfare reporters?

Disagree

Why did you select your answer?:

SASW agrees with the proposed approach when an individual is removed from the register. It is essential that serious concerns about the conduct of reporters are referred to the reporter's relevant professional body. However, where the conduct of a reporter is of concern, including the quality of their report writing, the registers for other roles they may be undertaking, such as the register of curator's ad litem, or the safeguarders panel should be notified. This is due to the cross-cutting nature of this work. A person should be removed from the register with immediate effect if they are found to not be meeting the required standards, rather than waiting for their period of appointment to come to an end. Once a person is no longer on the register, they should not carry out any child welfare reporter functions.

8 Do you agree/disagree with the proposed requirements that a person must satisfy in order to be included on the register of child welfare reporters?

Disagree

Why did you select your answer?:

SASW understands that these reports, when done well, could be helpful in preventing children being referred to other public services later in childhood, for example, mental health or child protection. The role and requirements of a child welfare reporter are an essential element in the incorporation of UNCRC into Scots Law. The requirements consequently need to reflect how children's rights are recognised, respected, and promoted. These include rights of the children to be treated fairly, to be heard and to be as healthy as possible. SASW agrees with the proposed requirements on the list, however, feels that they lack detail, and that some are missing. We outline additional requirements we feel should be included in our response to the following question.

9 Are there any other requirements that a person must satisfy in order to be included on the register of child welfare reporters?

Yes

Please give the additional requirements you feel are necessary and why you feel they are important.:

As well as the existing competencies outlined in the consultation document, we suggest the following skills and competencies should be met in order for someone to carry out the child welfare reporter role:

1) ability to analyse information already available in the proceedings, separating allegations from facts

2) expert knowledge of relevant legislation and guidance pertaining to family law in Scotland and understanding court procedure

3) engaging and listening to children (understanding their unique perspective of family life and what it is like for them, recognise that sometimes the child may be feared to talk openly about their own perspective, establishing a trusting relationship with the child in the timeframe expected by the court is essential, reporter/writer must convey the child's views in compliance with UNCRC, establishing a trusting relationship with the child to understand the child's views and wishes. This may be complex. In family breakdown, there may be a number of significant relationships not just in the immediate, but also in the extended family and social network that are important to the child. Knowledge and awareness of the impact trauma has on children and young people. Knowledge of child protection processes and procedures).

4) Ability to work with adults in conflict (Understanding the parent's relationship, and how decision making has been made historically, establishing if there are power and control issues (as in domestic abuse/coercive control) awareness of social expectations of gender, sexuality and diversity as well as the self-awareness of own belief system, understanding why people are in the current acrimonious situation, ability to assess if the often-well-established pattern of conflict can be changed so that they can evolve ways to resolve differences amicably, be seen to be impartial and that the examination of the family is to give paramount consideration to the best interests of the child/ren not one parent or the child/ren's parent's)

5) Ability to assess information from third parties (ability to collect and assess information about what is happening to children in other parts of their lives, like schools, nurseries, in their out of school activities, and their all-round health and wellbeing, ability to approach this with discretion, acknowledging the right children have to privacy in accordance with UNCRC)

6) Awareness of the age and stage of development of the child (every child has a view, as their capacity for participation and decision making grows, knowledge of this process is essential, ability to clarify that the child/ren's views are their own views and that they have not been coached or told what to say, children will often talk with their peers before talking with adults about what is worrying them, recognising the importance of the peer support network which can help reduce some of the isolation children in this situation feel, thinking they are the only ones experiencing family breakup)

7) Analysing all the information (Understanding patterns of behaviour and interaction between individuals and the family group, The ability to think and contextualise individual and group dynamics holistically, Identifying patterns of behaviours and decision making that have worked well, Recognising dysfunctional patterns of behaviour and decision making, The ability to support a family to restore more functional decision making and find better ways of resolving their conflicts, Directing to mediation services for parents, 1:1 support for children if necessary, e.g. child psychologist, CAMHS, An understanding of restorative justice. Where there has been an abuse of power and control this may also involve signposting to restorative justice services that will help the perpetrator to be a better parent going forward and will provide a safer environment for the children).

8) Report writing (Clear, concise report writing skills, Understand why you have reached the recommendation on all of the evidence garnered, this is a balancing exercise which may at times appear to one parent to be one-sided, the report writer must be clear why they hold the opinion and make the recommendation, Be able to work within the timescales set by the Court, parents and child/ren are anxious at the time a report is being prepared. The expeditious resolution of a case is in all parties' best interests, The report writer must be able to answer questions on their report in the court and to do that from the perspective of their skills, knowledge and expertise in accordance with the best interest principle of UNCRC)

10 Do you agree/disagree that existing child welfare reporters have to apply to be on the new register?

Agree

Why did you select your answer?:

SASW agrees that existing child welfare reporters should apply to be on the new register to ensure that a consistent required standard is met. This makes for a fair and transparent process.

11 Do you agree/disagree with the proposed training requirements for child welfare reporters?

Agree

Why did you select your answer?:

SASW agrees with the proposed training requirements for child welfare reporters. The significance of trauma informed practice, and training on the impact trauma has on children and young people should also be included

12 Is four days of paid training per year for child welfare reporters appropriate?

No, I believe it should be more days

Why did you select your answer?:

SASW is deeply concerned that four days of paid training per year is insufficient, given the complex nature of this role. We suggest five days of 'core' basic paid training be available for all, with a particular focus on child protection and trauma awareness, with additional, more nuanced training options available on top of this so that depending on background training and experience, different professional groups can opt for more tailored training packages as appropriate dependent on their skills. For example, the background training and experience of a solicitor will vary quite significantly to that of a social worker. For many solicitors, this type of work may be relatively new territory. Extended training options for a solicitor could include, for example, additional modules on child protection, domestic abuse and coercive control, talking and listening to children, age and stage of development, parental influence and how these issues are relevant in the context of the child welfare reporter role, whereas for social workers, modules on family law and the child welfare reporter role more broadly may be appropriate.

In November 2020, the University of Strathclyde in collaboration with CELCIS, via the FutureLearn platform, created a free online learning resource on unaccompanied and separated refugee and migrant children. The course took place over a six-week period, with four hours of engagement per week and was available in 4 different languages. We suggest a similar training package could be developed for the child welfare reporter role, including a combination of online self-completion modules that can be done in the learner's free time, as well as some in person training. It is essential that the standard of child welfare reporter is consistent for Scotland's children and families. It is not enough for CWRs to meet the eligibility criteria alone. The training must enable child welfare reporters to build necessary skills, and not just knowledge, before engaging in direct work with children and families. The training should be developed in collaboration with relevant stakeholders who are experts in this area, with an understanding of the relevant skills of different professional groups who may be applying to undertake this work and where additional training may be required. The exact total number of days of additional training would be contingent on the child welfare reporters professional skill base outside of the role, and the number of areas that they need to develop additional knowledge in in order to provide a high quality service to Scotland's children and young people.

13 How should fee rates for child welfare reporters be applied?

Hourly rate

Why did you select your answer?:

SASW supports the suggestion of an hourly rate. Many steps are required to prepare a child welfare report. These include reading the papers and statements from the Court, which contain relevant background information. There is skill in sifting through a wealth of written information and separating allegations from facts. Sometimes this can take several hours. The reporter will also meet with the children, on more than one occasion. The child may be feared to talk openly about their own perspective. Establishing a trusting relationship with the child in the timeframe expected by the court is essential if the report writer is to convey the child's view in compliance with UNCRC. This takes time. Reporters then must meet with the adults on both sides. They may also be required to speak to children's schools, nurseries, or GPs. Then, the reporter must analyse the information that has been gathered from the interviews, before going on to write the report itself and make recommendations. The time spent on preparing and writing a report will vary from case to case – some cases may be particularly time consuming. An hourly rate would be most appropriate, to reflect the amount of work that has gone into that particular report in that particular case.

14 Do you have any comments on the proposed policy in relation to expenses for child welfare reporters?

Yes

Please provide your comments :

SASW supports this policy, it is essential that what constitutes 'reasonable expenses' is clearly specified from the outset, to set reasonable expectations on CWRs.

15 When a child welfare reporter is selected should this be:

A person with specific areas of expertise requested by the court.

Why did you select your answer?:

Whilst SASW acknowledges that all child welfare reporters must meet requirements, there may be individuals on the register who are best placed to work with a family with particular needs, for example, as the consultation document suggests, drug or alcohol addiction, or, for instance, autism and complex needs. Whilst we know that in many cases a reporter is appointed early, and thus it may not be evident then what particular areas will feature strongly in the case, in those cases where it is clear to the court, its important the most appropriate individual is assigned. If/when issues do arise and it becomes apparent that special expertise is necessary, we suggest that advice is available from appropriate professionals to support the CWR in their work, for example, social workers.

16 Should a child welfare reporter provide recommendations on what is in the best interests of the child in their report?

Yes

Why did you select your answer?:

Child welfare reporters should make recommendations on what is in the best interests of the child, on the basis that they have carried out appropriate due diligence including interviews, research, and analysis as appropriate, to gather evidence from as many sources as possible. The final decision would then lie with the court, who, after hearing the evidence, could decide to accept the recommendation of the CWR from the report. The CWR will engage in a lot more intensive work to come to their decision than the court, including building a trusting relationship with a child, and speaking to relevant people in their life. Thus, it seems appropriate that it would be the CWR who would make the recommendation.

17 Do you have any comments on the proposed procedure for complaints from individuals who are unsuccessful when applying to be on the register of child welfare reporters or are removed from the register?

Yes

Why did you select your answer?:

SASW supports the proposed complaints procedure.

18 Where a child welfare reporter has a grievance about fees or expenses or comments on their appraisal should this be dealt with by the body appointed to operate and manage the register?

Yes

Why did you select your answer?:

SASW supports this.

19 Do you have any comments on the proposed procedure for complaints about child welfare reporters?

Not Answered

Please provide your comments:

SASW agrees with the proposed complaints procedure, in particular that complaints should be raised with the CWRs relevant professional or regulatory body. Its essential that complaints procedures are child friendly, in compliance with UNCRC, and these processes should be developed in collaboration with children and young people. SASW agrees that if there is evidence of failings, more training, a verbal or written warning or, in extreme cases if the situation warranted it, removal from the register is appropriate. Those who are the party in a case should have access to the report if they want it, should they wish to make a complaint.

### Part 3: Register of Curators ad litem

20 Do you agree/disagree with the proposed requirements that a person must satisfy in order to be included on the register of curators ad litem?

Not Answered

Why did you select your answer?:

21 Should there be any other requirements that a person must satisfy in order to be included on the register of curators ad litem?

Not Answered

Please give the additional requirements you feel are necessary and why you feel they are important.:

22 Do you have any comments on the proposed training requirements for curators ad litem?

Not Answered

Please provide your comments:

23 Do you agree that four days of paid training per year for curators ad litem is appropriate?

Not Answered

Why did you select your answer?:

24 Do you have any comments on the proposed process for appointing a curator ad litem in a case under section 11 of the 1995 Act?

Not Answered

Please provide your comments:

25 How should fee rates for curators ad litem be paid?

Not Answered

Why did you select your answer?:

26 Do you have any comments on the proposed approach in relation to expenses for curators ad litem?

Not Answered

Please provide your comments:

27 Do you have any comments on the proposed procedure for complaints by or about curators ad litem?

Not Answered

Please provide your comments:

#### Part 4: Register of solicitors appointed where a party has been prohibited from personally conducting their case themselves

28 Do you agree/disagree with the proposed requirements that a person must satisfy in order to be included on the register of solicitors?

Not Answered

Why did you select your answer?:

29 Are there any other requirements that a person must satisfy in order to be included on the register of solicitors?

Not Answered

Please give the additional requirements you feel are necessary and why you feel they are important.:

30 Do solicitors on this register require fewer days training each year than child welfare reporters and curators ad litem, on the basis that they are likely to receive fewer appointments?

Not Answered

Why did you select your answer?:

31 Are there any other training requirements that you think should be included?

Not Answered

Please give the additional requirements you feel are necessary and why you feel they are important.:

32 Do you have any comments on the proposed process for the court appointing a solicitor from the register?

Not Answered

Please provide your comments :

33 Do you agree/disagree with the proposed procedure for expenses for individuals appointed to this register?

Not Answered

Why did you select your answer?:

34 Do you have any comments on the proposed procedure for complaints by or about solicitors on this register?

Not Answered

Please provide your comments:

#### Part 5: Conclusion

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

35a - Draft Business And Regulatory Impact Assessment:

35a - Draft Child Rights and Wellbeing Impact Assessment:

35a - Draft Data Protection Impact Assessment:

35a - Draft Equality Impact Assessment:

35a - Draft Fairer Scotland Impact Assessment:

35a - Draft Islands Communities Impact Assessment:

Please provide your comments:

36 Do you have any further comments?

Not Answered

Please provide your comments:

About you

What is your name?

Name:

Emily Galloway

What is your email address?

Email:

emily.galloway@basw.co.uk

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Scottish Association of Social Work (part of BASW UK)

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.: