

SCOTTISH CIVIL JUSTICE COUNCIL - FAMILY LAW COMMITTEE**Form F9 SUB-GROUP PAPER****1. Background to Paper**

1.1 The sub-group notes that, at its meeting on 22nd February 2016, the Family Law Committee of the Scottish Civil Justice Council agreed as follows in relation to Hearing the Voice of the Child in Family Actions:

- Form F9 should be revised.
- There should be 2 steps in obtaining the views of the child:
 1. Intimating the proceedings to the child with an explanation of what the parents want to do and what is in dispute; and
 2. Seeking the child's views.
- A single document should be created, with additional explanations and guidance notes being added to the form itself.
- The focus should be on developing a single version of the form that is suitable for children of all ages, at least as a starting point. The need for different versions for different age ranges could then be considered later if necessary.
- The rules should be amended to expressly prohibit a copy of the initial writ being sent to the child in cases where the child is not a party. Where a child subsequently becomes a party, then they will of course be entitled to receive the writ.

1.2 The sub-group notes the responses received to the letter issued by the Secretariat in December 2015, which invited comments on the existing Form F9 and suggestions for its improvement.

2. Revision of Form F9

2.1 The sub-group has revised the Form F9 for consideration by the FLC. The sub-group has prepared two draft letters attached to this note:

Letter of Intimation and Explanation (F9.1 Annex A)

Letter inviting Views (F9.2 Annex B)

2.2 The sub-group makes the following observations about the draft letters:

Font

The font selected is Century Gothic. See Guidelines for readability in the response from Edinburgh University 001. Often Comic Sans MS is the font chosen (eg CELCIS draft form response 006), but this can be perceived as patronising and many do not like it. See eg <http://www.pcworld.com/article/2030201/killing-comic-sans-5-alternative-fonts-that-protect-your-dignity.html>.

Judge/Sheriff

The sub-group agreed that the word “judge” should be used in the form. However, reference is made to the fact that the judge is sometimes called a sheriff as parties, and others, may use the word “sheriff”, so some explanation of that word is needed to avoid confusion.

Order Sought

The sub-group agreed that there should be a “bank” of child friendly descriptions of court orders for use in the letters to children. These have yet to be drafted, but would give a general idea of the order sought, so that the child knows what the dispute is about, but without too much unnecessary detail.

Childline

The CELCIS response (006) made reference to Childline. The sub-group took the view that it might be helpful to include a reference to Childline, if (a) Childline agree and (b) they feel able to offer appropriate support in the event of a child calling them having received the relevant letter. An approach to Childline (NSPCC) has been made and their reply is awaited.

Post

Reference is made to a stamped addressed envelope and some detail is given about posting the form as many children are unfamiliar with the process of posting letters.

Letter of Intimation and Explanation

It is envisaged that this will be sent out at any time a writ is lodged in a family action with a crave seeking residence, contact, or a specific issue order affecting the child. Given that no Notice of Intention to Defend (“NID”) may be lodged, a short form inviting views is attached to this letter.

Letter Inviting Views

This letter is intended for sending to the child when the action is defended, or at a later stage in proceedings. Given that the sub-group was asked to produce just one form for all ages of children, the smiley faces used in the CELCIS draft (response 006) have been used. A more nuanced approach would be to use Cantril’s ladder, as

suggested by the Children's Parliament (response 021). They have been asked for more detail of this. Meantime, more is available about Cantril's Ladder at <http://www.gallup.com/poll/122453/understanding-gallup-uses-cantril-scale.aspx>.

ANNEX A

F9.1

Case Ref:

1. Letter of Intimation & Explanation

Dear ...

A judge (sometimes called a sheriff) is a person who makes important decisions for children and families when people cannot agree. You have been sent this letter because a judge needs to make a decision about you and your family. [Your Dad wants to have you to stay with him more often] and the judge has to decide about that.

The judge would like to know how you feel about that. You have a right to tell the judge what you think, but it will be the judge who makes the decision. If you don't want to, you don't have to tell the judge what you think. What you think is very important and it will help the judge to make the best decision about you. The judge will have to make a decision about what is best for you, and may not always agree with you.

The judge can't keep your views a secret from your Mum and Dad [or other parties to action, as appropriate]. The judge might not show them what you have written but will have to tell them what you would like to happen.

If you are not sure what to do, you can speak to an adult you trust, like a teacher. If you are not sure who to ask for help, you can check with SCLC [here insert details]

If there is anything you are worried or upset about and you don't know what to do, you can get in touch with Childline for someone to talk to and some help. You can phone them free on 0800 1111 and their website is www.childline.org.uk.

If you want to tell the judge now what you would like to happen, you can do so the form sent with this letter. You can say anything you like. There is no right or wrong answer. Please send the form back by post to the judge when you have filled it in. We have sent you an envelope, and it does not need a stamp. Just put the form in the envelope and put the envelope in a post box.

From

... Sheriff Court

Case Ref:

You can put this form in the envelope and post it back to the judge. You don't need a stamp.

Do you understand what the judge is making a decision about for your family? (tick in the box next to yes or no)

Yes

No

If you would like to tell the judge now what you would like to happen, you can write in this box. You can write over the page too if you want.

You may well be asked again to give your views in more detail to the judge, if you want to.

ANNEX B

F9.2

Case Ref:

2. Letter inviting views of child

Dear ...

You might remember that you got a letter about this a little while ago. A judge (sometimes called a sheriff) is a person who makes important decisions for children and families when people cannot agree. You have been sent this letter because a judge needs to make a decision about you and your family. [Your Dad wants to have you to stay with him more often and your Mum does not agree.] The judge has to decide about that.

The judge would like to know how you feel about that. You have a right to tell the judge what you think, but it will be the judge who makes the decision. If you don't want to, you don't have to tell the judge what you think. What you think is very important and it will help the judge to make the best decision about you. The judge will have to make a decision about what is best for you, and may not always agree with you.

The judge can't keep your views a secret from your Mum and Dad [or other parties to action, as appropriate]. The judge might not show them what you have written but will have to tell them what you would like to happen.

If you are not sure what to do, you can speak to an adult you trust, like a teacher. If you are not sure who to ask for help, you can check with SCLC [here insert details]

If there is anything you are worried or upset about and you don't know what to do, you can get in touch with Childline for someone to talk to and some help. You can phone them free on 0800 1111 and their website is www.childline.org.uk.

If you want to tell the judge now what you would like to happen, you can do so on the form sent with this letter. You can say anything you like. There is no right or wrong answer. Please send the form back to the judge when you have filled it in. We have sent you an envelope, and it does not need a stamp. Just put the form in the envelope and put the envelope in a post box.

From

... Sheriff Court

Case Ref:

You can put this form in the envelope and send it back to the judge. You don't need a stamp.

Do you understand what the judge is making a decision about for your family? (tick in the box next to yes or no)

Yes

No

How do you feel about [seeing your Dad] just now?



Good



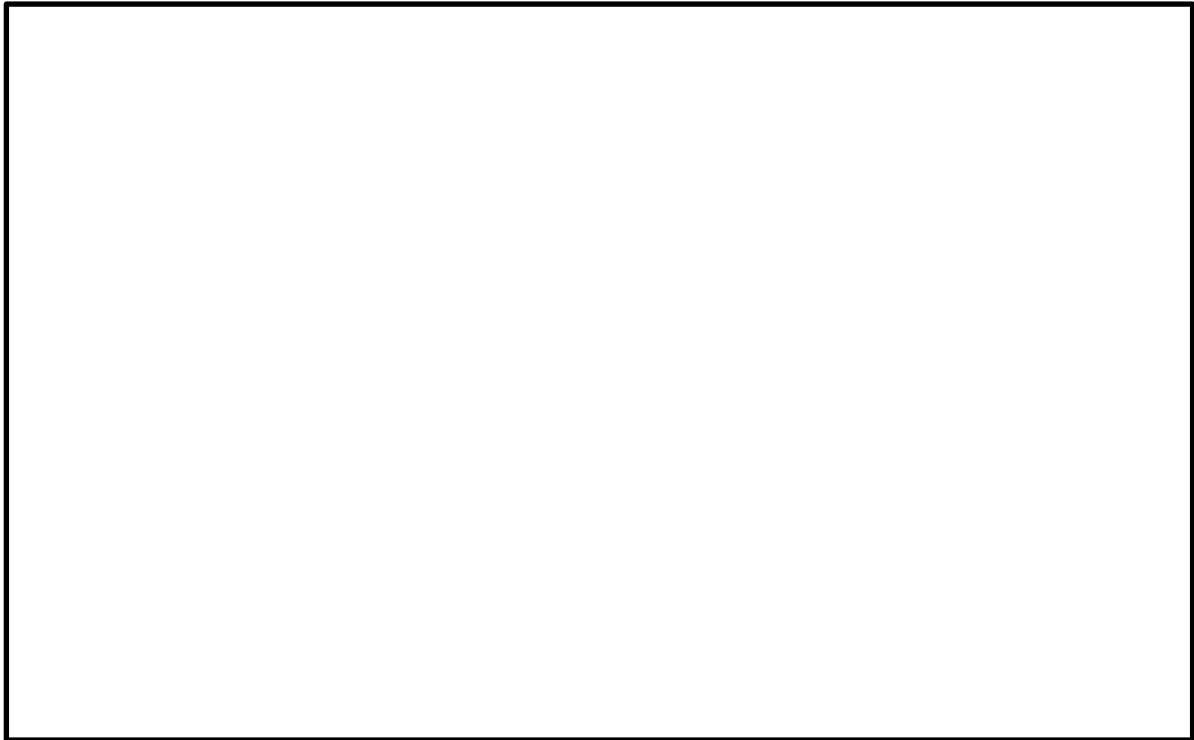
In the middle



Not good

Case Ref:

Would you like to tell the judge anything about this?

A large, empty rectangular box with a black border, intended for the respondent to provide a written answer to the question above.

Is there anything else you would wish to happen?

A large, empty rectangular box with a black border, intended for the respondent to provide a written answer to the question above.

Case Ref:

Would you prefer to say what you think in a different way?

Yes

No

What different way would you like to say what you think?

The judge will decide what happens next.