

ASSOCIATION OF CHILDREN'S HEARINGS PRACTITIONERS
RESPONSE
TO
CIVIL COURTS REVIEW

INTRODUCTION

The Association of Children's Hearings Practitioners is the representative body for solicitors involved in Children's Hearing matters within Scotland. The Association was only formed relatively recently. The Association considers that the Review paper raises issues of wide-spread importance. However, as our Association has a specific interest in the area of Children's referral matters much of the paper was outwith our area of interest and expertise. Therefore, we have commented only on selected matters.

CHAPTER 1

Q1: SHOULD THE CIVIL JUSTICE SYSTEM BE DESIGNED TO ENCOURAGE EARLY RESOLUTION OF DISPUTES, PREFERABLY WITHOUT RESORT TO THE COURTS? IF SO, WHAT WOULD BE THE KEY FEATURES OF SUCH A SYSTEM?

We believe that the Civil Justice System should be designed to encourage early resolution of disputes, preferably without resort to the Courts. However, this is not a matter that is applicable to Referral matters, which only tend to come to court where matters have been disputed at a Children's Hearing.

Q2: DO YOU AGREE THAT THE PRINCIPLES AND ASSUMPTIONS DISCUSSED IN PARAS. 1.11 TO 1.14 ARE A SOUND BASIS FOR THE DEVELOPMENT OF THE REVIEW'S RECOMMENDATIONS? SHOULD THEY BE SUPPLEMENTED BY OTHER FACTORS?

Yes. We do not believe that they should be supplemented by other factors.

Q3: ARE THERE ANY MATTERS WITHIN THE REVIEW'S REMIT ABOUT WHICH YOU HAVE CONCERNS AND WHICH ARE NOT DEALT WITH IN THIS PAPER?

We consider that there is a lack of focus on or much mention of children's referral matters which, traditionally, are viewed as neither criminal nor civil matters. The Association believes that there has been an increased volume of such cases coming before the courts in recent years and that many such cases now have an increased complexity.

In particular cases involving allegations of sexual abuse and involving allegations of injuries to the child, such as "shaken baby" or "Munchausen's by proxy" can become very lengthy and involved. The Association observes that many Sheriffs have little

experience of dealing with such cases prior to being appointed to the Bench. The Association believes that care needs to be taken in considering children's referral matters as separate from general civil or criminal cases. Whilst civil evidential rules apply predominantly to these cases, criminal standard of proof and corroboration apply in cases of alleged offending by the child. In addition, the lengthy cases often require consideration of complex evidence of a forensic nature which Sheriffs with a criminal background may have more experience of.

CHAPTER 2

Q1: WHAT CONTRIBUTION CAN PUBLIC LEGAL EDUCATION MAKE TO IMPROVING ACCESS TO JUSTICE?

Such education can usefully point the member of the public in the correct direction to obtain further advice, whether that be from a solicitor, law centre or whatever. In the area of Children's Referral matters we would like to see mention made on Grounds of Referral of the assistance that could be provided by a solicitor and enquiry made about this by Children's Hearing Panels at the outset.

Q2: ARE THERE ANY PARTICULAR GEOGRAPHICAL OR SUBJECT AREAS IN WHICH THERE ARE GAPS IN PROVISION IN RELATION TO CIVIL LEGAL ADVICE AND REPRESENTATION? IF SO, WHERE?

It is the view of the Association that the reforms of civil legal aid in 2003 have led to a large scale withdrawal of solicitors prepared to carry out civil legal aid work, particularly family law work. However, this does not appear to have extended to Children's Referral work at the present time.

Q3: TO WHAT EXTENT IS IT (A) DESIREABLE OR (B) FEASIBLE TO DESIGN COURT PROCEDURES WITH A VIEW TO ENABLING LITIGANTS TO TAKE PART IN THE PROCESS WITHOUT LEGAL REPRESENTATION?

We believe that it is desirable that litigants can take part in the process without representation but complex legal tests and a large amount of legal precedent in the area of Children's Referrals can make it difficult for the lay-person to be properly informed. Unrepresented parties may be parents who have a conflict of interest with the child of the referral and on occasion the child may require to give evidence as a vulnerable witness. It would not be desirable, in those circumstances, that the parent be unrepresented. Children themselves require to be represented at times in referrals and are not likely to be able to adequately understand and present the whole of their case. It may be confusing to them and add unnecessary pressure to them by providing a lot of information to them about proceeding on an unrepresented basis.

Q4: WHAT CONTRIBUTION, IF ANY CAN (A) SELF-HELP SERVICES FOR PARTY-LITIGANTS AND (B) COURT BASED ADVICE SERVICES MAKE TO IMPROVING ACCESS TO JUSTICE?

We do not believe that these services have an input to make in the area of Children's referral matters.

Q5: ARE THERE ANY OTHER ISSUES WHICH IMPACT ON ACCESS TO JUSTICE IN SCOTLAND WHICH THE REVIEW SHOULD CONSIDER?

No.

Q6: IS THERE A CASE FOR A NEW METHOD OF DEALING WITH LOW VALUE CASES? IF SO, SHOULD THIS BE WITHIN THE EXISTING COURT STRUCTURE OR SEPARATE FROM IT? WHAT KIND OF CASES WOULD BE SUITABLE FOR SUCH TREATMENT?

Outwith our remit.

CHAPTER 3

Q1: WHAT, IF ANY, INFORMATION CAN YOU GIVE THE REVIEW ABOUT LEVELS OF LEGAL EXPENSES IN LITIGATION, AND HOW SUCH EXPENSES CAN COMPARE WITH SUMS AWARDED BY THE COURT FOR SETTLEMENT FIGURES?

Not relevant to Children's Hearing matters.

Q2: TO WHAT EXTENT DOES THE COST OF LITIGATING DETER PEOPLE FROM PURSUING OR DEFENDING CASES IN COURT?

Not relevant to Children's Hearing matters.

Q3: DOES THE CURRENT SYSTEM OF LEVYING COURT FEES EFFECT ACCESS TO JUSTICE? IF SO, HOW AND IN WHAT KIND OF CASES?

Not relevant to Children's Hearing matters.

Q4: ARE THE CURRENT RULES FOR RECOVERY OF JUDICIAL EXPENSES SATISFACTORY?

Not relevant to Children's Hearing matters.

Q5: ARE THE CURRENT ARRANGEMENTS FOR THE TAXATION OF JUDICIAL ACCOUNTS OF EXPENSES SATISFACTORY?

Not relevant to Children's Hearing matters.

Q6: TO WHAT EXTENT AND IN WHAT RESPECTS DOES THE AVAILABILITY OF LEGAL ADVICE AND ASSISTANCE AND LEGAL AID AFFECT ACCESS TO JUSTICE?

The lack of remuneration for solicitors working in the field of Children's Hearing work has resulted in a reduction of solicitors coming into this field. Reforms to legal aid in these cases, whereby the court can no longer grant an increase in the legal aid fee chargeable in complex cases, has meant an effective reduction in the fee payable for these complex cases. This may lead to a reduction in the availability of specialist practitioners in this field in the future.

In our view it is imperative that such cases be properly funded by the state. The rate payable to solicitors in Children's legal aid cases has not increased appreciably for many years. There is a need for an increase in the fees available to solicitors to bring them much more into line with private cases. At present the legal aid rate is approximately fifty percent lower than the private rate and is not economically viable for most firms.

Q7: ARE THERE SPECIFIC AREAS IN WHICH YOU BELIEVE THERE IS A PARTICULAR PROBLEM IN OBTAINING FUNDING FOR LITIGATION?

Not relevant to Children's Hearing matters.

Q8: WHAT IMPACT HAVE SPECULATIVE FEE ARRANGEMENTS HAD ON ACCESS TO JUSTICE?

Not relevant to Children's Hearing matters.

Q9: SHOULD LEGAL EXPENSES INSURANCE INCLUDING "BEFORE THE EVENT" AND "AFTER THE EVENT" INSURANCE HAVE A GREATER ROLE TO PLAY IN THE FUNDING OF LITIGATION IN SCOTLAND?

Not relevant to Children's Hearing matters.

Q10: WHAT IMPACT WOULD THE ABILITY TO RECOVER "AFTER THE EVENT" INSURANCE PREMIUMS FROM UNSUCCESSFUL PARTIES HAVE ON LITIGATION?

Not relevant to Children's Hearing matters.

CHAPTER 4

Q1: DO YOU AGREE THAT THE CONDUCT OF THE CIVIL BUSINESS OF THE COURTS IS ADVERSELY AFFECTED BY THE PRESSURE OF CRIMINAL BUSINESS?

Yes. Due to many of the time limits operating in criminal cases and the need for these to be complied with, it is common for criminal business to be given “priority” in the Sheriff Court. For example, it is common for a Sheriff due to hear civil proofs to require to deal with several criminal deferred sentences before doing so. That often leads to the late start of the civil court. Such a situation also commonly arises in the children’s referral court. In addition the level of criminal business can affect the availability of dates for cases in Children’s Hearing matters that it is anticipated will be lengthy. A lack of priority is given to the aim of resolving such cases as expeditiously as possible.

Q2: SHOULD (A) SOME JUDGES OF THE SUPREME COURTS AND (B) SOME SHERIFFS BE DESIGNATED TO DEAL WITH CIVIL BUSINESS?

The Association can see advantages and disadvantages to this. On the one hand this would lead to the advantage of civil business being that Judge’s first priority. It would also lead to a greater expertise by that Judge in the area of civil work. It may also lead to greater time being available to that Judge in the area of case management. However, it may reduce the variety of work available to the Bench and thus reduce the attractiveness of the job as a whole. Overall the Association favours such an approach. However, children’s referral cases would need to be carefully dealt with. They are in the peculiar position of often having civil and criminal law components. It is our belief that they would be best dealt with by being viewed as a specialism in their own right (see answer 4).

Q3: SHOULD THE SHERIFF COURTS HAVE SEPARATED INTO CIVIL AND CRIMINAL DIVISIONS? WHAT WOULD THE ADVANTAGES AND DISADVANTAGES OF SUCH A SEPARATION BE?

See above. However, it is also thought that a separation may advantage the public. At present, persons attending the Sheriff Court to deal with civil business can be exposed to the high police presence and individuals accused and convicted of serious criminal activity. In addition their case may be dealt with in a court room designed to accommodate an accused and sometimes a jury.

Q4: SHOULD THERE BE A GREATER DEGREE OF SPECIALISATION WITHIN THE CIVIL COURTS IN SCOTLAND? IF SO, IN WHAT TYPES OF CASE AND IN WHICH COURTS?

The Association believes that the current specialist courts within Glasgow, such as the commercial court and family court have been a great success. They have led to a consistency of approach from the Bench and have led to a more expeditious resolution of such business. “Ownership” of a particular case by a particular judge has been beneficial in reducing the time previously needed to rehearse background before a new judge. The Association would like to see these specialist courts replicated throughout Scotland. In smaller jurisdictions the Association believes this could be done by the nominated Sheriff travelling to different courts within a particular Sheriffdom.

In recent times in Glasgow there has been an informal allocation of certain complex children’s referral cases to the Sheriff who is likely to hear the case at proof. This has had a most beneficial affect on the expeditious and satisfactory resolution of such cases.

Q5 : WHAT ARE THE KEY FACTORS WHICH INFLUENCE THE DECISION TO RAISE AN ACTION IN EITHER THE COURT OF SESSION OR THE SHERIFF COURT WHERE JURISDICTION IS CONCURRENT ?

Not relevant to Children’s Hearing matters.

Q6: IN WHAT, IF ANY, TYPES OF CASE SHOULD (A) THE COURT OF SESSION (B) THE SHERIFF COURT HAVE EXCLUSIVE JURISDICTION?

Not relevant to Children’s Hearing matters.

Q7: SHOULD THE JURISDICTION OF THE COURT OF SESSION AND THE SHERIFF COURT BE UNIFIED TO CREATE A SINGLE CIVIL COURT?

Not relevant to Children’s Hearing matters.

Q8: SHOULD THE COURT OF SESSION BECOME A COURT OF APPEAL ONLY OR SHOULD IT RETAIN A FIRST INSTANCE JURISDICTION? IF SO, FOR WHAT TYPES OF ACTION AND WHY?

Not relevant to Children’s Hearing matters.

Q9: IF THE CURRENT STRUCTURE OF THE COURTS IS RETAINED, AT WHAT LEVEL SHOULD THE PRIVATIVE JURISDICTION OF THE SHERIFF COURT BE SET?

Not relevant to Children’s Hearing matters.

Q10: ARE THE CURRENT POWERS TO TRANSFER CASES BETWEEN SHERIFF COURTS AND BETWEEN THE COURTS OF SESSION AND THE SHERIFF COURT SATISFACTORY?

Not relevant to Children's Hearing matters.

Q11: GIVEN THE RANGE IN VALUE AND COMPLEXITY OF CIVIL BUSINESS IN THE SHERIFF COURT, SHOULD THERE BE A TIER OF CIVIL COURT BELOW THE LEVEL OF THE SHERIFF COURT?

Not relevant to Children's Hearing matters.

Q13: DOES THE CURRENT DIVISION OF THE SHERIFF COURT INTO DISTINCT GEOGRAPHICAL JURISDICTIONS PRESENT DIFFICULTIES OR DOES IT HAVE ADVANTAGES?

We believe that this is advantageous. The primary advantage is in convenience to parents and children in referral matters as the court will be local to them. The other advantage is in providing the judiciary with local knowledge when dealing with matters. In children's referral matters it makes sense to require the family to travel to somewhere local, rather than distant from their home.

Q14: ARE THE CURRENT ARRANGEMENTS FOR DEALING WITH UNDEFENDED ACTIONS SATISFACTORY?

Not relevant to Children's Hearing matters.

Q15: ARE THE CURRENT ARRANGEMENTS FOR THE DISPOSAL OF CASES RAISING ISSUES OF PUBLIC OR ADMINISTRATIVE LAW SATISFACTORY?

Not relevant to Children's Hearing matters.

Q16: ARE THERE TYPES OF BUSINESS IN THE SHERIFF COURT WHICH COULD MORE EFFICIENTLY OR APPROPRIATELY BE DEALT WITH BY ADMINISTRATIVE RATHER THAN JUDICIAL PROCESSES? FOR EXAMPLE, ARE THE CURRENT ARRANGEMENTS FOR THE DISPOSAL OF COMMISSARY BUSINESS SATISFACTORY?

Not relevant to Children's Hearing matters.

Q17: IS THERE IS CASE FOR A NATIONAL SHERIFF COURT WHICH WOULD ALLOW CASES TO BE RAISED AT SHERIFF COURT LEVEL ANYWHERE IN SCOTLAND ? IF SO, WHAT APPEAL ARRANGEMENTS SHOULD THERE BE?

We do not consider that a national Sheriff Court would assist the public, many of whom find it difficult enough to reach their own local sheriff court, nor would it assist the solicitors profession, many of whom retain offices close to their existing Sheriff Court.

Q18: IS THERE A CASE FOR ALL SHERIFFS TO HAVE AN ALL SCOTLAND JURISDICTION?

Yes, if this would help to promote the efficient resolution of civil business in Scotland. However, even at present many Sheriffs who are nominally “All Scotland floating Sheriffs” actually only ever sit in a few particular courts. Therefore, such jurisdiction would only be appropriate if Sheriffs were actually going to be used elsewhere.

Q19: IF THE SHERIFF COURT BECOMES THE PRIMARY COURT OF FIRST INSTANCE, SHOULD THERE BE A POWER OF TRANSFER FROM THE COURT OF SESSION TO THE SHERIFF COURT AND A POWER FOR THE SHERIFF TO SEEK THE LEAVE OF THE COURT OF SESSION TO TRANSFER A CASE THERE? IF SO, WHAT FACTORS SHOULD BE TAKEN INTO ACCOUNT?

Not relevant to Children’s Hearing matters.

Q20: ARE THE EXISTING APPEAL ARRANGEMENTS SATISFACTORY?

We believe that there should be some kind of accelerated provision for dealing with Children’s Hearing matters. The current experience of members is that such cases, when appealed, can still take months to be heard. Where children are potentially in care awaiting the outcome of a case this is unsatisfactory.

Q21: SHOULD THE OFFICE OF SHERIFF PRINCIPAL BE RETAINED OR SHOULD AN ALTERNATIVE OFFICE BE CREATED? SHOULD THAT OFFICE BE JUDICIAL OR ADMINISTRATIVE OR BOTH?

We believe that the office of Sheriff Principal should be retained.

Q22: SHOULD THE MAJORITY OF STATUTORY APPEALS CONTINUE TO BE DEALT WITH BY THE INNER HOUSE OF THE COURT OF SESSION?

We do believe that appeals should continue to be dealt with by the Court of Session. However, there is an argument that these could be routed to the Outer House.

Q23: SHOULD THERE BE A LIMIT TO THE NUMBER OF LEVELS OF APPEAL THROUGH WHICH AN ACTION CAN PROGRESS? IF SO, HOW MANY LEVELS WOULD BE APPROPRIATE? WHAT PROVISION, IF ANY, SHOULD BE MADE FOR EXCEPTIONAL CASES AND HOW SHOULD THESE BE DEFINED?

We believe that the current system which allows four different levels of appeal is inappropriate. However, we do need to be careful to retain an ability to fine tune

complicated, untested areas within civil law. To that extent we believe that provision should be retained to deal with exceptional cases. These should be defined by criteria.

Q24: WHAT ARE THE ADVANTAGES AND DISADVANTAGES OF RELIANCE ON TEMPORARY JUDGES AND PART-TIME SHERIFFS?

The advantages are the ability to retain flexibility as to the number of Judges within the system, the different backgrounds and experience that Judges will bring to the post, the fact that part-time Judges may retain a connection with “real life” and the general public and the fact that they are available to travel throughout Scotland.

Disadvantages include the potential lack of consistency in their approach, the fact that they will often lack experience in either civil or criminal work and the fact that they may lack local knowledge. It is also unusual for such individuals to have a knowledge of Children’s Hearing matters.

CHAPTER 5

Q1: SHOULD THE RULES OF CIVIL PROCEDURE HAVE AN OVERRIDING OBJECTIVE OR STATEMENT OF PHILOSOPHY, AND IF SO, WHAT SHOULD THE MAIN ELEMENTS OF THAT OVERRIDING OBJECTIVE OR STATEMENT OF PHILOSOPHY BE?

Not relevant to Children’s Hearing matters.

Q2: SHOULD THE COURT (A) ENCOURAGE, (B) REQUIRE OR (C) IN SOME OTHER WAY FACILITATE THE USE OF MEDIATION OR OTHER METHODS OF DISPUTE RESOLUTION?

Not relevant to Children’s Hearing matters.

Q3: IF SO, HOW SHOULD THIS BE DONE AND AT WHAT POINT OR POINTS IN THE PROGRESS OF A DISPUTE?

Not relevant to Children’s Hearing matters.

Q4: ARE THERE PARTICULAR KINDS OF DISPUTES IN WHICH THE USE OF MEDIATION OR OTHER METHODS OF DISPUTE RESOLUTION IS NOT APPROPRIATE AND IN WHICH A JUDICIAL DETERMINATION IS ESSENTIAL? PLEASE SPECIFY.

Not relevant to Children’s Hearing matters.

Q5: WHAT FORM SHOULD MEDIATION OR OTHER FORMS OF DISPUTE RESOLUTION TAKE AND HOW WOULD THIS BE FUNDED?

Not relevant to Children's Hearing matters.

Q6: IN WHAT RESPECTS CAN MODERN COMMUNICATIONS AND INFORMATION TECHNOLOGY BE HARNESSSED TO IMPROVE ACCESS TO THE CIVIL COURTS?

The Association supports the extended use of information technology. We believe that the extended use of e-mail could make the courts and Judges more accessible and the ability to communicate with the courts and with Judges in such a way should be encouraged. We do not see any reason why papers in Children's Referral matters cannot be submitted to court electronically and passed to agents and any Curator in the same way. Systems would also require to be created to provide an ability to obtain a warrant to serve and so on, by such a method. This could provide great cost savings on postage and photocopying. In addition, wireless network provision in all sheriff courts to allow practitioners to make full use of IT (such as for obtaining papers from the Reporter, checking diaries, and so on; submission of all applications electronically, to allow for automatic allocation of diets and immediate intimations to practitioners; better IT hardware in the referral court to permit CCTV evidence for vulnerable witnesses and experts (video conferencing from their place of work).

Q7: TO WHAT EXTENT SHOULD THE COURT CONTROL THE CONDUCT AND PACE OF LITIGATION?

We believe that it is crucial that the court should control the conduct and pace of the litigation as much as possible and that by doing so the best chance for swift resolution is provided.

Q8: WHAT TYPES OF CASES WOULD BENEFIT FROM (A) JUDICIAL CASE MANAGEMENT AND WHAT TYPES OF CASE WOULD BENEFIT FROM (B) CASE FLOW MANAGEMENT?

We believe that all types of cases would benefit from judicial case management. As already observed, certain complex Referral matters in Glasgow have recently been the subject of judicial case management. The Association's perception is that this has been very successful.

CHAPTER 6

Q1: WHAT ARE THE ADVANTAGES AND DISADVANTAGES OF PRE-ACTION PROTOCOLS?

Not relevant to Children's Hearing matters.

Q2: SHOULD THERE BE GREATER USE OF PRE-ACTION PROTOCOLS? IF SO, IN WHAT COURTS, AND FOR WHAT TYPES OF ACTION?

Not relevant to Children's Hearing matters.

Q3: SHOULD COMPLIANCE WITH PRE-ACTION PROTOCOLS BE VOLUNTARY OR COMPULSORY?

Not relevant to Children's Hearing matters.

Q4: SHOULD THERE BE A GREATER REQUIREMENT FOR LEAVE TO BRING OR TO TAKE STEPS IN PROCEEDINGS? IF SO, AT WHAT POINTS IN PROCEEDINGS AND WHAT CRITERIA SHOULD THE COURT APPLY IN DECIDING WHETHER LEAVE SHOULD BE GRANTED?

Not relevant to Children's Hearing matters.

Q5: ARE THE CURRENT ARRANGEMENTS FOR MAKING THE RULES OF CIVIL PROCEDURE SATISFACTORY? PLEASE GIVE REASONS FOR YOUR VIEWS.

We would like to see one Rules Council as this would streamline the approach taken when for the civil courts are being considered.

Q6: SHOULD THERE BE A SINGLE SET OF RULES FOR CIVIL PROCEDURE IN BOTH THE COURT OF SESSION AND IN THE SHERIFF COURT?

Not relevant to Children's Hearing matters.

Q7: SHOULD THERE BE A SINGLE INITIATING DOCUMENT FOR ALL TYPES OF ACTION AND / OR AT ALL LEVELS OF THE COURT STRUCTURE? IF SO WHAT FORMAT SHOULD THAT DOCUMENT TAKE?

Not relevant to Children's Hearing matters. These have their own specific forms.

Q8: TO WHAT EXTENT SHOULD A SYSTEM OF ABBREVIATED PLEADINGS BE INTRODUCED?

Not relevant to Children's Hearing matters.

Q9: ARE THE CURRENT ARRANGEMENTS FOR SUMMARY DISPOSAL SATISFACTORY?

Not relevant to Children's Hearing matters.

Q10: SHOULD ROUTINE PROCEDURAL MATTERS IN BOTH THE COURT OF SESSION AND THE SHERIFF COURT BE DEALT WITH BY JUDGES (PERHAPS THE MORE JUNIOR LEVELS) DESIGNATED FOR THAT PURPOSE.

Not relevant to Children's Hearing matters.

Q11: ARE THE CURRENT ARRANGEMENTS FOR DEALING WITH ROUTINE PROCEDURAL BUSINESS SATISFACTORY?

Q12: SHOULD THE COURT HAVE A GREATER DEGREE OF INPUT INTO ALLOCATING THE LENGTH OF TIME TO BE SET ASIDE FOR A HEARING? SHOULD HEARINGS BE TIME LIMITED OR CONDUCTED BY REFERENCE TO A TIMETABLE DETERMINED BY THE COURT?

Yes we believe that the court should have a greater degree of input in allocating the length of time to be set aside and that hearings should be conducted by reference to a timetable determined by the court.

Q13: IN THE CONDUCT OF SUBSTANTIVE HEARINGS SHOULD THERE BE GREATER USE OF WRITTEN RATHER THAN ORAL ARGUMENTS?

No. The Association believes that it is unlikely that the greater use of written arguments would proportionally reduce the amount of court time that would require to be spent so as to make them worthwhile.

Q14: TO WHAT EXTENT SHOULD THERE BE AN EARLIER AND / OR WIDER DISCLOSURE OF EVIDENCE?

The Association believes that the Children's Reporter could provide a statement of the basis for their case, attached to the Grounds of referral. This may allow for an earlier resolution of matters.

Q15: TO WHAT EXTENT SHOULD THE COURT HAVE CONTROL OVER THE USE OF EXPERT AND OTHER EVIDENCE?

The Association favours the current arrangements.

Q16: SHOULD A SYSTEM OF PURSUER'S OFFER BE INTRODUCED INTO THE CIVIL COURTS PROCEDURE? IF SO, WHAT FEATURES SHOULD SUCH A SYSTEM HAVE?

Not relevant to Children's Hearing matters.

Q17: SHOULD CIVIL JURY TRIALS BE RETAINED?

Not relevant to Children's Hearing matters.

Q18: SHOULD WRITTEN JUDGMENTS BE REQUIRED IN ALL CASES?

Not relevant to Children's Hearing matters at present. However, the Association feels that written Judgments should be required, within a fixed timescale. Such judgements need only be brief but would provide parties with a clear indication of the Sheriff's reasoning.

Q19: SHOULD THE COURTS HAVE GREATER POWERS TO IMPOSE SANCTIONS FOR NON-COMPLIANCE WITH COURT RULES OR WHERE A PARTY OR HIS REPRESENTATIVE HAS BEHAVED UNREASONABLY? IF SO, WHAT SHOULD THESE BE?

The Association is content with the powers already available.

Q20: WHAT MEASURES SHOULD BE AVAILABLE TO THE COURT TO IDENTIFY AND MANAGE UNMERITORIOUS CAUSES OR APPEALS BROUGHT BY PARTY-LITIGANTS?

Not relevant to Children's Hearing matters.

Q21: IS THE CURRENT LEGISLATION ON VEXATIOUS LITIGANTS IN NEED OF REFORM AND, IF SO, WHEN SHOULD THAT BE DONE?

Not relevant to Children's Hearing matters.

Q22: SHOULD A PERSON WITHOUT A RIGHT OF AUDIENCE BE ENTITLED TO ADDRESS THE COURT ON BEHALF OF A PARTY-LITIGANT AND, IF SO, IN WHAT CIRCUMSTANCES?

Not relevant to Children's Hearing matters.

Q23: WOULD IT BE DESIRABLE TO INTRODUCE SEPARATE PROCEDURES FOR MULTI-PARTY LITIGATION?

Not relevant to Children's Hearing matters.

Q24: IS THE RULE GOVERNING THE PROCEDURE TO BE FOLLOWED FOR JUDICIAL REVIEW SATISFACTORY?

Not relevant to Children's Hearing matters.