

Annex B: Consultation questions

Question 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) of the 1995 Act and section 27 of the Children's Hearings (Scotland) Act 2011?

Please select only one answer.

- a) Yes – remove the presumption and do not replace it with a different presumption.
- b) Yes – remove the presumption and replace with a new presumption based on a different age.
- c) No – leave the presumption in.

Why did you select your answer above?

Question 2):

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

Please select as many answers as you want.

- a) The F9 form.
- b) Child welfare reporters.
- c) Speaking directly to the judge or sheriff.
- d) Child support workers.
- e) Another way (please specify).

Why did you select your answer(s) above?

Question 3):

How should the court's decision best be explained to a child?
Please select only one answer.

- a) Child support worker.
- b) Child welfare reporter.
- c) Another option (please specify).

Why did you select your answer above?

Question 4):

What are the best arrangements for child welfare reporters and curators *ad litem*?

Please select only one answer.

- a) There should be no change to the current arrangements.
- b) A new set of arrangements should be put in place that would manage and provide training for child welfare reporters.
- c) The existing arrangements should be modified to set out minimum standards for child welfare reporters and allow the Lord President and Sheriffs Principal to remove them from the list if the reporters cease to meet the necessary standards.
- d) Another option (please specify)

Why did you select your answer above?

Question 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?

Yes

No

Why did you select your answer above?

Question 6):

Should child contact centres be regulated?

Yes

No

Why did you select your answer above?

Question 7):

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

Question 8):

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

Yes

No

Why did you select your answer above?

Question 9):

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

Yes

No

Why did you select the answer above?

Question 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?

Question 11):

How should contact orders be enforced?

Please select only one answer.

- a) no change to existing procedure.
- b) alternative sanctions (eg unpaid work, attending a parenting class or compensation).
- c) making a breach of a contact order a criminal offence with penalties including non custodial sentences and unpaid work.
- d) another option (please specify).

Why did you select your answer above?

Question 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?

Yes

No

Why did you select your answer above?

Question 13):

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

Yes

No

Why did you select your answer above?

Question 14):

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

Yes

No

Why did you select your answer above?

Question 15):

Should DNA testing be compulsory in parentage disputes?

Yes

No

Why did you select your answer above?

Question 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?

Yes

No

Why did you select your answer?

Question 17):

Should the term “parental rights” be removed from the 1995 Act?

Yes

No

Why did you select your answer above?

Question 18):

Should the terms “contact” and “residence” be replaced by a new term such as “child’s order”?

Yes

No

Why did you select your answer above?

If you answered yes what terms should be used?

Question 19):

Should all fathers be granted PRRs?

Yes

No

Why did you select your answer above?

Question 20):

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

Yes

No

Why did you select your answer above?

Question 21):

Should joint birth registration be compulsory?

Yes

No

Why did you select your answer above?

Question 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

No

Why did you select your answer above?

Question 23):

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

Yes

No

Why did you select your answer above?

Question 24):

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

Yes

No

Why did you select your answer above?

Question 25):

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

Please select only one answer.

- a) Yes – put the pupil enrolment form and annual update form on a statutory basis.
 - b) Yes- issue guidance on the enrolment form and annual update form.
 - c) Yes – other (please specify).

 - d) No – no further action by Scottish Government is required.
- Why did you select your answer above?

Question 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?
Please select only one answer

- a) Yes – legislation.
- b) Yes – guidance.
- c) Yes – other (please specify).

- d) No – no further action is required.

Why did you select your answer above?

Question 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

No

Why did you select your answer above?

Question 28):

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

Yes

No

Why did you select your answer above?

If you selected yes what should be done?

Question 29):

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

Please select only one answer.

- a) Yes – by an application to the criminal court following a conviction to remove that person’s PRRs.
- b) Yes – by giving the criminal court a duty to consider the removal of PRRs when a person is convicted of certain types of offences.
- c) No – leave as a matter for the civil courts.
- d) No – another way. (please explain).

Why did you select your answer above?

Question 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?

- Yes
- No

Why did you select your answer above?

Question 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?

Yes

No

Why did you select your answer above?

Question 32):

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

Yes

No

Why did you select your answer above?

Question 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

No

Why did you select your answer above?

Question 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?

Please select only one answer.

a) Yes – retain as currently.

b) Yes – but amend (please give details).

c) No – remove these provisions.

Why did you select your answer above?

Question 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?

Yes

No

Why did you select your answer above?

Question 36):

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

Yes

No

If yes, what action should be taken?

Please select all answers that apply.

- a) Introducing a duty in legislation on the civil courts to establish if there has been domestic abuse.
- b) Placing a duty in legislation on child welfare reporters that they must consider in each case whether there is evidence of domestic abuse and, if so, report on it accordingly.
- c) Including domestic abuse in any welfare checklist for the courts to consider in section 11 cases.
- d) Discussing with the Law Society of Scotland and the Family Law Association whether guidance for practitioners would be helpful.
- e) Other (please give details).

Why did you select your answer(s) above?

Question 37):

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

Yes

No

If yes what should be done?

Why did you select your answer above?

Question 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

No

Why did you select your answer above?

Question 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?

Yes

No

Why did you select your answer above?

Question 40):

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

Yes

No

Why did you select your answer above?

Question 41):

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

Yes

No

Why did you select your answer above?

If you answered yes what should be in such a checklist?

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

- a) Yes – introduce Mediation Information and Assessment Meetings in Scotland.
 - b) Yes – better signposting and guidance.
 - c) Yes – other (please give details).

 - d) No – no further action required.
- Why did you select your answer(s) above?

Question 43):

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

- Yes
- No

Why did you select your answer above?

Question 44):

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

Yes

No

Why did you select your answer above?

Question 45):

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

Yes

No

Why did you select your answer above?

Question 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 the views of the young person?

Yes

No

Why did you select your answer above?

Question 47):

Should SI 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

No

Why did you select your answer above?

Question 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

No

Why did you select your answer above?

Question 49):

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

Yes

No

Why did you select your answer above?

Question 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

No

Why did you select your answer above?

Question 51):

Should personal cross examination of vulnerable witnesses, including children, be banned in certain Childrens (Hearings) Scotland Act 2011 proceedings?

Yes

No

Why did you select your answer above?

Question 52):

Should section 22 of the Family Law (Scotland) Act 2006 which prescribes where a child is deemed to be domiciled be amended?

Yes

No

Why did you select your answer above?

Question 53):

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

- a) The partial Business and Regulatory Impact Assessment;
- b) The partial Child Rights and Wellbeing Impact Assessment;
- c) The partial Data Protection Impact Assessment; or
- d) The partial Equality Impact Assessment?

Yes

No

If yes please provide your comments below.

Question 54):

Do you have any further comments?

Yes

No

If you have answered yes please provide your comments below.