SHERIFFDOM OF GLASGOW & STRATHKELVIN

PRACTICE NOTE NO 1 of 2025

CHILDREN'S REFERRALS UNDER THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

I, AISHA YAQOOB ANWAR, Sheriff Principal of Glasgow & Strathkelvin, for the purpose of regulating practice in the Sheriff Court at Glasgow in pursuance of the powers conferred by Section 27(2) and (4) of the Courts Reform (Scotland) Act 2014, and all common law powers enabling me on that behalf, Order and Direct as follows:-

Part 1 Introduction

1.1 The overriding purpose of this Practice Note is to ensure that children's referral proceedings are conducted as fairly, expeditiously and efficiently as possible. This requires the accurate estimation and allocation of hearings, the reduction of repeated appearances, and the elimination of unnecessary or repetitive evidence at hearings. This will be achieved by active judicial management, together with a requirement on all parties to work to achieve the foregoing aim.

1.2 The Practice Note applies to the following, all of which are collectively referred to as children's referral proceedings:

- proof applications (applications to determine a ground for referral which is not accepted or not understood) by the children's reporter;
- applications for interim compulsory supervision orders (ICSOs) by the children's reporter;
- applications to recall child protection orders;
- appeals against decisions by children's hearings; and
- applications for review of previously established grounds for referral.

The requirements applicable to proof applications (Parts 3 and 4) will also apply, subject to any necessary adjustment, to any other children's referral matter in which it is anticipated that evidence will be led.

1.3 Except in the circumstances set out in section 26 of the Children's Hearings (Scotland) Act 2011, the court must regard the need to safeguard and promote the child's welfare throughout childhood as the paramount consideration. Further, the court must offer the child appropriate opportunities to express their views, and must have regard to any views so expressed, in the circumstances set out in section 27.

1.4 Parties should have regard to the guidance contained in Appendix 1 to this Practice Note when drafting affidavits or witness statements.

1.5 This Practice Note has effect from 6 January 2025. Practice Note No 1 of 2021 is revoked with effect from that date.

1.6 All statutory references are to sections of the Children's Hearings (Scotland) Act 2011 and to rules contained in the Act of Sederunt (Child Care and Maintenance) Rules 1997 as amended, and in particular Rules 3.46A and 3.47.

1.7 All references to "sheriff" include "summary sheriff".

Part 2 Organisation of Referral Proceedings

2.1 Children's referral proceedings will be programmed so that procedural hearings call on Monday each week and substantive hearings call on Tuesday to Friday each week.

2.2 The only matters to be allocated to the substantive hearing days will be: proofs at which it is anticipated that evidence will be led; appeal hearings where it is anticipated that the substance of the appeal will be argued (or, if agreed by the court, that evidence will be led); ICSO applications where the reporter shows cause for such allocation; and other matters which require to be heard to ensure compliance with a statutory timescale, such as an application to recall a child protection order.

2.3 All other matters will call on Mondays. For the avoidance of doubt, that includes: first callings of proof applications and (if required) appeals; subsequent hearings where evidence is not to be led, including case management hearings and pre-proof hearings; and ICSO applications except

where the court determines it would be more appropriate to consider the application on another day. Unless the court directs otherwise, witnesses should not be cited for any Monday hearing.

2.4 Business on Mondays will be allocated into three sessions commencing at 10 am, 11 am and 2 pm. All papers required for such business shall be lodged by no later than 12 noon on the preceding Friday.

2.5 All sheriffs will continue to be allocated for the substantive hearing days. Sheriffs assigned to preside at procedural hearings will be drawn from a pool of sheriffs nominated by the Sheriff Principal for that purpose. Where a nominated sheriff is not available, any sheriff may preside at a procedural hearing.

Part 3 Proof Applications: General

Lodging of Application

3.1 When lodging an application to establish grounds for referral under section 93 or 94, the children's reporter must at the same time lodge a provisional list of witnesses containing a summary of the matters to which these witnesses are expected to speak, and a note of any issues known to the reporter and considered relevant to the court's exercise of its duties in terms of section 27.

3.2 At the time of lodging the application, the children's reporter should draw to the sheriff clerk's attention any factors indicating that the case may require to be designated as a 'complex case' as defined at paragraph 4.1 below.

Cooperation of Parties

3.3 Parties are expected to assist the court in achieving the fair and expeditious determination of the application with the minimum of delay. In particular, parties shall:

- cooperate in exchanging and agreeing evidence as soon as reasonably practicable;
- make full and frank disclosure of their position;
- make the court aware of any issues relevant to the court's exercise of its duties in terms of section 27;
- provide such information on the progress of the application as is required by the sheriff;

- provide the court with any unsuitable dates at any hearing at which a proof may be assigned; where such dates are not available, the court will appoint parties to provide a list of unsuitable dates within seven days of the hearing at which a diet of proof is assigned failing which the proof diet will be assigned without further reference to the defaulting party or parties; and
- lead only relevant evidence and do so in an efficient manner.

First Hearing

3.4 At the first procedural hearing, the sheriff will seek to progress the application as expeditiously as possible. To enable the court to do so, parties must be in a position to address:

- (if not already determined) whether a safeguarder should be appointed;
- whether the children's reporter has disclosed relevant information and, if not, what arrangements should be made for disclosure;
- whether any other party holding relevant information has disclosed it and, if not, what arrangements should be made for disclosure;
- whether the requirement on the child to attend that or subsequent hearings should be dispensed with in terms of section 103(3);
- their understanding of the child's views or wish to express any views as regards any matter arising in the course of the application that relates to the welfare of the child;
- whether any party proposes to lead evidence from a child or other vulnerable witness, including what special measures may be required for such evidence to be taken directly;
- whether any party proposes to rely on a hearsay statement in the absence of a witness and what counter-balancing measures, if any, require to be taken in consequence thereof;
- in the case of an application falling within section 94(2)(a), whether to dispense with the hearing of evidence and deem the grounds for referral to be established;
- any other steps that may be necessary to secure the expeditious determination of the application, including but not limited to those listed in Rule 3.46A;

- whether the case should be treated as a complex case in terms of Part 4 below.

3.5 If the application is not disposed of at the first procedural hearing and if the application is not designated as a complex case, the sheriff will assign a proof and pre-proof hearing unless satisfied on cause shown that a subsequent procedural hearing is necessary.

3.6 Where having duly received notice of the application, no relevant person has indicated that they wish to participate in the proceedings, and the children's reporter has made reasonable inquiries to ascertain their position, the sheriff will give consideration to assigning early proof and pre-proof dates.

Subsequent Hearings

3.7 Where a second or subsequent procedural hearing is fixed, the sheriff will consider the matters listed at paragraph 3.4 insofar as not already determined. The sheriff will consider whether a hearing of evidence is likely to be required and, if so, the parties' state of preparation for proof. If the application cannot be determined at this hearing, having regard to any views expressed by the child, the sheriff will fix a proof and pre-proof hearing unless satisfied, on cause shown, that a further procedural hearing should be fixed.

3.8 Where a child is subject to interim measures the terms of which involve significant interference in private and family life, parties are expected to take all reasonable steps to assist the court in securing the earliest possible determination of the application.

Pre-proof hearing

3.9 Seven days in advance of the pre-proof hearing, each party must lodge a final list of witnesses and a proposed running order and timetable for the proof; any productions to be relied upon and a joint minute of admissions agreeing uncontroversial matters of fact.

3.10 Parties should bring to the sheriff's attention any logistical, procedural, evidential or legal matters liable to affect the progress of the case, including any special measures that are sought in respect of their witnesses, and should provide the sheriff with such information as is necessary to determine such matters.

3.11 If, having duly received notice of the application, no relevant person has indicated that they wish to attend the proof, and the children's reporter has made reasonable inquiries to ascertain their position regarding the grounds of referral, the sheriff may grant a motion for the evidence of a witness to be given in the form of an affidavit or witness statement, without the attendance of the witness at the proof.

Proof Hearing

3.12 Where a proof hearing is fixed, the expectation is that the proof will proceed at that hearing. Once fixed, in normal circumstances the court will grant an adjournment of the proof hearing only where satisfied on cause shown, and having regard to any views expressed by the child, that to do so is in the interests of the child and is likely to result in the fair and expeditious determination of the application.

Part 4 Proof Applications - Complex Cases

4.1 A complex case is any application where the court reasonably anticipates either that a hearing of more than 3 days may be required, or where the court has approved the leading of expert evidence in terms of paragraph 4.11.

4.2 Throughout the progress of a complex case, all parties are under a duty to cooperate to ensure the efficient management of the proceedings and the best use of court time. In particular, parties shall:

- make full and frank disclosure of their position;
- be prepared for each case management or pre-proof hearing;
- agree evidence wherever possible;
- where applicable, comply with the requirements set out below regarding expert evidence; and
- lead only relevant evidence and do so in an efficient manner.

Case Management Hearings

4.3 At the first procedural hearing, or as soon thereafter as an application is identified as likely to be a complex case, after considering the matters listed at paragraph 3.4 above the sheriff will fix a case management hearing.

4.4 The purpose of the case management hearing is to clarify the scope and duration of proof required, and any other logistical or procedural matters likely to affect the progress of the case.

4.5 In advance of the case management hearing, each party shall lodge a copy report from any expert witness, and a case summary. Parties shall also lodge a joint minute of admissions in relation to any statements of facts, or any evidence, that is agreed. Where a further case management hearing is fixed, each party must lodge an updated case summary if directed to do so by the court or if required in accordance with paragraph 4.12 below.

4.6 A case summary is a document which gives fair notice of a party's position and state of preparation by setting out in concise terms:

- a note of the identity of those who will represent the party at proof;
- (for each party other than the children's reporter) the extent to which, and basis on which, the grounds for referral and statement of facts are disputed;
- to the extent that the party holds relevant material, what disclosure has been effected and, if full disclosure has not been made, why not;
- a list of witnesses;
- the nature and scope of the evidence to be led (one succinct but informative paragraph per witness);
- the party's understanding of the child's views or wish to express any views as regards any matter arising in the course of the application that relates to the welfare of the child;
- where the party proposes to lead evidence from a child or other vulnerable witness, what special measures may be required for such evidence to be taken directly;
- whether the party proposes to rely on a hearsay statement in the absence of a witness;
- whether another party proposes to rely on a hearsay statement in the absence of a witness, what counter-balancing measures, if any, require to be taken in consequence thereof;
- any matters relating to expert evidence in accordance with the terms of paragraphs 4.11 to 4.15 below;

- a list of productions lodged or to be lodged by that party or, wherever possible, by parties jointly;
- an estimate of the number of days likely to be required to hear that party's evidence (including cross-examination and re-examination); and
- a note of any other logistical, procedural, evidential or legal issues to be raised by that party, and not yet resolved, that may affect the progress of the case.

4.7 At the case management hearing, parties shall cooperate so as to allow the sheriff to identify:

- the scope of the dispute between the parties;
- the nature and duration of the evidence to be led, and why such evidence is required;
- the extent to which evidence in chief may be presented in the form of affidavits/witness statements or other written evidence;
- the child's views, or wish to express a view, as regards any matter arising in the course of the application that relates to the welfare of the child;
- any special measures or particular arrangements required in respect of evidence to be led;
- whether any procedure other than proof is likely to be required, and the reason for that; and
- any logistical, procedural, evidential or legal issues and the extent to which they may affect the progress of the case.

4.8 At the case management hearing, the sheriff may give the parties directions, including but not limited to directions regarding: instruction of a single expert; the use of affidavits/witness statements; restriction of the issues for proof; restriction of witnesses; taking the child's views; and any special measures or arrangements to be made available for a child witness or vulnerable witness. All directions so given will be set out in the interlocutor issued in respect of the hearing, and be noted by the sheriff in the case management note (see Appendix 2).

4.9 The sheriff will not fix a diet of proof, or a pre-proof hearing, until satisfied that the parties have substantially complied with the requirements of paragraphs 4.6 and 4.7 and that it is possible to identify with some confidence the duration

of proof hearing reasonably required. Where, however, the sheriff considers that one or more parties has failed to comply timeously with the above requirements, having regard to any views expressed by the child the sheriff may nevertheless fix a diet of proof where satisfied that to do so would be in the best interests of the child and would ensure the fair and expeditious determination of the application.

4.10 When fixing a diet of proof in a complex case, the sheriff will also fix a pre-proof hearing.

Expert Evidence

4.11 Expert evidence – that is, evidence from a witness speaking primarily to opinion evidence rather than to evidence of fact – will be restricted to that which in the opinion of the court is necessary to assist the court to determine the proof application. Where any question arises regarding reliance on expert evidence, parties are expected to have regard to the guidance set forth by the Supreme Court in *Kennedy* v *Cordia (Services) LLP* [2016] UKSC 6 at paragraphs 38 to 61.

4.12 Where it is the view of one or more parties that expert evidence may be necessary in terms of paragraph 4.11, each such party must lodge a case summary and must set out therein:

- the issues to be addressed by expert evidence;
- the area(s) of expertise necessary to address these issues;
- the identity of any expert who has been instructed to provide a report or who has been cited, along with a concise statement of the relevance of the expert's qualifications and experience;
- the enquiries that would require to be undertaken by the expert or experts, including specifically whether any examination or assessment of the child is proposed;
- the likely impact on the length and conduct of the proof hearing; and
- why such expert evidence is considered necessary.

4.13 The court expects parties to ensure that any expert witness who is instructed or cited represents an established and respectable body of relevant professional opinion, is appropriately qualified and competent to address the relevant

issues, is appropriately informed as to the facts, and does address the relevant issues.

4.14 Where the court determines that expert evidence is necessary, the court will consider joint instruction of a single expert witness by all parties, including the children's reporter, to be the norm. On cause shown, where the court determines that it would be in the best interests of the child and of a fair hearing, the court may permit two or more parties each to instruct and cite their own expert witnesses on defined areas. In such circumstances parties must follow the procedure set out in paragraph 2 of Appendix 3 to this Practice Note. Further, unless the court otherwise directs, such evidence shall be led simultaneously as described more fully in Appendix 3.

4.15 The court will not hesitate to use its powers to restrict the issues for proof and to restrict witnesses where it considers that a party who wishes to lead expert evidence has not complied with the requirements of the foregoing paragraphs.

Pre-Proof Hearing

4.16 In advance of the pre-proof hearing, each party must lodge

- an updated case summary, containing a final list of witnesses and a proposed running order and timetable for the proof;
- any productions to be relied upon;
- any other documents specified by the sheriff at the case management hearing;
- and a joint minute of agreement agreeing uncontroversial facts.

4.17 Parties should bring to the sheriff's attention any logistical, procedural, evidential or legal matters liable to affect the progress of the case, and in particular, any matter that was not discussed at the case management hearing, and should provide the sheriff with such information as is necessary to determine such matters.

4.18 The interlocutor arising from the pre-proof hearing will have attached to it a timetable for the progress and completion of the proof as agreed by the parties or, failing such agreement, as determined by the sheriff.

Proof

4.19 During the proof hearing, the court is likely to sit continuously between 10 am and 1 pm, and again between 2 pm and 4 pm. At the court's discretion, parties

may be asked to lead evidence beyond 4 pm each day, in order to secure the expeditious resolution of the referral.

4.20 Parties must bear in mind at all times their responsibility to exercise reasonable economy and restraint in their presentation of evidence and submissions to the court. The sheriff will not hesitate to use either common law powers or the powers contained in Rule 3.46A to discourage prolixity or repetition, or to restrict the issues for proof in order to prevent the leading of evidence that is unlikely to assist the court in reaching a decision.

4.21 No party will be allowed to lead evidence or to follow a substantive line of examination not previously disclosed to other parties and the court, except with the leave of the court on cause shown.

4.22 Where Rule 3.47(4A) applies, at the close of the evidence led by the reporter the child, the relevant person and any safeguarder may give evidence and may, with the leave of the sheriff, call witnesses with regard to the ground in question. In determining whether to grant such approval, the sheriff shall take into account: the overriding purpose of this Practice Note; the nature and quality of the evidence led by the reporter, the nature and scope of the evidence that any other party proposes to call; and the extent to which parties have complied with their responsibilities under this Practice Note.

Variation of Timetable

4.23 Once a diet of proof is allocated, parties should have no expectation that the court will sanction any variation to, or extension of the timetable referred to in paragraph 4.18.

4.24 Any motion to adjourn a proof, to allow additional evidence or to allocate additional days to the hearing of the proof will be granted only on cause shown, having regard to any views expressed by the child and taking account of the responsibilities of parties under this Practice Note and the extent to which parties have complied with them.

Part 5 Applications for ICSOs

5.1 An application for an interim compulsory supervision order should be accompanied by a written statement setting out in concise terms: the procedural history of the related proof application; an overview of previous

interim orders; a statement of the terms on which the order is sought; the views of the child insofar as known to the reporter; and the basis on which the reporter considers it is necessary for the protection, guidance, treatment or control of the child that the current ICSO be extended or extended and varied.

5.2 There is no requirement for any party other than the children's reporter to attend in person, or to be represented at a hearing to consider an application under paragraph 5.1, unless that party opposes the extension of the order in the terms sought by the children's reporter, or wishes to seek any variation of its proposed terms. The sheriff will assume that a party who does not attend in person and is not represented at the hearing of the application does not oppose the extension of the order in the terms sought by the children's reporter.

Part 6 Appointment of Safeguarders

6.1 On lodging an application to establish grounds for referral, the reporter must advise the court of the identity of any safeguarder appointed by the children's hearing in respect of the child.

6.2 Any party lodging an application to recall a child protection order, an appeal against a decision of a children's hearing or an application for review of previously established grounds for referral must advise the court of the identity of any safeguarder or curator ad litem currently or recently appointed in respect of the child.

6.3 In deciding whether to appoint a safeguarder or curator ad litem, the sheriff may take into account: the age or ages of the child(ren); the nature of the grounds for referral; whether the grounds for referral are accepted or not by any relevant person; whether there is a conflict of interest between the child and any other party such that the court cannot otherwise protect the interests of the child; whether the appointment of a safeguarder would facilitate the child's expression of views in terms of section 27; and any other relevant information provided by the children's reporter or any other party.

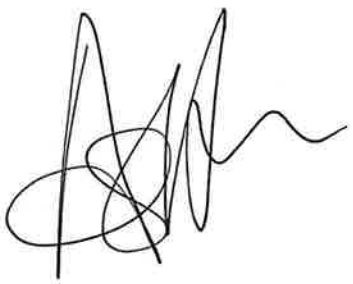
Part 7 Appeals against Compulsory Supervision Orders

7.1 Where an appeal is lodged against the grant of a compulsory supervision order, the court will fix a substantive hearing on submissions rather than a procedural hearing unless the appellant indicates, at the time of lodging the appeal, that there is a specified logistical, legal, evidential or procedural matter that requires to be determined in advance of the appeal hearing.

7.2 Where the appellant so indicates, the court will fix a procedural hearing for the purpose of determining the logistical, legal, evidential or procedural matters specified by the appellant.

7.3 For the avoidance of doubt, and without prejudice to the sheriff's powers under section 155 and Rule 3.56, any motion that the appellant be allowed to lead evidence in support of the appeal must be made at the time of lodging the appeal and will be determined at a procedural hearing fixed in terms of the foregoing paragraph.

7.4 Unless the child is the appellant or lodges answers to the appeal, each party must advise the court of their understanding of the child's views or wish to express any views regarding disposal of the appeal.



Sheriff Principal A Y Anwar
Sheriff Principal of Glasgow & Strathkelvin
Glasgow, 17 December 2024

APPENDIX 1

Guidance regarding the use of affidavits and witness statements

The purpose of affidavits and witness statements

1. The Practice Note encourages the use of affidavits and witness statements to assist the court to hear cases fairly and expeditiously. If they are used effectively, they can shorten the duration of cases, help to focus the issues that are in dispute and reduce the time that witnesses require to give evidence in court. In relation to vulnerable witnesses, this can be particularly important and can assist the witness to give truthful and accurate evidence as well as minimise the extent to which they require to discuss traumatic events in court.
2. A witness who is called to give evidence, and who has sworn an affidavit, should be asked to identify the affidavit as theirs at the start of their evidence.
3. A witness who is called to give evidence and who has provided a witness statement should be asked to confirm at the start of their evidence that (i) the statement is theirs; (ii) that after giving the statement, they considered its terms and signed it; and (iii) that they adopts the statement as their evidence in chief.
4. The Civil Evidence (Scotland) Act 1988, section 2(1)(b) allows a person's statement, including a written statement, to be admitted as evidence of any matter of which direct oral evidence by that person would be admissible. The court will admit the affidavit or witness statement in evidence only if (i) parties agree the evidence, or agree its admission as the evidence of the witness; or (ii) a party makes a motion for the evidence to be admitted and the court grants such a motion.

Drafting of affidavits and witness statements

5. The affidavit / witness statement must be based on statements, precognitions and other material emanating directly from the witness. The drafter must not frame the affidavit/witness statement in language that the witness would not use. The court is likely to attach little weight to such an affidavit/witness statement. Equally, the court is likely to discount the witness's evidence if it appears that he or she has been improperly briefed or coached. The affidavit/witness statement is the evidence of the witness and must therefore

be expressed in the witness's own words – even where this results in the use of confused or intemperate language.

6. The witness should be made to appreciate the importance of the affidavit/witness statement. The possible consequences of giving false evidence should be explained to the witness. Those preparing affidavits/witness statements should bear in mind that the witness may have to justify on cross-examination statements contained in the document and this should make this clear to the witness. The witness should be given the opportunity to read the affidavit/witness statement before it is signed or sworn.
7. It should be clear from the terms of the affidavit/witness statement whether the witness is speaking from their own knowledge, based on what they actually saw or experienced, or whether the witness is relying on what they were told by a particular person.
8. The affidavit/witness statement should be drafted in the first person and should take the form of short, numbered paragraphs. It should be as succinct as possible and focus only on matters that are relevant to the issues in the referral. The court will disregard any irrelevant or inadmissible material.
9. Where an affidavit/witness statement is sworn in a language other than English, it must contain information of the circumstances in which it was drafted and translated. The original document and the translation must both be provided.

Form and signature of affidavits

10. An affidavit must be sworn or affirmed before a notary public, justice of the peace or any person having authority to administer oaths in the place where the affidavit is sworn (such as a commissioner for oaths or a British diplomatic officer or consul abroad). The witness must be placed on oath or must affirm. A solicitor acting for a party to the referral may act in a notarial capacity. Any person before whom an affidavit is sworn or affirmed ("the notary") must be satisfied that the witness has capacity to swear or affirm an affidavit.
11. The affidavit should be on A4 paper. It should commence with the following words:

    "At _____ the _____ day of _____ 20__, in the presence of _____, I _____ [having been solemnly sworn / having affirmed], give evidence as follows:"

12. The full name, age, address and occupation of the witness should be given in the first paragraph. The affidavit should end with the words: *"All of which is the truth as I shall answer to God"* or *"All of which is affirmed by me to be true"*, as appropriate.

13. At the time the affidavit is sworn or affirmed, any insertion, deletion or other amendment to the affidavit must be initialled by the witness and the notary. Each page must be signed by both the witness and the notary. It is not necessary for the affidavit to be sealed by the notary. No alterations or insertions can be made after the affidavit is sworn or affirmed. Where a party wishes to alter or add to the affidavit, this must be done by supplementary affidavit.

Form and signature of witness statements

14. A witness statement should be on A4 paper and include the full name, age, address and occupation of the witness should be given in the first paragraph. Each page of the witness statements should be signed by the witness and any insertion, deletion or other amendment to the statement must be initialled by the witness. The last page of the statement should include a declaration that the evidence is true to the best of the witness's knowledge and belief and the witness should sign and date the statement.

APPENDIX 2

CASE MANAGEMENT NOTE

CASE REF:_____

SHERIFF: _____ **DATE:**_____

1. Have the parties lodged a case summary addressing the matters in para 4.6 of the Practice Note?	
2. With reference to para 4.7 of the Practice Note: - What is the scope of the dispute between the parties? - What is the nature and duration of the evidence to be led, and why such evidence is required? - To what extent can the evidence be presented in the form of affidavits/witness statements or other written evidence? - Have the child's views been obtained in any matter arising in the course of the application that relates to the welfare of the child? - If they require to be obtained, how should this be done? - Are any special measures or particular arrangements required in respect of evidence to be led? - Whether any procedure other than proof is likely to be required, and the reason for that? - Are there any logistical, procedural, evidential or legal issues and the extent to which they may affect the progress of the case?	
3. In cases in which a party proposes to instruct an expert, have they lodged a case summary addressing the matters referred to in para 4.12 of the Practice Note?	

4. If the court considers that it is necessary for an expert witness to be instructed: - What issues are to be addressed by expert evidence? - What is the area(s) of expertise necessary to address these issues? - Who is to be instructed as an expert witness? - What enquiries require to be undertaken by the expert or experts, including specifically whether any examination or assessment of the child is proposed? - What is the likely impact on the length and conduct of the proof hearing? - Why such expert evidence is considered necessary? - Is it necessary for more than one expert witness?	
5. Has a joint minute been lodged that addresses the uncontroversial evidence?	
6. Is it necessary to make an order in terms of rule 3.46A of the Rules to secure the expeditious determination of the application, including but not limited to: - Instructing a single expert? - Using affidavits/witness statements? - Restricting the issues for proof? - Restricting witnesses? - Obtaining the child's views?	

APPENDIX 3

Simultaneous Expert Evidence - Guidance for Parties in Referral Proceedings

1. Simultaneous expert evidence (sometimes known as 'hot-tubbing') is a process for taking expert evidence in a manner that enables the court and parties to focus on the areas of disagreement between experts on crucial issues. It is particularly useful where the court has allowed parties to call experts to give competing evidence which is intended to comment on the same matters.
2. Whether experts ultimately give evidence simultaneously or separately, the process is of considerable assistance in identifying the issues in dispute and the basis for such dispute. Accordingly, in any case where the court has determined that two or more parties may each call their own expert witness or witnesses on defined areas, parties must:
    - Ensure that each expert has available a copy of all reports lodged by the other experts;
    - Ensure that each expert's report or reports, together with a full CV if not included in a report, are lodged with the court by the pre-proof hearing at the latest;
    - Ensure that communication takes place between the experts so that they can identify the matters on which they agree, the matters on which they do not agree and the reasons for such disagreement;
    - Prepare a joint note setting out the matters of agreement between the experts, the matters on which the experts disagree and the reasons for their disagreement. The joint note should be intelligible and concise. It should be separate from any joint minute of admissions or agreement amongst the parties themselves regarding non-expert evidence. It may well be that the joint note should be prepared by the experts themselves, although it of course remains the parties' responsibility to ensure it is prepared;
    - and lodge the joint note at least 1 week in advance of the date when the experts, or the first of them, will give evidence.

3. Further, unless the court has approved in advance the non-simultaneous leading of expert evidence, parties must coordinate between themselves and the court to ensure availability of the witnesses on the same date and at the same time.
4. In practical terms, the process in court where experts give evidence simultaneously is that:
    - The expert witnesses are cited to attend court on the same day;
    - They are brought into court at the same time and take the oath at the same time;
    - The court then takes the lead in questioning, focusing on the matters on which there is dispute between the experts and the reasons for that dispute. The same question will be put to each witness, topic by topic;
    - During questioning the experts will be encouraged to comment on each other's opinion and to engage in three-way dialogue between each other and the court;
    - All parties will be given the opportunity to ask supplementary questions, either on a topic-by-topic basis or after the court has concluded its questioning of the witnesses.