PD/2022/01

COURTS AND TRIBUNALS

FALKLAND ISLANDS

Practice Direction- Private Law family Applications

1. On the 31st July 2017 Simon Bryan QC, then Chief Justice of the Falkland Islands, made a Practice Direction, which gave effect in the Falkland Islands to all Practice Directions made from time to time in respect of the England and Wales Family Procedure Rules 2010.(FPR2010), with such modifications as the Falkland Islands require.

2. Practice Direction 13 FPR2010 relates to the safeguarding procedure the court follows in the event of an application for an order in private law proceedings for children. Practice Direction 13 (PD13) is set out below;

1. Safeguarding

13.1

Where an application is made for a child arrangements order (but not necessarily for specific issue or prohibited steps orders), before the FHDRA (see paragraph 14 below) Cafcass / CAFCASS Cymru shall identify any safety issues by the steps outlined below.

13.2

Such steps shall be confined to matters of safety. The Cafcass Officer or (in Wales) the Welsh Family Proceedings Officer (WFPO) shall not discuss with either party before the FHDRA any matter other than one which relates to safety. The parties will not be invited to talk about other issues, for example relating to the substance of applications or replies or about issues concerning matters of welfare or the prospects of resolution. If such issues are raised by either party, they will be advised that such matters will be deferred to the FHDRA when there is equality between the parties and full discussion can take place which will be a time when any safety issues that have been identified can also be taken into account.

13.3

In order to inform the court of possible risks of harm to the child Cafcass / CAFCASS Cymru will carry out safeguarding enquiries. For all child arrangements orders this will include seeking information from local authorities, and carrying out police checks on the parties. For all other applications received from the court on the form C100, Cafcass / CAFCASS Cymru will carry out a screening process and will

undertake those checks if in the professional judgment of the Cafcass officer, or the WFPO in Wales, such checks are necessary.

13.4

Cafcass / CAFCASS Cymru will, if possible, undertake telephone risk identification interviews with the parties and if risks of harm are identified, may invite parties to meet separately with the Cafcass Officer, or WFPO in Wales, before the FHDRA to clarify any safety issue.

13.5

Cafcass / CAFCASS Cymru shall record and outline any safety issues for the court, in the form of a Safeguarding letter (in Wales, this is called a 'Safeguarding report').

13.6

The Cafcass officer, or WFPO, will not initiate contact with the child prior to the FHDRA. If contacted by a child, discussions relating to the issues in the case will be postponed to the day of the hearing or after when the Cafcass officer or WFPO will have more knowledge of the issues.

13.7

Within 17 working days of receipt by Cafcass / CAFCASS Cymru of the application, and at least 3 working days before the hearing, the Cafcass Officer or WFPO shall report to the court, in a Safeguarding letter / report, the outcome of the risk identification work which has been undertaken. The letter / report should specify which court forms filed by the parties (C100, C7 and C1A) have been considered.

13.8

Further, Cafcass and CAFCASS Cymru are required, under section 16A Children Act 1989, to undertake (and to provide to the court) risk assessments where an officer of the Service ('Cafcass Officer' or WFPO) suspects that a child is at risk of harm.

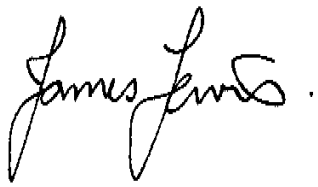
3. Reference is made to Cafcass identifying safety issues. Cafcass does not exist in the Falkland Islands. For all references to Cafcass shall be substituted the Head of Social Services, Falkland Islands Government, who may delegate her duty under PD13 to any appropriate officer.

4. On any application for an order in private law children proceedings PD13 will be followed. The Safeguarding letter will be in the format on the template document attached to this Practice Direction.

5. The initial directions order and any other orders will be on the template form attached to this Practice Direction.

6. The s 11 report by Social Services will be on the template document attached.

Dated 20 January 2022



James Lewis QC

Chief Justice

Falkland Islands Template - Safeguarding Letter

Social worker:

Date Safeguarding Letter completed:

Filing date:

Safeguarding letter to the court

Court	
Court Case No	
Date of Hearing	

Name of child	Gender	Date of birth	Age

Name of party	Gender	Relationship to child	Date of birth

SAMPLE DOCUMENT

WARNING: This letter is confidential and the rules of the court prevent it being shared. There may be serious consequences if the information included in this letter is communicated without authorisation and the court may need to be informed.

NOTE: Significant factual errors (not matters disputed by the parties) in this letter should be referred to the author. Any concerns about other aspects of the letter (for example, the extent of enquiries, the opinions expressed in it or matters disputed by the parties) must be addressed in court.

The court sent the application in the above case (listed for first hearing as above) to the Head of Social Services who allocated to the above named social worker to act as the court welfare officer.

The purpose of this letter is to inform the court of any safeguarding information that they should be aware of for the purposes of these proceedings.

Summary of screening actions and outcomes:
Documents read: **Summary of the application**: **Current arrangements for the child:** **Police information**: **Social Services information:**

Details of any Safeguarding Concerns raised by either party:

Analysis of issues arising from safeguarding or risk identification:

SAMPLE DOCUMENT

Advice to the court:

A copy of this letter has been sent to the parties.

Letter completed and signed by

Social Worker:

Date:

SAMPLE DOCUMENT

THE NAMES OF THE CHILDREN SET OUT IN THE HEADING TO THIS ORDER AND THE NAMES OF THE PERSONS SET OUT IN PARAGRAPHS 3 ARE NOT TO BE DISCLOSED IN PUBLIC WITHOUT THE PERMISSION OF THE COURT.

THE CHILDREN

Full name	Girl /Boy	Date of birth

Order – Directions Hearing 1/2/3/4/5

[*Sequential number in these proceedings*]

[*NAME OF JUDGE*] **SITTING IN OPEN COURT/PRIVATE ON** [*DATE*]

1 THE PARTIES

1.1. The applicant (mother/father/as appropriate) is [*name*]

1.2. The [first] respondent (father/mother/as appropriate) is [*name*]

1.3. [The second respondent (child(ren) through their children's guardian) [*name*]]

1.4. The child/ren is/are living with ….

2 NOTICE

Today's hearing is on notice/not on notice/on short notice..*[give details]*

SAMPLE DOCUMENT

3 REPRESENTATION AT THIS HEARING

3.1 The parties appeared before the court as follows:

Party/Name	In Person	Legal Practitioner	Contact tel email addres
Applicant Respondent(s) (1) (2) Other (specify)			

SAMPLE DOCUM

4 ALLOCATION / TRANSFER

4.1 The proceedings are today/continue to be allocated to be heard by [Justices of the Peace / the Senior Magistrate] and are reserved to [……..]

4.2 This application is transferred to the [Summary Court / Magistrate's Court / Supreme Court] sitting at

4.3 This matter has been adjourned pending an application in the Family Proceedings Court sitting at [……]

5 Social Services

5.1 The court has decided that a Public Officer section 11 investigation and report is not required in this case

5.2 *or* The Court has appointed a Public Officer to carry out [……..].

If the identity of the Public Officer is known at this stage:

5.3 **The Public Officer is:-**

5.4 Name

5.5 Professional address

5.6 Date of appointment

6 THE APPLICATION(S)

6.1 The applicant has applied for a section 12 Contact Order/Residence Order/Specific Issue Order/Prohibited Steps Order [*delete as appropriate or specify*] [*today / on date*]

6.2 [*If there are other applications add as follows or delete*]

6.3 The [mother/father/as appropriate] has applied for [ ] [*today / on date*]

7 SAFEGUARDING CHECKS

7.1 The safeguarding checks by the Public Officer are/are not complete

7.2 The safeguarding checks show no safety issues/that the safety issues are...../that the safety issues are not yet known *[delete as appropriate or specify]*

SAMPLE DOCUMENT

8 TODAY'S HEARING

8.1 Today's hearing is listed as a directions hearing

8.2 Today's hearing has been [EFFECTIVE AS THE FINAL HEARING] [EFFECTIVE AS A DIRECTIONS HEARING] [CANCELLED] [ADJOURNED]

8.3 The reason why the hearing has been adjourned is: [*specify*]

9 TIMETABLE FOR THE CHILD(REN)

9.1 The key dates and events in the timetable for the child are [……].

9.1.1 Xxxx

9.1.2 Xxxx

9.1.3 xxxx

10 KEY ISSUES

10.1 The issues about which the parties are agreed are:-

a)	
b)	
c)	
d)	

10.2 The issues which remain to be resolved are:-

a)	
b)	
c)	
d)	

10.3 The steps planned to resolve the issues are:-

[where the parties intend to refer themselves to mediation or other form of non-court dispute resolution if appropriate]

SAMPLE DOCUMENT

a)	
b)	
c)	
d)	

11 FACT FINDING

11.1 Having considered the documents, received the representations of the parties, and the safeguarding report, a separate fact finding hearing is not necessary in this case because the nature of the allegations [and/or admissions] are such that the court does not require such a hearing in order to be able to decide whether to make the orders sought.

Or

11.2 Having considered the documents, received the representations of the parties, and the safeguarding report, a fact finding hearing is necessary in this case because.....

[delete/complete as appropriate]

11.3 The issues to be determined are

a)	
b)	
c)	
d)	

12 AGREED [INTERIM] ARRANGEMENTS FOR THE CHILDREN

If determined at this hearing, specify, such as:-

SAMPLE DOCUMENT

12.1 [Between now and [date/the final hearing] the agreed arrangements for the child[ren] will be

[as set out in the schedule to this order *(if extensive)* / as follows…].

12.2 [Between now and [date/the final hearing]] the child[ren] will live with the [mother/father].

12.3 [Between now and [date/the final hearing]] the children will live with the mother and the father.

12.4 [Between now and [date/the final hearing]], the child[ren] will spend time or otherwise have contact with the [mother/father] as follows/ as set out in the schedule to this order *(if extensive)*.

12.5 [Between now and [date/the final hearing]], the child[ren] will have indirect contact as [follows/ as set out in the schedule to this order *(if extensive)*.

13 UNDERTAKINGS

13.1 Record as appropriate

THE COURT ORDERS:

14 JOINDER OF CHILD[REN]/OTHER PARTIES/INTERVENERS

14.1 The child[ren] [*name*] shall forthwith be made [a party/parties] to the proceedings and pursuant to rule 16.4 and PD16A, Part 4 FPR 2010 an officer shall be appointed to act as [his/her/their] children's guardian, as directed by the court.

14.2 A copy of this order shall be e-mailed to the Public Officer [and a hard copy of this order shall be sent within two working days of this order.]

15 CHILD ARRANGEMENTS

[if made at this hearing, specify as appropriate] Such as:

SAMPLE DOCUMENT

15.1 It is ordered [by consent] that [between the date of this order and.../the date of the next hearing/final disposal of the applications] the arrangements for the child[ren] shall be [as set out in the schedule to this order *(if extensive)*/as follows...*[specify]*: e.g. the child[ren] shall live with / spend time / indirect contact with [name] by way of [Skype/Facetime/telephone etc]]

15.2 It is ordered that [a warning notice will be endorsed][by consent] [that between the date of this order and [the next hearing/final disposal of the applications] the [father/mother] shall make the child[ren] available to [spend time] / [have indirect contact] with the [father/mother] as set out in the schedule to this order (if extensive)/as follows...[specify]

15.3 A warning notice directed to the [father/mother] shall attach to paragraph [ ] of this order.

16 PARENTAL RESPONSIBILITY

16.1 Further to the Residence Order made [*today/date*], which provides that the child is to live with the father, who does not currently have parental responsibility, the court grants parental responsibility to the father.

16.2 Further to the Contact Order made [*today/date*], which provides that the child is to spend time or otherwise have contact (but not live) with the father, who does not currently have parental responsibility, the court grants parental responsibility to the father.

16.3 Further to the Residence Order made [*today/date*], which provides that the child is to live with [*a person who is not the parent or guardian of the child concerned is named in the order as a person with whom the child is to spend time or otherwise have contact but not live*] the court grants parental responsibility for the child for as long as the order is in place.

16.4 Further to the Contact Order made [*today/date*], which provides that the child is to spend time or otherwise have contact (but not live) with [*a person who is not the parent or guardian of the child concerned is named in the order as a person with whom the child is to spend time or otherwise have contact but not live*] the court grants parental responsibility for the child for as long as the order is in place.

SAMPLE DOCUMENT

17 CASE MANAGEMENT AND OTHER ORDERS/DIRECTIONS

17.1 **Safeguarding incomplete**: The Public Officer must write to the court by [*date*] with the outcome of safeguarding checks / the case is adjourned to [date] (the parties' attendance is excused) when the court will either make an order in the terms agreed by the parties or list the case for further consideration.

17.2 **Sending and delivering of evidence**

(i) *[specify what is to be sent and delivered by each party]*

(ii) With this order, the mother/father will be provided with a witness statement template relevant for a case concerning:

- allegations of domestic abuse;
- allegations of child harm;
- where the child is to live and who the child is to see (and when);
- schooling issues;
- temporary or permanent relocation from the jurisdiction.

(iii) By 16:00hs [ ], the Applicant shall file in court and serve on all parties (and Cafcass / CAFCASS Cymru / the Crown) his/her concise witness statement/s which are signed and contain a statement of truth.

(iv) By 16:00hs on [ ], the Respondent shall file in court and serve on all parties (and Cafcass / CAFCASS Cymru / the Crown) his/her concise witness statement/s which are signed and contain a statement of truth

(v) The statements shall only contain evidence relevant to the issue/s to be determined and shall set out the terms of any Order they invite the court to make and their reasons for it.

SAMPLE DOCUMENT

17.3 **Fact finding Schedules**

(i) The parties have prepared, with the assistance of the court at this hearing, a document setting out the concise schedule of the allegations on which the [mother/father] relies, and [the father/mother]'s answers to the allegations, for the purposes of the fact finding hearing;

(ii) The [mother/father] shall, by 16:00 on [date], send/deliver to the [father/mother] and to the court a concise schedule of allegations on which [s]he relies for the purpose of the fact finding hearing.

(iii) The [father/mother] shall, by 16:00 on [date] send/deliver to the [mother/father] and to the court a concise schedule of the answer(s) to the allegations relied on for the purpose of the fact finding hearing.

17.4 **Disclosure from Police / Medical records**

(i) The Public Officer requested to initiate enhanced checks of the relevant local police force, in particular in respect of their investigation into [incident] on [date] and shall send/deliver any relevant information that is received to the [father or mother] and the court.

(ii) The [legal practitioner for the] [mother/father] shall seek disclosure from the police of any statements / reports / notes of interview relevant to their investigation into [incident] on [date], and shall send/deliver the resulting disclosure to the [father/mother] and the court on receipt.

(iii) The Court considering it both necessary and proportionate so to order for there to be a proper determination of the (preliminary) issues, the applicant/respondent has permission to rely on a report/statement from [*Hospital, GP*] which must be filed at court and a copy served on the other party by 16:00hs on [ ].

(iv) Permission is granted to [the legal practitioner for] the applicant/respondent to disclose this order to the record holder. The costs of obtaining the report shall be divided equally between the parties and shall be a proper charge upon the funding certificates of the publicly funded parties.

17.5 **Public Officer section 11 Reports / s.55 investigation and report.**

A Public Officer / The Crown is directed to prepare a section 11 report on:

Specify as appropriate, such as:-

- The ascertainable wishes and feelings of the children.
- It is recorded that the [mother/father] alleges that the children have expressed a wish that [*specify*]
- The home conditions and suitability of the accommodation of the [mother/father]
- The concerns of the [mother/father] with regard to [*specify*]
- Whether or not the children's physical/emotional/educational needs are being met by the [mother/father]

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- How the children will be affected by the proposed change of [*specify*]
- Whether or not it appears that the children have suffered or at risk of suffering the harm alleged by the [mother/father]
- The parenting capacity of the [mother/father] having regard to the allegations that [*specify*]
- Whether [*Specify*] the Crown should be requested to report under section 55 Children Ordinance 2014.

The Crown is directed to prepare a section 55 report in respect of the child(ren), the Court being of the view that it may be appropriate for a care or supervision order to be made with respect to the child(ren). The Crown shall, when advising the court, consider whether they should apply for a care or supervision order, or provide services or assistance to the child(ren), and/or take any further action.

In the event that the Crown considers that it is unable to comply with this direction, it shall no later than 16:00hs 3 days after service of this order upon it provide to the court in writing its reasons for holding that view. A copy shall at the same time be sent by email to [*insert email address*]

Permission is given for the Court to release [and send to the Crown] the safeguarding screening report by the Public Officer, together with all the applications, statements and orders.

The Public Officer / The Crown shall send the report to the court by 16:00 on [date] and at the same time deliver a copy of the report to each of the parties and, if applicable, to their legal practitioners.

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17.6 **Disclosure of documents**

The following documents are to be disclosed (by sending or delivering such documents) by the mother/father to the Public Officer / The Crown and to the other parties, and filed with the court.

1. Xxx
2. xx

17.7 **Experts**

Drug and alcohol testing

The Court considering it both necessary and proportionate so to order for there to be a proper determination of the (preliminary) issues, the [Mother] [and] [Father]/ shall co-operate with scientific hair strand testing for

a. [all prohibited substances]/ [for the following prohibited substances……..for the months immediately preceding this order
b. [and] [for excessive alcohol consumption (by FAEE/CDT and EtG testing)] for a ……..month period of assessment.
c. It is recorded that the ……. has been advised that any future tests should be carried out on hair from his/her head if at all possible and it is in his/her interests to ensure that it is of sufficient length to enable an effective test to be carried out.
d. a written report as to the results of the tests shall be sent to the court and the parties by 16:00hs on ……
e. the costs of the testing shall be shared equally by the parties and shall be a proper charge of the funding certificates of the publicly funded parties

DNA Paternity Testing

The Court considering it both necessary and proportionate so to order for there to be a proper determination of the (preliminary) issues, and pursuant to Section 16 of the Family Law Reform Ordinance 1994, the legal practitioner for the children may instruct [ ] to conduct scientific tests to ascertain whether [ ] is or is not the father of [ ] and the following directions shall apply:-

a. for that purpose bodily samples be taken on or before [ ] from the following persons:
    i. the child:
    ii. The mother:
    iii. The putative father:
b. The person appearing to the court to have care and control of the child is:

SAMPLE DOCUMENT

c. Arrangements for the provision of samples shall be made by the solicitor for the children;
d. The report regarding the paternity of [ ] shall be served on all other parties by the solicitor for the children by 16:00hs on the *;* and
e. The reasonable fees for the paternity testing shall be divided equally between the parties and shall be a proper charge of the funding certificates of the publicly funded parties

<u>Adult psychiatrist</u>

The Court considering it both necessary and proportionate so to order for there to be a proper determination of the (preliminary) issues, permission is granted to the [ ] solicitor as nominated lead solicitor to disclose the case papers and relevant medical records to and to instruct [ ] to undertake a psychiatric assessment of the [ ].

a. The report shall by filed by the lead legal practitioner no later than 16:00hrs on the [ ] and shall address the following issues:
   i.
b. The lead legal practitioner shall forthwith send an electronic copy of this order to the expert instructed
c. The approved letter of instruction and the bundle of documents shall be delivered to the expert by not later than 4.00pm on the [ ]
d. The reasonable costs incurred in the preparation of this report shall be divided equally between the parties and shall be deemed a reasonable disbursement upon the publicly funded parties' public funding certificates.

<u>Adult psychologist</u>

The Court considering it both necessary and proportionate so to order for there to be a proper determination of the (preliminary) issues, permission is granted to the [

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] solicitor as nominated lead solicitor to disclose the case papers and relevant medical records to and to instruct [ ] to undertake a psychological assessment of the [ ].

a. The report shall by filed by the lead legal practitioner no later than 4.00pm on the [ ] and shall address the following issues:

   i.

b. The lead legal practitioner shall forthwith send an electronic copy of this order to the expert instructed

c. The approved letter of instruction and the bundle of documents shall be delivered to the expert by not later than 16:00hs on the [ ]

d. The reasonable costs incurred in the preparation of this report shall be divided equally between the parties and shall be deemed a reasonable disbursement upon the publicly funded parties' public funding certificates.

General

For the avoidance of doubt, the expert directed above [shall/shall not] have permission to examine and assess the child[ren]

17.8 **Special arrangements for witnesses**

[The following special arrangements for witnesses shall apply to the evidence of [name of witness] *[specify]*; *or* the court will determine at the hearing on [date] whether and, if so, which special arrangements shall apply in the case of [name witness]].

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18 FURTHER HEARINGS

Directions as appropriate, such as:-

(a) [This/These] application[s] shall be listed for [fact-finding hearing/Dispute Resolution Appointment/other directions hearing/final hearing] before the [Justices of the Peace/Senior Magistrate] [reserved to...] on [date] with a time estimate of [specify] and for final hearing on [date] with a time estimate of [specify].

(b) The author of the [section 11] report [shall not] [shall] be required to attend the hearing on the ;

(c) The author of the [section 11] [section 55] report shall attend the [final/as appropriate] hearing on [date] unless all parties have confirmed to him/her no less than five days in advance of the hearing date that [his/her] attendance is not required.

(d) The [mother/father] shall by 16:00 on [date] deliver to the court a paginated and indexed trial bundle [and provide a copy to the other parties.

(e) The parties **MUST** arrive at court at least 30 minutes before any future hearings

19 COSTS

No order as to costs *or*

Costs in the application *or*

Costs reserved *or*

Funded services assessment of the costs of *[specify]or*

Other *[specify]*

20 COMPLIANCE

(a) No document other than a document specified in this order or delivered in accordance with the Rules or any Practice Direction shall be delivered by any party without the court's permission.

(b) Any application to vary this order or for any other order is to be made to the allocated judge on notice to [ ] / all parties.

(c) In the event of non-compliance by any person with any order or direction made today, each party shall be responsible for notifying the court of the same, in order to avoid delay.

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Dated

Court address: for filing/communication:

Private law/Section 11 template resource pack

Background

This template is based on the Cafcass section 7 Resource Pack.

A serious case review in Sussex highlighted the need for a more consistent multi-agency approach to private law cases, which often involve very vulnerable children. Joint research between Cafcass and Women's Aid estimated that domestic abuse allegations are a feature in 62% of private law cases, and other risk factors are prevalent such as harmful conflict and parental alienation.

The template draws on learning from local authorities and Cafcass and is supported by guidance. Social workers in England that piloted the template liked the multi-agency approach and the clear guidance, while family courts have noticed an improvement in the quality of reports, that can lead to better outcomes for children. Therefore, the document has been adapted by the Falkland Islands Social Services Department who provide section 11 reports to the court.

The Resource Pack includes:

- Section 11 template
- Good practice guidance for writing a s11 report

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Good practice guidance: writing a section 11 report

Legal framework

1. Section 11 reports are those reports ordered by the court further to Section 11 (s11) of the Children Ordinance (2014), which says that a court considering any question with respect to a child under this act may:

(a) ask a public officer, or
(b) such other person as the Crown considers appropriate,

to report to the court on such matters relating to the welfare of that child as are required to be dealt with in the report.

2. The report can be verbal, or in writing depending on what the court orders. The court may also write clear instructions/directions into the court order about the specific issues they want to hear about and this is preferred judicial practice set out in the Child Arrangement Programme (2014). In cases of domestic abuse particular regard should be given to the requirements of the Family Procedure Rules PD 12J.

3. On the 31st July 2017 Simon Bryan QC, then Chief Justice of the Falkland Islands, made a Practice Direction, which gave effect in the Falkland Islands to all Practice Directions made from time to time in respect of the England and Wales Family Procedure Rules 2010. (FPR2010), with such modifications as the Falkland Islands require.

4. The matters which need to be addressed and how the welfare officer carries out their duties is contained within the Family Procedure Rules 2012 (PD16A Part 6), which sets out the following duties:

- Contact or seek to interview such persons as appropriate or as directed
- Obtain such professional assistance available if considered appropriate or ordered
- Notify the child of the contents of the report (as considered appropriate in accordance with the child's age and understanding and in a manner appropriate to the child's age and understanding)
- Attend hearings as directed
- Advise court of the child's wishes and feelings where these are ascertainable
- Advise court if a child should be joined as a party to the proceedings
- File the report and serve copies on the parties in accordance with the court timetable

5. The Social Worker/Family Court Adviser who is preparing a s11 report is obliged by rule 16.33 of the FPR to have regard to the principle that delay is prejudicial to the child's welfare and they must also have regard to the welfare checklist.

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6. As with court reports in care proceedings, s11 reports should be cross-referenced to other relevant reports, such as carer assessments, reports from professionals who know the child and/or family.

Safeguarding checks

7. The Child Arrangements Programme includes mandatory police and local authority checks on applicants and respondents in any application for a Child Arrangements Order and checks may be directed by the court to be undertaken in any other private law case. The checks are completed in advance of the court directing the preparation of a section 11 report. This is an essential safeguard.

Dispute resolution

8. Many reports ordered by the court are ordered because of a high level of conflict between the child's parents and/or carers. A core skill in court welfare work is dispute resolution. This is an umbrella term for related disciplines including various models of mediation. There is no specific provision of mediation services in the Falklands, but families can seek this on line. Care should be taken to assess for suitability and viability, with dispute resolution only undertaken where it is safe for the family concerned.

Practice issues

9. Practice needs to be authoritative, for two main reasons. First, time to complete the report may be short and each interview matters. Social workers need to be clear with parties and with others they talk to about the purpose of their contact and interview and how the process will go e.g. an adult attachment interview or a restorative justice focus. Interviews with parents often take the form of 'courageous conversations' in which established views are challenged so that conflict can be reduced, domestic abuse is assessed and that the parents and/or carers have a greater understanding of their child's daily lived experience and wishes for the future. A strong focus on the child is crucial whilst still listening to parents and carers about their concerns and demonstrating empathy.

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10. Second, in the situations practitioners face, parents and carers can show high levels of anger and distrust, as well as a lack of emotional readiness to focus on what is best for the child. Techniques such as motivational interviewing and mentalisation aim to reduce the temperature and level of conflict so that more responsible communication can take place. In short, there should be an attempt to build relational capability.

11. A major safeguarding issue in private law cases is the importance of protecting the child from emotional harm that can accompany relationship breakdown where there are high levels of conflict, domestic abuse and continuous post-separation conflict which makes safe dispute resolution hard to achieve. This can include protracted litigation and correlates with higher than usual rates of non-payment of child support (Kelly, 2000). It is important to consider which of any linked suite of assessment tools might support the work on this case as the tools help to establish the level and impact of behaviour such as parental conflict and alienation, as well as helping to assess whether contact is safe to go ahead and on what basis.

12. Building on existing practice approaches within private law, Cafcass has developed a Child Impact Assessment Framework. The framework includes guidance and tools for private law assessment to help practitioners navigate a range of complex case factors and includes guides on domestic abuse (practice pathway), harmful conflict, child refusal or resistance to spend time with one of their parents, parental alienation, and other forms of harmful parenting, such as substance misuse or mental health difficulties. Social Workers from FIG will utilise Cafcass resources when undertaking section 11 reports.

13. Whilst every child is unique, children can be classified into vulnerable groups for considering most section 11 applications, with the emphasis being put on reducing the child's vulnerability and exposure to conflict and harm:

- Children who experience domestic abuse, where the impact on them will be painful and frightening.
- Children whose mental health is at risk because they are living in a situation of high conflict for some time
- Children who resist contact, either because that is their choice for reasons they are clear about or because they have been 'alienated' by one parent against the other
- Children where there are allegations of sexual abuse
- Children who need safe permanent care with an authorised carer within a legal framework

SAMPLE DOCUMENT

14. Social workers have a responsibility to assist courts with case management, especially in protracted cases or cases that risk becoming protracted. The responsibility is to be clear about the child's timescale for when decisions need to be made and when the actions recommended should be taken.

15. Courts now use fewer experts, so the author of the section 11 report will be expected to demonstrate advanced social work expertise and to answer many of the questions that would in previous times be put to experts. Social workers are the voice of the child in court and experts about the child. That does not mean a professional opinion should be offered on a matter about which the author of the report is neither qualified nor experienced enough to comment on. Care should be taken to give a professional view about how important 'facts' are both to the child or the determination of the case by a judge or magistrate, to assist the court in determining whether in exceptional circumstances a fact finding hearing or further evidence is necessary.

Domestic abuse

16. Any evaluation contained in a report where domestic abuse has been a feature of the parental relationship must adhere to the principles set out in Practice Direction 12J.[1]

~~**17.**~~ Before the report is written consideration should be given to any current UK or Falkland Islands guidance in respect of factors to be considered when determining whether to make child arrangements orders in cases where there has been domestic abuse. To assist social workers in the risk assessment of domestic abuse in private law proceedings, Cafcass has published a Practice Pathway: a structured approach to risk assessment in Domestic Abuse.

SAMPLE DOCUMENT

[1] https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j

Falkland Islands Template for a s11 report

Date of application:

Court:

Court case number:

Application type:

Hearing type:

Hearing date:

Social worker:

Date report completed:

Filing date:

SAMPLE DOCUMENT

WARNING: This report is restricted by rules of court. Unauthorised communication of the information in it is a serious matter and may constitute contempt of court

NOTE: Significant factual errors (not matters disputed by the parties) in this report should be referred to the author. Any concerns about other aspects of the report (for example, the extent of enquiries, the opinions expressed in it or matters disputed by the parties) must be addressed in court

1. FAMILY PROFILE

1.1. Child(ren) subject of the application and non-subject children where vulnerable

Name of child	Gender	Date of birth	Age	Ethnicity

1.2. Adult parties to the proceedings

Name of party	Gender	Relationship to child(ren)	Date of birth	Ethnicity

NB. Insert genogram of it would assist understanding of issues in the case

1. 3. Key agency involvement

Key agencies involved	*(Give **brief** details of their involvement plus any outcomes)*

2. SUMMARY OF APPLICATION AND THE MAIN ISSUES

Using numbered paragraphs-

- *Start with child – name, age, and current arrangements: who they live with and when they spend time with a non-resident parent*
- *Summarise in clear, straight forward language the key issues in the family*
- *State the application(s) before the court and what the court has asked you to do*

3. ENQUIRIES UNDERTAKEN FOR THIS REPORT

Using numbered paragraphs-

- *List all the documents you have read in preparation for writing the report*
- *List the meetings, appointments and phone conversations you have had with the child/ren, parents, family members and professionals.*
- *Refer to police and local authority checks undertaken.*
- *Provide a summary of key and relevant information arising from interviews with parties and professionals. Use quotation marks if using child or parent's own words. (Analysis arising from any meetings with the child and family should be contained in sections five and six below)*

SAMPLE DOCUMENT

4. THE RELEVANT CHRONOLOGY			
Date	**Incident or sequence of incidents relevant to the child's protection and/or welfare**	**Significance**	**Source (agreed or disputed)**
[ ]	[	[ ]	
[ ]	[ ]	[ ]	
[ ]	[ ]	[ ]	

5. CHILD IMPACT ANALYSIS

- *In considering the impact upon the child you will need to reference relevant welfare considerations that relate to the child including:*
    - *The wishes and feelings of the child concerned, including the weight to be attributed to them in the context of the issues in the case*
    - *The child's particular physical, emotional and educational needs*
    - *The likely effect on the child if circumstances changed as a result of the court's decision*
    - *The child's age, background and any other characteristics which will be relevant to the court's decision*
    - *Any harm the child has suffered or may be at risk of suffering*

- *Using numbered paragraphs and with specific reference to each child provide analysis of the **impact** for the child of :*
    - *any evidence-based risk and strengths identified in the case*
    - *their exposure to the current level of dispute between the parents, and their resilience and vulnerability*
    - *the nature and quality of the child's relationships*

6. PROFESSIONAL JUDGEMENT

- *Using numbered paragraphs provide an evaluation of the evidence regarding:*
- *The capability of child/ren's parents/carers in understanding and meeting child/ren's needs*
- *Your opinion as to how the child's safety and well-being can best be promoted.*

7. RECOMMENDATIONS

- *Using numbered paragraphs and without repeating analysis elsewhere provide short clear recommendations as to the future arrangements for the child/ren*
- *Include any identified need for post proceedings support, and any agreed future actions by one or both parents*

In compiling this report, I have had regard in particular to the welfare checklist as required by Rule 16.20/16.33 Family Procedure Rules 2010 and I have applied a welfare checklist analysis to the facts of the case throughout.

SAMPLE DOCUMENT

Signed:

Name:

Role:

Date:

SAMPLE DOCUMENT