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SOCIAL WORK MANUAL

VOLUME I

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SOCIAL WORK MANUAL

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PART A: PREVENTIVE AND EMERGENCY WORKA1 INTRODUCTION

Although the care and training we give Wards who have in one sense or another become casualties will always be an important part of our day-to-day work, the prevention of casualties is equally important. The earlier this preventive work is done, the better. For instance, some of our best preventive work is done with infants whose parents are unable or unfit to look after them. If they were not placed with suitable foster parents, or adopted, many would become disturbed and delinquent.

Section 5(1) of the Children and Young Persons Act 1974 states, "It shall be the duty of the Director-General to take positive action and such steps under this act as in his opinion may assist in preventing children or young persons from being exposed to unnecessary suffering or deprivation or from committing offences."

Section 6(1) states "It shall be the duty of the Director-General to take positive action and such steps under this Act as in his opinion may promote both the well being of families and communities, and the most advantageous development of their children or young persons."

It is therefore a statutory responsibility of this department to actively carry out preventive work, or to organise community resources to provide the necessary services.

The Act is sufficiently liberal to encompass any human problem which necessitates intervention, and is not restricted to children and young persons as may be suggested by the name of the Act.

A2 CO-ORDINATION

A2.1 Co-operation with Other Agencies

A great deal depends on the ability of the Social Worker to gain the co-operation of all other agencies and individuals providing supportive social services in his district. To do this, he must be well-known to them not only as an acceptable person but as one who offers full and prompt co-operation in attending to all relevant cases referred to him. The agencies and individuals with whom the Social Worker should co-operate include schools, kindergartens, play-centres, School Inspectors, Police, Court officials, Honorary Social Workers, Department of Health professional staff, Plunket nurses, visiting teachers, attendance officers, psychologists, Vocational Guidance Officers, churches, local organisations such as Rotary, Lions, Jaycees, Women's Groups, Crippled Children's Society, Family Protection Societies, Marriage Guidance Councils, School Committees, parent teacher groups etc., etc.

A2.2 Co-ordination of Work

Section 4d of the Department of Social Welfare Act states that the department is charged with maintaining "close liaison with, and encouraging co-operation among any organisations and individuals (including Departments of State and other agencies of the Crown) engaged in social welfare activities".

Some attempt should be made to bring together in some more or less formal organisation those groups and individuals who can be most useful in helping co-ordinate the work with people requiring assistance. The form which such a committee would take would differ in different districts. Whatever form these co-ordinating groups take, they have two main functions - they should pool information about particular children or families in an attempt to decide what should be done and who should do it, so that the best plan can be devised, and overlap by several people working independently is avoided. And they should also devise ways of ensuring as far as is possible, that children and families needing help are referred early to the appropriate person or agency. It is this latter function which if done well will do most to further preventive work. The success of these committees depends upon the co-operation among all the parties.

A2.3 Work with Schools

Clearly the school is the centre of any preventive programme in respect of children and young persons, for all children go there and become known to teachers, perhaps better in some respects than they are known to their parents. Teachers (kindergarten and play centres included) are the key people in any plan of early referral, and it is the Social Worker's job to work closely with them through the Principal. Each Social Worker should make a determined effort to be well known to every school in his area. He should visit these schools regularly, and not only when a child/young person has been referred to him. He should make sure that teachers know what Social Workers do.

In liaison with the schools it will be possible to identify the type of child who is likely to become delinquent if not helped early.

Members of the teaching staff should be invited to discuss those children in their classes for whom they feel some special help is needed. No one indicator is necessarily of any significance on its own. It is when a child shows evidence of several that a teacher should be concerned.

Visiting teachers are employed by Education Boards and work under the control of the District Senior Inspector. They assist Principals and teachers in a group of schools in developing and maintaining liaison with the parents of those pupils whose progress at school is impeded by home or community difficulties. In their work with each child, they are responsible to the Principal of the school at which each child is enrolled. Visiting teachers also assist psychologists in their work with children referred to the Psychological Service, and with the parents of these children.

With the concurrence of the Principal of the school concerned visiting teachers may accept referrals of children from other support services if the children concerned require assistance which is clearly within the scope of their duties.

A2.4 Public Health and Plunket Nursing Services

Public Health nurses employed by the Health Department are in a position to give information about pre-school children.

Plunket nurses are responsible for the health surveillance of all children from birth to school age. In addition to assessing growth and development Plunket nurses provide advisory and educative services.

With the closure of the Karitane hospitals, Karitane nurses now provide a community based service. They are available for private caring on a freelance basis. In addition Karitane nurses are employed in the new Plunket-Karitane Support Service.

This service operates from fixed or mobile units based in the community. These units provide advice and support for mothers and teach basic infant care skills.

Plunket-Karitane Support Service units accept referrals where a household is under pressure and Karitane nurses can spend time in homes assisting the mother in a variety of ways.

A2.5 Babies at Risk

Under the Obstetric Regulations 1975, details of all babies born must be forwarded by the Doctor present at the confinement to the nearest Medical Officer of Health. Babies who are at risk for physical or environmental reasons are noted in a register for possible observation and follow-up by Public Health Nurses or other Department of Health personnel.

A2.6 Social Work Assistance where a Breast-Feeding Mother is Being Detained in Police Custody

Police instructions provide for the arrest and detention in custody of breast-feeding mothers in exceptional circumstances only. In such cases mother and child will not be separated unless there are good reasons (e.g. the safety of the child). As Police cells are not suitable in such circumstances other arrangements will be made and the Police may call on this department for assistance.

Directors should make departmental resources available when such a request is made to enable the mother and her child to remain together under acceptable conditions.

It may, for example, be possible to provide appropriate accommodation in an institution or, subject to the foster parents' agreement, in a Family Home. If there appear to be difficulties that cannot be resolved locally Head Office staff should be advised and consulted urgently.

The Police will make back-up staff available where this is considered necessary.

A2.7 Civil Defence Emergency:

Under the provision of the Civil Defence Act 1983, a local, regional or national civil defence emergency may be declared.

Should such a situation arise the Department of Social Welfare would be responsible for the following:

- (a) Administration of payments authorised by Government as relief for evacuees.
- (b) Administration of payments to hosts for billeting evacuees.
- (c) Continuation of payment of normal social security benefits and war pensions etc, with the minimum of delay.
- (d) Establishing, if necessary, a Central Registry where information on evacuees can be recorded and made available.
- (e) Arranging for counselling of any distressed or displaced person, if this is necessary.
- (f) The appointment of a nominated officer to act as a Regional Co-ordinator during a civil defence emergency where external assistance is required and control and co-ordination of welfare services beyond the scope of regional plans become necessary. This function would only become necessary if a Regional Commissioner of Civil Defence so directs.
- (g) To appoint a National Co-ordinator to act during a state of "national" Civil Defence emergency (a Head Office function).
- (h) To chair the National Civil Defence Welfare Planning Committee (a Head Office function).

Social work duties in such an event would mainly be concerned with the alleviation of personal distress (e). This is an extension of the Department's normal responsibilities as a social work agency. Social workers would continue to carry out their duties under the existing management structure and remain responsible to their controlling officers. However, emergency conditions may demand a considerable measure of personal initiatives and judgement, particularly when means of transport and communications are disrupted.

A3 MISCELLANEOUS WORK

A3.1 Introduction

Some of the more common aspects of miscellaneous work include:

- attending to complaints of ill-treatment, neglect of, or misbehaviour by children/young persons;
- reporting to other Government Departments about families or children;
- undertaking family conciliation work and helping families to obtain housing;
- custody inquiries;
- arranging placements for disabled persons;
- finding foster homes or institutional placements for children in emergencies;
- giving general advice on problems of child-rearing;
- counselling adults with personal or emotional problems;
- interviewing for Benefits and Pensions division in connection with benefit applications and reviews;
- advice and help to pregnant girls;
- giving talks on Social Welfare subjects to interested groups.

Many thousands of tasks of this nature are undertaken each year, and although they may appear to be time-consuming beyond their significance, this is not so. Every inquiry attended to promptly and efficiently not only helps a child, adult or family in some way, but brings our work to the notice of a wider public and increases public confidence.

A3.2 Sources of Referral

A great deal of a Social Worker's time is spent in attending to requests from a wide range of sources. Some of these are not really our concern, but the Social Worker must be able to determine what is appropriately our function and what should be referred to some other agency. The manner in which such a referral is handled is important. It is not enough for the Social Worker to say, "I'm sorry, but we don't look after that sort of thing"; he should make all reasonable efforts to find out, in order to prevent the caller from being sent from one office to another.

In most cases the needs of the situation are met by an initial investigation with possibly some intensive work carried on for a few weeks only. Sometimes more drastic action is required as, for example, in a matter relating to a child's ill-treatment where Court action may become necessary.

A3.3 Anonymous Complaints

The source of a complaint is immaterial. Anonymous complaints should be treated in the same way as others. If there seems to be any reason for believing that a person is suffering unnecessarily, or needs help in some way, any complaint irrespective of its source, should be investigated.

A3.4 Domestic Emergencies

Social Workers sometimes wonder how far it is proper for them to go in giving, offering or in continuing help when an emergency occurs and children must be provided for outside their own homes.

One of the most practical duties a Social Worker is called upon to perform is that of providing prompt and effective help for a family in an emergency. It is also one of the most effective ways of building up a favourable public image of the department, while failure to give help when needed may quickly lead to adverse comment and this makes the performance of our duties more difficult. When a family suffers a catastrophic blow such as the sudden death of one or both parents, or the destruction of the home by fire, there are usually relatives, friends or neighbours who rally round and give very satisfactory, immediate and effective help. Social Workers should make immediate inquiries to ascertain whether this is the case, and whether emergency financial assistance is necessary.

The inquiries should be discreet because most people do not take kindly to any suggestion that they are incapable of looking after their own affairs. If there is any suggestion that the people concerned are having any difficulty in providing for themselves and family, it should be made clear to them that the department stands ready to help, but has no wish to intervene unless, of course, it has statutory responsibility.

The more common, and less newsworthy emergencies, will usually be reported to Social Workers by one of the people directly concerned, possibly a father whose wife is ill or has deserted the family and who is unable to care for his children himself. Where there is a genuine need, the Social Worker should give all possible help.

Help given will vary according to circumstances, and may involve help to the parent to make a sound and realistic decision, help by suggesting possible foster homes, institutions, or offer of temporary care by S.II agreement or informal admission, housekeepers, or even by recruiting and selecting foster homes, or where the parents cannot cope with the situation by the actual placement and escorting of the children.

The advice will, of course, depend a great deal on such factors as the possible duration of the emergency, and the likelihood of success of the suggested action, in the light of anything known about the people concerned. The family's church affiliation, if any, may be a useful lead to other sources of help. A parent's ability to pay for foster care or institutional care, or for the employment of a housekeeper will obviously be important considerations. If they are not able to pay, the Social Worker will need to know whether help is likely to be forthcoming from any local source. Relatives, neighbours, or friends may be anxious to help but be diffident about offering assistance, and the father may be reluctant to ask; sometimes it is most satisfactory if the request for help comes from a disinterested party such as a Social Worker.

A3.5 Domestic Disharmony

It is not uncommon for a Social Worker to be asked to help to deal with disharmony within a family.

Sometimes it is the child who is at loggerheads with his/her parents; sometimes the child/young person and one parent are chronically at odds with the other parent, or one parent cannot get on with the other. In the latter case we might suggest that they seek help from their local Marriage Guidance Council, if they live in an area served by a Council. Where reconciliation is difficult to achieve and where the problems are deep-seated the active support/supervision of the Social Worker's supervisor is critical.

If the situation seems serious, and intractable, it may be better to "cut one's losses" and work towards the child's/young person's removal from the home atmosphere, not necessarily by way of guardianship.

A3.6 Unlawful Sexual Intercourse (ref. H7.4 re delegation)

Social Workers carrying out inquiries will occasionally meet a situation where a girl under 16 years of age has given birth to a child, and where as a consequence, some person has obviously committed the offence of unlawful sexual intercourse or incest. Usually the girl and her parents do not wish to become involved in any Court proceedings which would result from a criminal prosecution of the alleged father, and are therefore unwilling to agree to a Social Worker approaching the Police.

In general, when a citizen has reason to believe that a criminal offence has been committed s/he is under a moral obligation to communicate with the Police. A public servant engaged in official duties may be regarded as under a stronger obligation than a private citizen and may even be considered blameworthy if s/he takes no steps to report an offence. A Social Worker might well wonder, therefore, whether s/he should inform the Police that an offence has been committed against a girl under the age of 16 years, and whether s/he should take that action despite objections from the interested parties.

In cases of this nature Social Workers should not be too quick to inform the Police about the offence. Nevertheless they would be justified in trying to persuade the mother or her parents to notify the Police themselves. Where a Social Worker considers, because of special circumstances related to the public interest, that in spite of the wishes of the mother and her parents the Police should be notified of a possible offence, the details should be submitted to the Director-General for consideration.

A3.7(a) Housing Difficulties

Many people with housing difficulties try to enlist the aid of the department in obtaining the tenancy of a State rental house. Though there are obvious limits to the amount of help we can provide, even in the most deserving cases, there is no objection to the Director sending a factual report concerning such applicants to the local office of the Housing Corporation. In the report he may state his opinion that the case is a deserving one, but should stop short of specifically recommending the allocation of a State rental house. Like Ministers and Judges our Social Workers are in no position to judge the comparative merits of a case or to decide priorities as between cases. Only the body vested with the authority to make allocations and possessing information about all applications - the Housing Allocation Committee - can make decisions, and a specific recommendation from us could be embarrassing. This applies whether the report is prepared on a Social Worker's initiative, or whether it was asked for by the Housing Corporation.

Sometimes the Housing Corporation will ask for an investigation by a Social Worker of a case in which the tenant of a State rental house, or a homeowner, whose home is under mortgage to the Corporation, is substantially in arrears with rental or mortgage payments. It is not intended that the Social Worker should act as a debt collector, nor that he should probe unnecessarily into the family's financial circumstances. Persistent non-payment of rent or mortgage instalments is, of course, frequently a reflection of a family's acute financial or emotional difficulties, or both, and in many cases the family concerned can benefit from case work support.

In other cases, however, the arrears in rent or mortgage instalments are brought about wilfully, and there is nothing that a Social Worker could or should do about them, apart from reporting his/her opinion to the Corporation. Of course, if it is found that the problem is purely a financial one and that there is no need for case work support, the tenant or mortgagee should be advised concerning possible sources of assistance - e.g. budget advisory services.

A3.7(b) PENSIONER HOUSING FOR THE ELDERLY, HANDICAPPED, DISABLED AND INVALIDS

This Scheme provides for pensioner units to be let to persons in receipt of an Invalids or Domestic Purposes Benefit (Woman Alone) who have a special housing need (due to their health, disability or social situation) and whose total assets (including cash investments and real estate) do not exceed \$10,000 in the case of a single person or \$12,500 for married couples.

Before a local authority is able to approve an application for a pensioner unit from an Invalids or Domestic Purposes (Woman Alone) Beneficiary, it must receive confirmation from the local Health or Social Welfare Department (depending on the specific nature of the special need for housing).

District offices will be requested to comment on the need for pensioner housing of applicants who are under 60 years of age and have stated that they are receiving a Domestic Purposes Benefit (Woman Alone) or an Invalids Benefit.

Where any such request is received a home enquiry is to be carried out by a social worker who is to submit a report on the social need for pensioner housing. The report should cover such aspects as present housing accommodation and the general health of the applicant but is not to cover the income or the assets of the applicant.

If the report shows there is a social need as distinct from a financial need for pensioner housing the local authority is to be advised in the name of the local Director of Social Welfare whether or not the Department concurs in the need for pensioner housing for the applicant.

Because the records of the Department are confidential no confirmation is to be given that the applicant is in receipt of the benefit stated and no details as to income or assets are to be given without the prior written consent of the beneficiary.

It is necessary to distinguish between pensioner housing supplied by the local authority and pensioner flats, and pensioner contribution and owner occupier flats schemes administered by the Housing Corporation.

A3.8 Help from other Agencies

The department does not operate in competition with other agencies. If some other organisation is likely to be able to help, it should be given the opportunity to do so. This is particularly important where the agency is a specialist one. It must also be remembered that the department is not an accommodation bureau. Our help should be reserved for those whose needs cannot effectively be met by other, more appropriate agencies, or when the parties concerned are under such emotional strain that it would be unfair to expect them to be referred elsewhere. Where a Social Worker is satisfied that a client is in need of our help, s/he may use the full resources of the department.

A3.9 Truancy

Truancy or absenteeism (including irregular school attendance caused by being kept home to work or to look after younger children) especially when persistent, may be a pointer to serious trouble in the future, and may sometimes be averted by prompt investigation and action. The longer, or more often a child stays away from school the more difficult is the resolution of the problem. Section 27(2)(e) of the Children and Young Persons Act 1974 states that a child/young person shall be in need of care, protection, or control if ... "being of school age within the meaning of the Education Act 1964, he is persistently failing to attend school without reasonable cause".

A3.10 School Suspensions and Expulsions

The Education Act 1964 Section 130 authorises the suspension from school of pupils under 15 in certain circumstances, and for an initial period of up to one week. If the suspension is extended the District Senior Inspector of primary or secondary schools is informed by the Board or governing body of the school. District Senior Inspectors' obligations are to seek to re-establish the child/young person in some suitable school, to have him enrolled at the Correspondence School, or to recommend school exemption in appropriate cases to the Director-General of Education. District Senior Inspectors will consult with Directors in these cases, particularly where school exemption is being considered. The Act referred to above also gives legislative authority to Boards or governing bodies of schools to consult directly with Directors in cases of suspension or expulsion of pupils over 15 years of age, (the Act does not make it obligatory for District Senior Inspectors to be informed in the case of these older pupils). Social Workers should accord a high priority to requests for these reports from Senior Inspectors or Boards. Sometimes an independent inquiry by a Social Worker reveals a situation which was unknown to the Principal, and which makes it possible for the suspension to be withdrawn, or for other remedial action to be taken promptly.

It is generally the case that both parents and child are disturbed by the events leading up to suspension or expulsion and they will frequently require guidance and help.

A3.11 School Exemption

Senior Inspectors of schools, acting for the Director-General of Education, are empowered to grant exemptions from further attendance at school of children under 15 years. The conditions under which exemptions may be granted are very rigidly defined by Section 112 of the Education Act 1964.

THIS READS:

"(1) A certificate of exemption from the obligation to be enrolled as a pupil of some school may be granted by the Director-General to or in respect of any child if the Director-General, after having regard to the pupil's level of progress, his conduct and the degree of benefit he may gain from the education facilities available at any convenient school, or at any correspondence school, is of the opinion that the

exemption is desirable: provided that no such certificate of exemption shall be granted to any child if the child has not attained the age of 14 years and has neither completed the work of form II as prescribed in the syllabus of instruction for public schools, nor enrolled for any higher form."

When considering such applications District Senior Inspectors frequently ask for a Social Worker's report and if granting an application, sometimes ask the Social Worker to maintain informal supervision of the young person concerned.

A3.12 Employment Following School Exemption

The granting of a certificate of exemption does not necessarily of itself authorise the young person's placement in employment. Certain classes of employment are, under legislation pertaining to those occupations, subject to minimum ages independent of the Education Regulations. The Agricultural Workers Act 1962 now makes it permissible for young persons under 15 who have school exemption to work on farms provided they are not working for more than eight hours in any one day. Those under 16 years may not be employed in factories, without a certificate issued by an Inspector of Factories (Department of Labour). As the statutory provisions are very complex, any proposed placement of a child under 15 years should first be discussed with the Department of Labour.

A3.13 Age At Which a Young Person May Leave Home

The law in New Zealand at the present time as it applies to the "rights" of parents and their children and whether a child is permitted to leave home against the parents' wishes is as follows:

- (a) The Guardianship Act 1968, Section 2 defines a child as a person under the age of 20 years.
- (b) No person under the age of 20 years whose parents are his or her statutory guardians (that is, by reason only of being the child's parents) has the absolute right to leave home against his or her parents' wishes (Sections 3 and 6).
- (c) Conversely: the parents have a right to require their children to remain at home up to the age of 20. (Section 3 and 6.)
- (d) The parents' right, however, is subject to certain restrictions as to enforcement:
 - (i) The Courts will not enforce the right against the child after the child has attained 18 years unless there are special circumstances.

(Section 19(9).)

- (ii) The parents' right to enforcement is subject to the discretion of the Court in any event, and the Court is obliged to consider the welfare of the child as paramount not the right of the parents.

(Section 23.)

- (e) The parents' right is further subject to the right of a child of 16 years and over to apply to a Judge to review the parents' refusal to consent to the child leaving home. (Section 14.)
- (f) A person who holds a child under a guardianship order under the Guardianship Act 1968 may not enforce the right beyond the extent of the order which is restricted to age 16 unless there are special circumstances.

A parent who holds a child under a custody order (which normally extends to age of 16 years only) may enforce the right to have the child stay at home up to the age of 16 years under the order. When the order is spent (that is, when the child turns 16 years of age) the statutory guardianship is revived in the parent (and the other parent if alive). At this time the parent may apply for a further custody order giving custody of the child up to 18 years of age.

- (g) It is thus clear that the statement that a young person can leave home when he or she is sixteen is an inaccurate statement of the law as it applies to young persons in whom parents have the statutory right of guardianship. Young persons are in law "subject to the possession" of their parents until they are 20 years of age. The Court will not enforce the parents' right of possession if the young person is over 18 years unless there are special circumstances and a young person who is over 16 years can always ask a Judge to review his or her parents' refusal to give consent to leave home.

When a young person asks directly "Can my parents compel me to remain at home?", the Social Worker should admit that s/he cannot give a direct and definite answer as the law on the subject is complex and could only be stated with any degree of certainty by a solicitor after consideration of the particular facts of the case. S/he should then invite the young person to say what led up to the asking of the question.

Sometimes the grievances will appear trivial or imaginary, and in such cases, there may not be any great difficulty in arranging to discuss the situation with the parents, or in eventually securing a reconciliation. More commonly, however, there is a chronic situation which has deteriorated over a period of time and provided adequate financial and other arrangements can be made, it may sometimes seem best for the young person to leave home temporarily or even permanently. In circumstances such as these, the Social Worker is faced with the task of deciding how far s/he is justified in facilitating a child's leaving home and how much weight s/he must give to the parents' wishes.

It is important that on the one hand the Social Worker is not seen as one who conspires with young persons to help them run away from home, yet on the other hand that s/he does not take on the role of the heavy-handed authority figure supporting the parents.

A3.14 Discussion with Parents Necessary

After hearing the young person's view of the situation, the Social Worker should make it clear that discussion with the parents is both necessary and desirable, before any action is taken. At the best it may be possible to reconcile the parties or at the worst it may be possible to help the parents to see that it would be best if their child left home for a time.

Every effort should be made to obtain the young person's permission for this discussion. In certain circumstances however (e.g. where the child is young or immature, or his/her plans inadequate or unrealistic) it may be necessary to override his/her objections and see the parents anyway.

In other circumstances (for example, where the home situation is known to be hopeless, or the young person has a mature and sensible outlook and is adamant in carrying out plans which seem adequate) it may be in order to comply with his/her request that the matter not be discussed with his/her parents.

Such a decision should, however, be made only after the most careful consideration of its possible consequences for the family, the client, and the department if the parents later objected.

A3.15 Parents Should be Notified of Address

Where a young person is adamant in his/her intention to leave home and it is possible to make satisfactory arrangements about accommodation, employment, and supervision, it is in order, and indeed desirable, for the Social Worker to assist in making such arrangements. If s/he cannot discuss the situation with the parents before the child's departure, the Social Worker should notify them immediately afterwards of what has occurred and of his/her reasons for acting as s/he did, either by personal visit, or letter, as appropriate.

S/he should normally give the child's address to the parents but in special circumstances similar to those mentioned above s/he may at the child's specific request withhold this information though s/he should offer to act as intermediary between the parents and child in attempting to effect a reconciliation.

A3.16 Parents Seeking Assistance in the Return of Children who are Living Away from Home

The converse of the situation described above occurs when parents call seeking advice on how they can secure the return of a child who has left home. If the child is under 16 years or if s/he is being kept away from home against his/her will, the position is quite clear, and if necessary the Police will take immediate action. If direct action is not appropriate for any reason legal steps may be taken by parents, in certain circumstances, to secure a

High Court writ of habeas corpus, which is always accorded urgency by the Court. Where a girl under 16 years of age is co-habiting with a man against her parents' wishes, an offence against section 210 of the Crime Act 1961 may be involved. If the parents are in doubt, they should be advised to consult the Police.

Section 210 of the Crimes Act 1961 reads:

"Abduction of Children Under Sixteen

- (1) Everyone is liable to imprisonment for a term not exceeding seven years, who, with intent to deprive any parent or guardian or other person having the lawful care or charge of any child under the age of sixteen years of the possession of the child, or with intent to have sexual intercourse with any child being a girl under that age, unlawfully:
 - (a) takes or entices away or detains the child; or
 - (b) receives the child, knowing that the child has been so taken or enticed away or detained.
- (2) It is immaterial whether or not the child consents, or is taken or goes at the child's own suggestion, or whether or not the offender believed the child to be of or over the age of sixteen.
- (3) No one shall be convicted of an offence against this section who gets possession of any child, claiming in good faith a right to the possession of the child."

A3.17 Extent of Assistance Available

In other cases where the legal position is not quite so clearcut, it is necessary for the Social Worker to decide whether the case is one in which officials and strangers should properly intervene. Some parents need no more than an assurance that a Court is unlikely to convict them of trespassing or a similar offence, if they go to the home in which their child is staying and attempt to persuade the young person to return to them. In other cases, after preliminary investigation, it may seem that the parents should have more direct help and a decision has then to be made as to whether this help would more effectively and appropriately be given by a Social Worker, a member of the Police, or other agency. Unless the situation is so serious that a warrant and/or complaint under the Children and Young Persons Act 1974 would be justified, a Social Worker is, of course, limited to persuasion. This, however can be very effective, even when it seems unlikely to be at first, and it is generally at least worth trying.

In more difficult situations the local Police may be prepared (even though no offence has been committed) to send one of their members, either alone or accompanying the parents or Social Worker. It should be realised that the Police have no special powers in such a situation, but are there merely to see that the peace is not disturbed.

Whatever course is followed, the Social Worker should make all reasonable efforts to bring about a reconciliation between parents and child, or if this is impossible, s/he should offer his/her continuing support and guidance.

A3.18 Reports from Other Government Departments

A number of government departments, some of which seem to have no connection with social work ask for Social Workers' reports on a variety of matters. In general, the required information is provided in full and as expeditiously as possible.

It occasionally happens, however, that to report fully would involve a serious breach of confidentiality, and it must be borne in mind that a department is not, just because it is a government agency, entitled to information outside the normal functions. In such cases its request for information should be treated no more favourably and no less favourably than a similar request from any other responsible source.

Sometimes a request is mistakenly directed to our department because of a misunderstanding of the scope of our duties. In such cases the Director should exercise his/her discretion in deciding how the matter should be handled. Thus, while it is quite in order for Social Workers to investigate the home circumstances of State rental tenants who are in arrears with rent it is not in order for Social Workers to be merely rent collectors.

If the Director feels unable to comply with a request from a district office of another department he must explain his/her position frankly. If the other controlling officer has any difficulty accepting the explanation the matter should be referred to the Director-General. Reports prepared in response to requests from the Head Office of another department should always be forwarded through the Director-General.

A3.19 Avoiding Court Action With Juvenile Offenders

The Police have always exercised some discretion in deciding whether or not particular offenders should be prosecuted. The Youth Aid Section (see Part B) holds regular consultations with this department over young persons to determine whether prosecution is recommended, or whether the matter would be best dealt with by supportive service by Social Workers. Children's Boards also have an important role to play in exploring alternatives to Court action for child offenders.

A3.20 Provision of Transport (ref. H7.4 re delegation)

Quite often Social Workers are able to give valuable help by taking children (other than Wards) by official car to placements with friends, in foster homes or private institutions. This however should be done only when there are very good reasons why parents/relations cannot help. Subject to reasonable controls, and the specific authority of the controlling officer in each case, assistance in this form is in order. Where public transport facilities are available Social Workers should not make special trips or run extra mileage, and in all cases, any escort trips should be combined with normal work.

In other cases, the provision of transport may be regarded as an essential part of the job of giving help. These would include cases where the child is too young to travel unescorted, or where there is no suitable public transport, or no other person or agency can be expected to help, or where the parents are incapable of making arrangements. Here again, Social Workers are expected to include other work in these trips if possible and they should not disrupt their work unnecessarily. Occasionally a beneficiary for some good reason may need assistance with transport which can appropriately be met by a Social Worker.

A3.21 Recording and Indexing of Miscellaneous Enquiries

(See Part H)

A3.22 Confidentiality

Few people like to discuss their failings and personal details with strangers and it can safely be assumed that our clients are not very happy about having to do so. Social Workers should recognise this and not only conduct their interviews sympathetically and tactfully but respect the confidences they receive in so far as this is possible.

A3.23 Respecting Confidence of Informants

Social Workers may receive from other sources, such as professional people, agencies and departments, confidential information about their clients. Confidentiality must be respected, unless in the interests of good social work practice, the Social Worker considers the clients should know and can persuade the informant to this end.

A3.24 Clients' Affairs Not Discussed Without Permission

A Social Worker should not approach third parties other than social service agencies for information about a client without the latter's prior consent. As an application of this principle, Social Workers should not normally take the initiative in discussing a client's affairs, or state of health, with his professional advisers - e.g. Doctor or Solicitor - without prior (usually written) consent.

There must, of course, be exceptions to the general principle outlined here, especially where allegations of neglect or ill-treatment are under investigation. In these cases a Social Worker may find it necessary to approach a neighbour or perhaps even the family doctor or solicitor with the parents' knowledge, to satisfy himself concerning the welfare of the child.

A4 CHILD ABUSEA4.1 Child Abuse - Definition

Child abuse is a multi-faceted and multi-causal problem and definition itself is difficult. The term itself covers several conditions such as non-accidental injury, physical injury, physical or emotional neglect, emotional damage, sexual abuse and a general failure to provide the minimum requirements necessary to ensure a child's optimum physical and emotional growth and development.

A4.2 Neglect and Ill-treatment

Whenever there is any reason to believe a child's life is in danger, or that s/he is being subjected to neglect or ill-treatment, the investigation of such complaints must take precedence over all other duties. If the case is sufficiently serious, the Social Worker has not only the right, but also the duty, to make a complaint, and obtain and execute a warrant (see Part C), removing the child to a place of safety, until inquiries can be completed and the Court can determine what action is to be taken. (Sections 27 and 28, Children and Young Persons Act 1974.) In investigating complaints of this kind it will sometimes be necessary to act in the absence of the parents' co-operation and consent but directly in the immediate interests of the child. In less serious or urgent cases investigations may be delayed but never to the extent that a child's interest or welfare are unnecessarily imperilled.

A4.3 Criminal Aspect of Neglect and Ill-Treatment
(ref. H7.4 re delegation)

It is a criminal offence to ill-treat, neglect, or fail to provide a child with the necessities of life. Relevant sections of the Crimes Act 1974 and Children and Young Persons Act 1974 are quoted:

"S.152 Crimes Act 1961 - Duty of Parents or Guardians to Provide Necessaries

- (a) Everyone who as a parent, or person in place of a parent, is under a legal duty to provide necessaries for any child under the age of sixteen years, being a child in his actual custody, is criminally responsible for omitting without lawful excuse to do so, whether the child is helpless or not, if the death of the child is caused, or if his life is endangered or his health permanently injured, by such omission.
- (b) Everyone is liable to imprisonment for a term not exceeding seven years, who without lawful excuse, neglects the duty specified in this section so that the life of the child is endangered, or his health permanently injured by such neglect."

"S.195 Crimes Act 1961 - Cruelty to Child

Everyone is liable to imprisonment for a term not exceeding five years, who, having the custody, control, or charge of any child under the age of sixteen years, treats or neglects the child or wilfully causes or permits the child to be ill-treated in a manner likely to cause him unnecessary suffering, actual bodily harm, injury to health, or any mental disorder or disability."

"Section 9, Children and Young Persons Act 1974

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who, being a parent or a guardian or a person for the time being having care of the child, leaves that child, without making reasonable provision for the supervision and care of the child, for a time which is unreasonable or under conditions which are unreasonable having regard to all the circumstances."

"S.103(1) Children and Young Persons Act 1974 states:

(1) Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$500 who, being a paid or unpaid staff member of a residence under this Act or being a person to whom the care or custody of a child or young person has been lawfully entrusted, ill-treats or wilfully neglects any such child or young person."

A4.4 Non-Accidental Injury

Over recent years there has been growing recognition that considerable numbers of children are physically ill-treated by their parents or parent substitutes and that deliberately inflicted injury is a significant cause of injury to children. Before describing in some detail factors which appear to be associated with non-accidental injury to children, it is necessary to define precisely what is meant by that term. The phenomenon of non-accidental injury to children has been variously described as "ill-treatment of children", "cruelty to children," "child abuse," the "maltreatment syndrome" and the "battered child syndrome".

The terms "non-accidental injury to children" or "child abuse" are used here and may be interpreted as referring to any non-accidental physical injury, including minimum, as well as fatal injury, inflicted upon children of any age by persons caring for them.

A4.5 How Common is Non-Accidental Injury?

There are no adequate statistics on the frequency of non-accidental injury to children in New Zealand. The only New Zealand research which provides an estimate of the incidence was the nationwide survey of child abuse undertaken by the Child Welfare Division in 1967. "Child Abuse in New Zealand", a report on the nation-wide survey of the physical ill-treatment of children in New Zealand was published by the Government Printer 1972. Copies of this and a number of other publications on child abuse are available in the department's library. A small selection of books on the topic is also available in district offices.

A4.6 Who Abuses Children?

Research both in New Zealand and other countries has shown that non-accidental injury to children is inflicted by parents and parent substitutes from all strata of society. Nevertheless it appears from research that -

- abuse is higher in the low socio-economic groups.
- both males and females abuse children (in the New Zealand survey 40 per cent of abusing parents were male).
- in a considerable proportion of cases abusing parents are substitute parents of one sort or another (step parents, foster parents, relatives etc.). Thus children not living with both natural parents, or who have had an unstable or unsettled family life appear to be at much greater risk.
- in a large number of cases the abused child appears to have been separated from his mother during the first few years of his life.
- abuse often appears to be present in families displaying multiple problems such as inadequate conditions, poor relationships between parents, neglect, inadequate income, a history of offending by the parents and so on.

There appear to be at least five groups of factors which help to determine the potential for parent figures to injure a child:

- (a) How the parents themselves were reared. Almost invariably the relationship they had with their parents influences their reactions to their own child. Many abusing parents have themselves been abused or neglected as children.
- (b) The general pattern of behaviour of the parents as adults. Abusing parents appear to have a higher rate of criminal convictions, mental illness, unemployment, referral to Social Welfare agencies for reasons other than abuse and so on.
- (c) A pattern of isolation of not having anyone to turn to for help during times of stress.
- (d) The inter-relationships between the parents. Most research indicates that homes in which abuse occurs are characterised by marital disharmony and uneasy relationships in caring for children. For example, a relationship involving one passive, ineffectual parent and one dominant aggressive parent with a high potential for abuse is likely to have a higher risk of abuse than one where the parents are relatively well-adjusted.
- (e) The parents' relationships with and expectations of their children. Abuse appears particularly likely where parents make unreal demands on children, or expect children to provide them with emotional support or to exhibit behaviour far in advance of their years.

A4.7 Possible Parental Indicators Which Increase Risk of Child Abuse

(a) Marriage:

Marital stress
Under stress caring for home and child
Husband is violent towards wife, and generally aggressive
Unemployment, financial worries
Mother is pregnant

(b) Conception and Birth:

Pre-marital conception
Unwanted pregnancy - abortion/adoption considered
Age of mother under 20 years at child's birth
Poor attender at ante-natal clinic
Disappointment over baby's sex
Difficulties in rearing child - separation

(c) Personality of Parent:

Mentally subnormal
Strenuously defends own parents' bad child-raising techniques
Has himself/herself been ill-treated as a child
Reports that a friend, relative, sibling, etc. is the abusing person
Presence of low self-image
Is reluctant to give information
Presents a contradictory history
Complains about irrelevant problems unrelated to injury
Presents a history that cannot explain injury
Rigid personality, short tempered, irritable
Comes from broken home, background
Refuses consent for further diagnostic studies

(d) Attitude towards child:

Child seen as rival for husband's or wife's attention
Parent asks that child be placed outside home
Child blamed for family's difficulties
Complains that child does not even cry when physically punished
Little affection shown towards child
Frequent screaming, demeaning of child by name calling
Unrealistic expectations of child

(e) Physical Surroundings of Home:

Home is excessively neat, or disorganised
No relatives or friends call
Neglect of children
Inadequate material conditions

(f) Crisis Factors Precipitating Abuse:

Incidents of non-accidental injury to children often appear to be precipitated by crises, which when added to continuing stress associated with marriage, child-rearing, financial difficulties etc. create conditions in which the risk of abuse is very high.

A4.8 Factors Relating to the Child Which May Be Significantly Associated with Child Abuse

- (a) Child same sex as abusing spouse and rejecting parent.
- (b) Failure to thrive, yet when admitted to hospital makes a positive response very quickly to the attention it receives.
- (c) Hyperactive, and/or precocious behaviour.
- (d) Premature birth.
- (e) Step child.
- (f) Child born after abnormal pregnancy, abnormal labour or delivery, neonatal separation.
- (g) Deformed child - cleft palate, hare lip, etc.
- (h) Child inappropriately clad - arms and legs covered on hot summer's day, etc.
- (i) Child considered by hospital to be good baby but by mother to be crabby, irritable.
- (j) Child considered by parent to be bad, slow, etc.
- (k) Child, particularly pre-schooler, suffers repeated injuries that require medical attention.
- (l) Child is afraid of parents.
- (m) Ex-nuptial child.
- (n) Child conceived prior to marriage.
- (o) Other children in family have been abused.
- (p) Child has been moved amongst friends and relatives.

A4.9 Physical Indications That Abuse May Have Occurred

- (a) Bruising to the head or cheeks, lacerations around the mouth.
- (b) Fractures of the head or limbs.
- (c) Weals or bruising on buttocks or legs.
- (d) Repeated or bizarre injuries: cigarette burns, scalds, strap or rope marks etc.
- (e) Multiple injuries to different parts of body (e.g. fracture and bruising on different parts of body).
- (f) Injuries of different ages (indication repeated abuse).
- (g) Untreated, healing injuries.
- (h) Delay in seeking medical attention.
- (i) Unexplained injuries, or discrepancy between injury observed and explanation given.
- (j) A child whose height, weight or other aspects of development are well below the normal for his/her age.
- (k) A child who is generally malnourished, ill-clad, dirty, in comparison to other children in the family.

A4.10 Behaviour Patterns of Non-Accidentally Injured Children

- (a) Withdrawn, depressed, developmentally retarded infants.
- (b) Agitated, persecuted, frightened infants, exhibiting selective responses seemingly resulting from severe deprivation.
- (c) Over-complaining, concerned, anxious children who systematically worry about and "mother" their parents.
- (d) Passive, withdrawn, depressed, helpless children who first establish dependent relationships, and then produce aggressive, destructive, negativistic behaviour.
- (e) Excessively inhibited children, constricted, fearful, and unable to move out despite repeated reassurance.
- (f) Provocative, negativistic, aggressive, destructive children.
- (g) Wildly driven, hyperactive, distractable, visually alert, extremely anxious children.
- (h) Arrogant, controlling, omnipotent, denigrating children who become confused, helpless, and extremely depressed when their persecutory fears are interpreted to them.
- (i) Some overtly psychotic children, demonstrating self-destructive behaviour including severe head-banging and self-mutilation.
- (j) Emotionally labile, affection-starved children may demonstrate persistent promiscuity in their need to seek meaningful relationships.

A4.11 Withholding Medical Treatment (ref. H7.4 re delegation)

A special form of neglect, fortunately rare, but presenting great difficulty is a parent's refusal, possibly on religious or conscientious grounds, to permit a child to receive necessary medical treatment, for example, to correct some deformity. Social Workers will sometimes be asked by doctors or public health nurses whether drastic action can be taken to compel the parents to permit the treatment to be given. Clearly no precise guide can be given to Social Workers in such cases, but they will be doing all they can if they act on the following principle: Where the Director is satisfied that a child's physical welfare requires it, and where in spite of a warning about Court action, parents still refuse to consent to treatment, the Director should approve a Social Worker's making a complaint to the Court so that an independent authority can take the responsibility of determining what, if any, action should be taken. The situation is not so difficult, of course, where the refusal to permit medical treatment is only one of several forms of neglect, which, taken together, would justify complaint action.

Under the provisions of the Health Amendment Act 1961, protection is afforded medical practitioners and Hospital Boards in respect of blood transfusions given to a minor in the absence of parental consent (whether because of urgency or because consent is unreasonably withheld) and which are necessary for the purpose of saving his/her life, or preventing permanent injury to his/her physical or mental health, or of saving him/her from prolonged and avoidable pain and suffering.

A4.12 Action To Be Taken When Non-Accidental Injury Is Suspected
(ref. H7.4 re delegation)

(a) Immediate Investigation:

When complaints have been made about the abuse of a child it is the duty of the Social Worker receiving the complaint to take appropriate action immediately. The child must be viewed by someone from this department the same day, within the hour if possible. Where it seems likely that the injuries may be serious and/or where the department may need to take action two Social Workers should undertake the inquiry.

(b) Medical Examination:

If the Social Worker believes from observation, or from the nature of the complaint that the child has sustained injury it is his duty to see that the child is immediately examined medically, preferably by the family doctor, or if this is not possible by the nearest hospital. The department will take responsibility for the payment of the doctor's account. A written report should be obtained from the doctor, on the nature of the child's injury and its possible cause.

(c) Obtain Warrant if Necessary:

Where the parent refuses to take the child, or refuses to allow the Social Worker to take the child to be medically examined the Social Worker has the choice of swearing a warrant to remove the child under Section 7 of the Children and Young Persons Act 1974, or of requesting Police assistance to remove the child without a warrant under Section 8 of the Children and Young Persons Act 1974. If possible these alternatives should be discussed with his/her supervisor, but in an emergency, dialling 111 and obtaining Police and ambulance is the only alternative.

(d) Complaint Action Where Necessary:

Where abuse has occurred or there is clear evidence the child is at risk, consideration should always be given to taking complaint action. This action, whether or not it follows warrant action, provides greater protection for the child and allows parents the opportunity to put their case to an impartial authority.

In most instances the use of S.11 agreements where abuse has occurred or is suspected is not appropriate. This is because the causes of much abuse are complex and unclear and denial, guilt and ambivalent feelings towards the child are often present. Assurances given therefore by an abusing parent that the incident was an isolated one, or that the child be placed in the department's care for an agreed period cannot be adhered to. Evidence for later complaint action to protect the child in such instances may then be no longer available.

(e) Cases Where Continuing Absence From Home Necessary Until Court Hearing:

Where a child is admitted to hospital and warrants have not been obtained, complaints and summons action is sufficient, unless the hospital is likely to discharge the child prior to the Court hearing in which case a warrant is necessary.

(f) Advice to Police: (ref. H7.4 re delegation)

In cases of neglect or ill treatment careful consideration should be given to whether a formal complaint should be made to the Police with a view to possible Police action being taken under the Crimes Act (ref. A4.3).

Police should be advised about every serious case of neglect or ill-treatment or where doubts are held about the degree of ill-treatment administered. In general the Police should be formally advised, or discussions held with the Police in the following circumstances:-

1. Where a child has received serious injuries.
2. Where conflicting explanations are offered with respect to the alleged circumstances of a child's injuries.
3. Where guardians deny knowledge of any possible cause for a child's injuries.
4. Where minor injuries are repeatedly occurring in the absence of any satisfactory explanations.
5. In all cases of alleged sexual abuse.

In cases of alleged sexual abuse, by the Department holding discussions with the Police at an early stage, can help determine the seriousness of the allegation, and the most appropriate way in which the enquiry should be handled.

(g) Engaging the Services of the Crown Solicitor:
(ref. H7.4 re delegation)

In cases where the parents deny the complaint and employ a solicitor, and where witnesses will be required to provide evidence for the department's case, it is essential that the Social Worker involved in the case be available in the role of witness rather than prosecutor. Head Office approval for the engagement of Crown Counsel should therefore be obtained. If there is an element of urgency then a phone submission should be directed to the Office Solicitor, Head Office.

(h) Children's Board Where Not Serious:

In some cases where non-accidental injury is admitted but the child is in no danger and medical treatment is not necessary, it is the duty of the Social Worker to inform the local Children's Board of the matter, and to follow up with public health, school or other support for the family with supportive service status for a period, and if appropriate refer the case to the multi-disciplinary group for discussion and planning for future handling. (Refer A4.13).

(i) Accident Compensation:

In all cases when non-accidental injury is suspected and a child suffers physical injury, consideration should be given for lodging a claim with the Accident Compensation Corporation.

The child may be eligible for lump sum payments for permanent loss of bodily function and for loss of capacity to enjoy life, for pain and mental suffering and for disfigurement. There may also be a claim for continuing payments when the child reaches the age of 16 years.

Any person can lodge a claim for compensation on behalf of any other person but obviously if the child is not in our care, then the parent or guardian should be encouraged to lodge the claim. (For claims on behalf of a child in the department's care refer to N11.22.)

A4.13 Multidisciplinary Approach to Child Abuse (ref. H7.4 re delegation)

There is universal agreement that the many and varied facets of child abuse are such that a multidisciplinary approach to the handling of these problems is required.

All Directors should therefore support or facilitate the development of a multidisciplinary group(s) in their district to consider cases of abuse which come to notice. Consideration of cases by such groups assists in the assessment and management of cases and in the co-ordination of activities among the workers involved in a case.

A paper entitled "Administrative Aspects of Child Abuse - A Multidisciplinary Approach" - produced by the National Committee on the Prevention of Child Abuse is available in districts and should be considered in conjunction with these instructions.

(a) Types of Multidisciplinary Approach:

Co-ordination among professionals/agencies can occur in three ways -

- (a) "Ad hoc" case co-ordinations where the Social Worker responsible for the case holds individual discussion with other agencies/professionals and/or seeks specialist input.
- (b) Systematic case conferences. A regular group of agency workers/professionals in a community come together to consider cases referred to the group.
- (c) Child Abuse teams. These groups consisting of permanent representatives are serviced by the full or part time services of a Social Worker who acts as the team Social Worker. Currently the Hamilton, Dunedin and South Auckland districts operate this type of project.

(b) Types of Cases Which Need Case Conference Referral:

Consideration should always be given to referring cases for case conference discussion.

It is suggested, however, that the following types of cases should come before a case conference, if one or more of the following factors are present -

1. Physical abuse in any child under one year of age.
2. Severe physical abuse.
3. Sexual abuse.
4. Cases where any reabuse has occurred after previous intervention.
5. Serious underfeeding.
6. Serious health care neglect.
7. The parents are resistant or unco-operative.
8. Either parent is suspected of being dangerous (psychotic, suicidal, homicidal, sociopathic, addicted to alcohol or drugs).
9. Removal of child from parental care is under consideration.
10. The recommendations of different professionals are in conflict.
(List adapted from Schmitt B.D. 1982.)

(c) Function of Case Conference:

Although case conferences have an advisory and not an executive function it is essential when case decisions are made at a conference, that the Department does not take action contrary to the recommendations of the case conference without prior consultation with case conference members. This can be done either by consulting case conference members individually or by arranging for the case conference to be reconvened.

It is nevertheless accepted that because of a Social Worker's statutory responsibilities that independent action may be needed to protect a child, before a case conference can be convened or when an emergency arises. A case conference should be convened as soon as possible after such incidents.

(d) Departmental Representation at Case Conference:

Because case decisions may need to be made at case conferences the department should be represented by senior staff able if necessary to make "on the spot" decisions. Where permanent case conference groups/Child Protection Teams exist, a senior member of the Social Work staff should permanently represent the Department at case conferences. In addition the Social Worker actively involved in the case should also attend and participate in the case conference.

(e) Police Representation at Case Conference: (ref H7.4 re delegation)

Where Police attend case conferences it may be appropriate during discussion for a decision to be made whether a formal complaint should be made under the Crimes Act (refer to A4.3).

(f) Case Information for Conference Members: (ref. H7.4 re delegation)

It is essential where Social Workers have referred a case for consideration that full background information is made available to members and a record taken of the case conference decisions.

(g) Return of Abused Child to Parents' Care:

Where the return home of a previously abused child is contemplated and where this plan has not been previously considered at a case conference then a conference should be convened and the proposal referred for consideration before return home is effected.

(h) Co-ordination Between Planning and Child Abuse Case Conferences:

Because of possible conflicts between the two procedures it is necessary that case conference decisions and plans for a child be co-ordinated. A case should first be considered by a case conference before plans are established. This allows a multidisciplinary assessment to be undertaken first. Where possible the same Social Worker should attend the case conference and be responsible for planning. If this is not possible the Social Worker responsible for planning should ensure that the case conference decisions/assessments are known and understood.

A4.14 Clerical Action

To alert officers' attention to cases where ill-treatment has previously been reported the file cover should have a quarter inch red stripe (made by a felt tip pen) placed across the top edge.

A5 INFORMAL ADMISSIONSA5.1 Emergency Main Criterion (ref. H7.4 re delegation)

A child/young person, in an emergency, may be taken into care without a warrant or agreement, and admitted to one of the department's institutions, or alternatively a foster home. It is envisaged that this type of admission to care be used only in definite emergencies, and/or in such cases where the situation will be resolved in a short time. If it is apparent at the time the child is taken into care that the situation cannot be resolved by the child returning to the care of his/her parents or being otherwise placed by them, Social Workers should consider entering into a Section 11 agreement or taking action under Section 27 of the Act.

A5.2 Limited Period Only

All informal admissions must be reviewed within the first two weeks' period and may only be extended for one further period of two weeks. An initial casework plan should indicate the appropriate course of action e.g. return home; Section 11 agreement; Children's Board referral or complaint action. Foster parents or residential staff should have access to the applicable SW 542 forms as soon as possible, if necessary on an interim basis.

A5.3 Statement to be Obtained from the Parents/Guardians

The parents/guardians of a child/young person who comes into care by informal admission should be asked to sign a statement which will clarify the nature of the action taken and confirm their on-going responsibility for making a more permanent arrangement. Such a statement could be tailored to fit the particular circumstances but would generally be in the following format:

I/we _____
 (mother/father/guardian)

of _____
 (full address)

request _____ to take
 (name of Social Worker)

(full name of child/young person)

into the temporary care of the Department of Social Welfare and agree to any medical and/or dental treatment deemed necessary by a medical practitioner and/or dentist.

I understand that this is a temporary arrangement only and undertake in consultation with the Department to make suitable longer term arrangements within fourteen days.

(signed) _____

(signed) _____

(date) _____

(witnessed) _____

(date) _____

Parents/guardians should receive a copy of the statement and in the case of an institution placement a copy should also be available to the residential staff.

A5.4 Admissions to Care in the Absence of Parents/Guardians

Where a child/young person is to be taken into the department's temporary care from the custody of a person who is not his/her parent or legal guardian, all reasonable efforts should be made to locate the parent or guardian to ascertain whether he or she is able to make any other suitable arrangements. If the parent cannot be located in time or cannot make suitable arrangements, it is preferable - whether or not the person having custody of the child consents to the child's removal - that the Social Worker should obtain a warrant before admitting the child/young person to an institution, or placing him/her with foster parents who expect payments from the department. This makes the legal position quite clear and protects the child's/young person's custodian from criticism by the parent. If later inquiries show that another suitable placement outside the department is available there is no difficulty about asking the Court to discharge the warrant and for permission to withdraw the complaint.

A5.5 Notification

A computer entry of a child in care on informal admission will give rise to an automatic 'Bring-up' after three weeks. This is a monitoring device to warn that the maximum acceptable period for such a status is about to lapse. The Assistant Director, Social Work, needs to be satisfied that any informal admission does not extend beyond the minimum time required to achieve a more stable situation.

A5.6 Maintenance

The Children and Young Persons Act 1974 contains no legal provision for obtaining maintenance from parents or guardians of children/young persons placed informally in our care; adjustment of family benefit is the only recompense that is sought legally. However, there is nothing to prevent a parent's offer to pay maintenance being accepted on an informal basis and parents, where it is within their means, should be encouraged to do so.

A5.7 Clothing

Only the minimum clothing required is to be purchased so as not to inconvenience the foster mother or institution staff if the parents/guardians are unable to supply it.

In all other ways, however, the child/young person should be treated as if he/she were a Ward, and medical examinations etc. obtained as in the case of a Ward coming into care.

A6 SUPPORTIVE SERVICE

A6.1 Introduction

When it is clear, at the outset, or becomes clear during handling of a "miscellaneous inquiry" or other investigation arising from any source that work will be required over a period of more than a month or two, the case should be recorded as one of supportive service. This is an arrangement which depends for its successful operation on the co-operation of the child and family concerned. On the one hand, the clients must agree to have a Social Worker intervene in their lives, on the other, the Social Worker must be prepared to give the case the attention it deserves. If either party fails to keep his/her side of the agreement, supportive service ceases to be effective, and should be resolved either by total withdrawal or, if the case warrants it, by complaint action.

A6.2 Statutory Duty

Sections 5 and 6 of the Children and Young Persons Act 1974 state that this department has a duty actively to carry out preventive work, or to organise community resources to provide the necessary supportive services. (Refer A1).

A6.3 Recording of Supportive Service (ref. H7.4 re delegation)

Where a Social Worker considers that a child or family should be dealt with under supportive service s/he should discuss it with his/her senior Social Worker and prepare a Social Worker's similar to those produced for the Court. It should be full enough to make clear the nature of the problem and any plan of action for the benefit of any other Social Worker who might have to take it over. However, where a report has been prepared during the past 12 months for Court or for some other purpose it is unnecessary to repeat information in the new report, reference being made to the earlier one. Similarly, the report may serve as both Court report and supportive service report if desired. If the Assistant Director approves the recommendation and the plan of action he should indicate this under the recommendation. The period of supportive service will usually, though not necessarily, be from six months to one year. If the estimate of time required proves incorrect for any reason the period of support may be extended or written off with the approval of the Assistant Director (Social Work).

A6.4 Special Needs Grants

Please refer to Part B of the Supplementary Services Manual.

A6.5 Release of Prisoners Convicted of Sexual Offences Against Members of their Families

(What follows below is of an interim nature. Current negotiations are underway with the Justice Department to clarify and co-ordinate our services in this respect).

When persons are given a prison sentence following conviction for a crime of violence or some other serious crime against members of their family, one aspect of ongoing planning and rehabilitation is their future role in

and relationships with their family. Support and assistance to the family members in the community whether or not the offender is to return, is another aspect of planning as vital as help to and rehabilitation of the offender. The degree of co-ordination and joint planning required between those assisting various members of the family depends on:

- (a) whether the offender is to rejoin the family and;
- (b) whether parole will be granted or the full term served.

Prison Superintendents have the responsibility to ensure that:

- (a) families are given adequate notice of the release of offenders against that family; and
- (b) the Director-General is given one months notice of the release of offenders against children in the family.

Most offenders are released on parole which means that Probation Officers are involved in planning periods of home leave and eventual parole.

On being notified of release (not home leave) the Director-General forwards the information to the District/s involved. The information includes the name of the offender, the nature of his/her offence and sentence, the date of release, his/her intended address after release, the locality in which the offence was committed, name and present address of the mother or the name and address of the child offended against.

Sometimes District social work staff already know the family but sometimes, particularly when several years have elapsed since the event, there is no current active involvement with the family.

On receiving notification from the Director-General the Director should arrange for consultation with the local Probation Service with a view to checking their current and planned role in relation to the release. When the Probation Service is involved then it is unlikely to be necessary for the department to carry out any enquiry. The appropriateness of any social worker involvement will emerge for consultation with Probation. When the Probation Service is not to be involved (i.e. full sentence completed) then the responsibility lies with the Department to check the implications for the children and family of the offenders release. Sometimes the implications extend to children's families other than the offenders family.

Such interventions/enquiries which have the potential to "open old wounds", and create a measure of anxiety, must be handled with sensitivity. Senior Social Workers must take responsibility for planning with the Social Worker how best to undertake the enquiry. Even if Probation Officers are not to be involved they may provide from their records some background detail that will be useful in planning an appropriate enquiry. When there are implications for particular children and families other than those of the person to be released (e.g. neighbours) then consideration has to be given as to an acceptable way to share information with them. Sometimes the pending release will have implications across District boundaries and so inter-office co-ordination will be required.

The emphasis of the social worker role is on the well-being of the child on young person who was the victim of the offence. On some occasions for example the family may wish for a period of Supportive service while the person who has been released either re-establishes a direct role in the family or adjusts to life in the community.

A6.6 Notification from Probation Officers of Incidents of Cruelty or Assault

An arrangement is also in force whereby Probation Officers inform the local Director of acts of violent or sexual assault involving children coming to their notice either as the result of prosecution or otherwise. Such cases should be discussed with the Probation Officer to establish whether a visit is needed or desirable before any Social Welfare visit being made. Visits should not be made where a prosecution is pending unless discussion with Probation or Police indicates that Social Welfare intervention in the interests of a child is really necessary. After a conviction has been entered a visit should be made to assess the situation and offer assistance.

A7 EX-NUPTIAL BIRTHS

A7.1 Action Prior to an Ex-nuptial Birth

At the time a single pregnant woman applies for a sickness benefit the officer taking the application must refer the client to a social worker for advice regarding the options open to her in respect of the child's future (ref Sickness Benefit Manual F1.10 - F1.11). This also offers the opportunity for counselling if appropriate. Where concern is held at this stage, social workers should record this for follow-up when the child is born.

A7.2 Action Following an Ex-nuptial Birth

Although Section 10 of the Children and Young Persons Act 1974 was repealed on 1 January 1983, an administrative decision was made that Social Workers would continue to investigate ex-nuptial births where the natural mother is under 18 years. These investigations are treated as miscellaneous inquiries. It is important that Public Health nurses, Plunket nurses and maternity hospitals or maternity wards are aware of the above and that we have a good working relationship with these agencies.

A7.3 Notification of Birth to an Unmarried Mother Under the Age of 18 Years

The form FB 9 has been amended to include the mother's date of birth. Where Benefits Section receive an FB 9 which discloses that a birth is ex-nuptial and that the mother is under 18 years the appropriate officer will refer a photocopy of the FB 9 to the Social Work Division for follow-up by a Social Worker (Family Benefits Manual para O.4). At this stage the information needs to be referred to the Adoption Officer to ensure that the inquiry does not proceed in cases where the child is available for adoption, or has already been placed.

A7.4 Purpose of the Inquiry

The purpose of the inquiry is to ensure as far as possible that the child is adequately cared for and to establish whether the young mother needs assistance.

A7.5 Method of Inquiry

On receiving the FB 9 Social Workers should make inquiries from the Plunket nurse, the Public Health nurse or the maternity hospital. If mother and child are not known to these agencies then further inquiries should be made as to the mother and child's whereabouts. Benefits Section may have current information.

A7.6 The Outcome of the Inquiry

- (a) If the child's care is considered to be adequate by the agencies contacted then the inquiry should be recorded as a trivial miscellaneous inquiry and no further action taken.
- (b) Where the inquiry reveals doubt or concern for the care of the child, the Social Worker should proceed with the inquiry as in any case where doubt has been conveyed to the department about the care of a child. (See Part A4.)

A7.7 Inquiries to be Made as Soon as Possible

It is important that inquiries are made as soon as possible so that the child's circumstances and/or the need for assistance can be established and, if necessary, acted on at an early stage.

A7.8 Where Mother and Child Move to Another District

Where a mother and child have moved to another district and where doubts have been expressed regarding the care of the child or where inquiries have not been completed, the information sheet should be forwarded to the appropriate district.

The receiving district will make inquiries through the Public Health and Plunket nurses in the first instance and take further action if necessary.

A7.9 Untraced Cases

If, after six months and after full inquiries, the mother and child cannot be located the information sheet should be noted as untraced and then closed.

Social Workers should view with concern a case where a mother and child have had no contact with a hospital, Plunket nurse or Public Health nurse and a determined effort should be made to locate the mother.

A8 PLACEMENT OF INFANTS IN PRIVATE FOSTER CARE

A8.1 Legislation

Part 8 of the Children and Young Persons Act 1974 contains a number of provisions designed to safeguard the physical and emotional welfare of young children who must be maintained apart from their parents for any significant period. This legislation is particularly designed to cover situations where a baby or infant is placed with strangers who agree to care for it, whether for payment or not.

The first specific legislation controlling such placements was the Infant Life Protection Act 1893. A later enactment with the same title was passed in 1907. In the course of the consolidation and re-enactment in 1908 of all Public Acts then in force, the provisions of the Infant Life Protection Act became incorporated and consolidated as Part I of the Infants Act 1908. The provisions are now incorporated in the Children and Young Persons Act 1974.

A8.2 Effect of Legislation

This part of the Act requires that infants under six years maintained away from their parents for more than 28 consecutive days or on more than 28 days in any period of 40 days must be placed in the direct care of an officially approved and licensed foster parent, unless in the care of a near relative (defined in A8.4). The effect of this is to focus the provisions on to long term foster care where it is felt that the main need for such provisions exist and specifically to include part-time care (e.g. care during the week but not over the weekend) within the provisions of the Act.

A8.3 Parents' Rights of Guardianship Not Affected by Placement

The role of the department in carrying out its obligations under Part 8 of the Children and Young Persons Act 1974 is:

- to license suitable foster parents who wish to take children into their homes, and
- to supervise the care of children placed in licensed foster homes by their parents.

During the child's stay in a licensed foster home guardianship rights remain with the parents.

A8.4 Licence is Necessary Only Where Child is Not in the Care of "Near Relative"

Part 8 of the Children and Young Persons Act 1974 provides:

"No person shall receive or retain in his care or charge any infant for the purpose of caring for or maintaining him apart from his parents or guardians for a longer period than 28 consecutive days or on more than 28 days in any period of 40 days unless:

- (a) that person is a near relative of the infant's; or
- (b) that person is licensed under this Part of this Act as a foster parent; or
- (c) the infant is lawfully in the home of that person for the purpose of adoption and the requirements of Section 6 of the Adoption Act 1955 are being complied with; or
- (d) that person is for the time being entitled to the custody of the infant pursuant to an express provision of this Act, or pursuant to the order at a Court, whether that Court is a Court within the meaning of this Act or not."

Section 72 of the Children and Young Persons Act defines "near relative" as an infant's grandfather, grandmother, the brother or sister of the infant's father or mother, the infant's adult brother (of the whole or half blood) or the infant's adult sister (of the whole or half blood). It should be noted that the licence relates only to the infant or infants named on it. (Refer A8.7.)

A8.5 Provision for Exemption (ref. H7.4 re delegation)

Section 73(2) of the Children and Young Persons Act 1974 provides that:

"The Director-General may from time to time issue a certificate exempting from the provisions of this section -

- (a) any institution, group home or foster home which is administered by an organisation offering continuing or short term residential care for infants.
- (b) any person as to whom the Director-General is satisfied that such provisions should not apply."

If a private person or representative of an organisation or institution approaches the Director to enquire about exemption, the facts should be obtained and forwarded to the Director-General for consideration.

A8.6 Issue of Licence (ref. H7.4 re delegation)

The Social Worker will hand form SW 516 (refer Fig. 8), 'Application for Licence as a Foster Parent' under Part 8 of the Children and Young Persons Act 1974 to the prospective foster parents for completion or may complete the form during the initial interview with them and obtain their signature to it. References will be sent for from the district office. The home is then visited and following this, if from the Social Worker's interviews with the applicants, the home visit and consideration of the information supplied by referees, s/he feels satisfied that a child placed with the applicants would seem likely to receive adequate care, a licence will be issued. Authority for making these inquiries and issuing a licence is provided by Section 76(1) of the Children and Young Persons Act 1974 which states:

"If after such inquiry as s/he thinks fit the Director or other officer to whom s/he delegates the responsibility is satisfied as to the character and fitness of the applicants and the suitability of the house proposed to be used by the applicant as a foster home, s/he shall issue a licence to the applicants."

A8.7 The Form of the Licence

The licence issued under Section 76(1) authorises the holder "to receive and maintain in the house, specified by address in the licence, any infant or infants named therein, for the purpose of caring for and nurturing such infants apart from their parents or guardians."

A8.8 Duration of Licence (Section 77)

The licence remains in force for 12 months from the date of issue and then expires, provided that where application is made for a new licence while an existing licence is in force the existing licence shall continue in force until the decision on the application is given. Social Workers on issuing a licence should ensure that a bring-up is arranged a month before expiry so that the case is reviewed before the 12 months are up.

A8.9 Revocation of Licence (Section 78) (ref. H7.4 re delegation)

Section 78 (1) states: "A licence issued under Section 76 of this Act may at any time be revoked by the Director of Social Welfare for the district of the department in which the foster home is situated."

If a Social Worker is satisfied that a foster parent should not have care of a child the first step will be to discuss the matter with the Director. If it is agreed that the foster parents should not continue taking children into their home, the foster parents should be approached and told as tactfully as possible of our belief and asked to surrender the licence. Written advice of revocation should then be given. No further action needs to be taken provided of course that they have no children with them, or agree to alternative and immediate placement elsewhere of the children who are with them at the time of surrendering the licence.

A8.10 Obligation to Notify

Section 74(1) of the Children and Young Persons Act 1974 states : "Every person who receives an infant into his care with a view to keeping that infant beyond the periods specified in Section 73 of this Act, or having an infant in his care, arranges to retain that infant in his care beyond those periods, shall within 72 hours after the receipt of the infant or the arrangement as the case may require, give written notice of the receipt of the infant or the arrangement to the Director of Social Welfare for the district of the department in which that person resides."

At the time of receiving an infant into their care, the foster parents should ascertain from the person placing the child, the name and address of the doctor who should attend the child in case of illness. The foster parents are required, if the child becomes ill or needs medical attention, to notify the parents or guardian and the Social Worker as soon as possible. The instruction makes it clear, however, that if medical attention is urgently required this should be obtained and that both the parent or guardian and the Social Worker can be notified later.

When any infant leaves the care of the licensed foster parents, the latter must also notify the local Director within 72 hours of the fact that the infant has left, of the circumstances in which the infant left, and if it is known to them of the address where the infant is to be found.

A8.11 Maintenance (ref. H7.4 re delegation)

Section 79 of the Children and Young Persons Act 1974 provides that "any foster parent or the parent or guardian of the infant may ask the Director to arrange an agreement between the foster parent and the parent stipulating the maintenance payable for the infant's care." This section places the onus for effecting agreements, and enforcing them upon the foster parents or the infant's parents or guardian, and not with the department. The department's only responsibility is to assist in the effecting of such agreements if required.

A8.12 Change of Address

Section 80(1) and (2) states the following, "(1) where any foster parent wishes to change the house at which he carries on his foster home he shall give written notice of the house proposed to be used."

If the Director or other officer to whom s/he delegates the responsibility is satisfied as to the suitability of that house, s/he shall on production to him/her of the licence, amend it accordingly.

A8.13 Powers of Inspection and Removal by a Social Worker

Section 81 of the Act provides that:

- (a) Any Social Worker may at any time enter any foster home or any premises in which he has reason to believe that any infant is being maintained contrary to the provisions of this Act, and may inspect every part of any such foster home or premises and examine the state and condition of any infant therein.
- (b) Such Social Worker may at any time be accompanied by a registered medical practitioner.
- (c) Such Social Worker may at any time, if dissatisfied with the quality of care the infant is receiving (of which he shall be the sole judge), remove any infant from any foster home or other premises and place that infant in a residence within the meaning of this Act, until the wishes of the parents or guardian are known or until Court proceedings under section 27 of this Act determine the future arrangements for the infant's care.
- (d) The period during which an infant remains in a residence by reason of a placement under subsection 3 of this section shall not exceed three months.

A8.14 Visiting

There is no statutory requirement or regulation governing frequency of visits to licensed foster homes, but it is expected that the minimum visiting requirements for Wards should be adhered to. Each licensed home should be visited not less than once every four months. Many of course will need much more regular visiting and oversight. Social Workers should work in co-operation and consultation with Plunket and Public Health nurses who already have contact with the home, or who could provide additional help and guidance which the foster mother may need and will accept.

A8.15 Death of Infant in Foster Home

If any infant dies in a foster home Section 82 of the Act requires the foster parent within 24 hours after death to inform:

- (a) The Director of the Social Welfare district in which the foster home is situated, and
- (b) A member of the Police who shall forthwith communicate to the Coroner the fact of the death and such circumstances relating to the same as he is aware of.

**A8.16 Action to be Taken by Social Worker in Event of Child's Death
(ref. H7.4 re delegation)**

Though the Act clearly places the responsibility of notifying the Police of a child's death on foster parents, Social Workers must make certain that this action is taken. The parents should be notified immediately. Funeral arrangements will be their responsibility, but the Social Worker may be able to assist with advice and arrangements if this is necessary. The Regional Director should be notified by a memo (original only) which should include the following:

- Full name of child
- Date of birth
- Date of placement
- Date of death
- Whether the Police have been notified
- Whether the parents have been notified
- What is known of the cause of death and the circumstances of the child's care at the time of death.
- Whether or not an inquest was ordered and if ordered the Coroner's decision and any relevant comment. (The inquest may be delayed in which case its outcome may be conveyed to the Regional Director by separate memo at a later date.)

A8.17 Offences

Section 83 of the Children and Young Persons Act 1974 provides for fines up to \$1000 on summary conviction for any person who commits an offence against the provisions specified in this Act.

A8.18 Recording

The forms which are completed in interview with foster parents and parents or guardians are so designed that they can be filed in a Kardex system.

A personal file should be made up for the child and it is a good idea to have one for the foster parents also. Information concerning foster parents is contained on form SW 516 (refer Fig. 8). Information on the child is recorded on form SW 521 (refer Fig. 9).

Recording procedure is outlined below:

- (a) On receipt of a form of application (SW 516) references should be requested and the application subsequently filed in a Kardex tray for applicants. When a child is placed with the applicant, the SW 516 card should be transferred to Kardex tray for foster parents. Sufficient vacant pockets should be left to take as many SW 521 cards as there are likely to be children cared for at any one time by the applicant.
- (b) When references are received the SW 516 should be appropriately endorsed. References should be filed on the personal file. If the applicant is considered unsuitable (on the basis of the Social Worker's home visit or unsatisfactory references, or both) the SW 516 should be filed in a separate Kardex tray. All new applications should be checked against that tray before action is taken on them.
- (c) When the SW 521 has been completed by the Social Worker in respect of a child being placed, it should be handed to the clerical officer for filing in the Kardex underneath the appropriate foster parents' form of application. The maintenance agreement should be filed on the personal file.
- (d) The clerical officer will prepare a visiting book page for the Social Worker endorsing it with the child's full name, date of birth, religion, and the reason (stated on SW 521) for the placement. The Social Worker should then record the date of placement on the page and include it in the visiting book.
- (e) If a child leaves a foster home or ceases to be our concern under the provisions of Part 8 of the Children and Young Persons Act 1974 (e.g. through reaching his sixth birthday, placement with "near relatives"), the Social Worker should record the date of removal or termination on the relevant page of the visiting book and then send the page to the clerical officer responsible, who should check whether or not maintenance payments are being made through the office and note the accounting card accordingly. The child's card should then be removed from Kardex; the visiting book page should be pinned to it and should then be filed on the personal file.

A8.19 Board Payments

The payment of board moneys should be made by parents direct to the foster parents. Where parents come to the department for help and where a Social Worker arranges the placement, a Section 11 agreement or, in very short-term emergency cases, a "B temp admission" arrangement should be made.

A8.20 Record of Board Payments

Social Workers should make it clear to the foster parents that they should issue receipts (with copies for their own record) for payments received direct from the parent or person paying maintenance for the child. If payments fall into arrears and the foster parents wish to take legal action to recover the debt, it would be useful for them to be able to produce evidence of what has been paid. The natural parent should also be advised to keep receipts.

A8.21 Six-monthly Returns

Statistical information required is specified by circular instruction issued before the returns are due on 30 June and 31 December, and may vary to some extent from year to year. If any new information is required, advance notice will be given.

A9 SUPPORTIVE FAMILY ASSISTANCE SCHEME

A9.1 Introduction

This part sets out instructions for the administration of the Supportive Family Assistance Scheme formerly known as the Needy Family Assistance Scheme.

A9.2 Legislation

Payments under this scheme are made under the authority of Section 61G of the Social Security Act.

A9.3 Purpose of Scheme

The purpose of the Supportive Family Assistance Scheme is to help prevent the breakup of a family as a unit, through the provision of financial assistance and to thus avoid the need for a child or children being taken into the care of this Department.

A9.4 Eligibility

Assistance under the scheme should only be given to low income families who could be at risk of breaking up and could be assisted by the injection of additional finance. A basic requirement is that the family must be on "Supportive Service" and subject to planned social work assistance for the full term of any financial assistance approved under the scheme.

It must be stressed that the scheme must not be used as a means of just providing financial assistance for low income families generally.

Assistance should not necessarily be extended to those families whose only problem is seen to be a budgetary one and who are receiving, or could receive advice from a budgetary service. It is possible that financial assistance may not be necessary if budgetary advice or counselling can remedy the problem and where appropriate this course should be followed before an application for financial assistance is invited. In appropriate cases grants could be made subject to co-operating with an approved budgetary service.

Payment of Supportive Family Assistance is not to be made direct to the family but paid for specific purposes, e.g. to a landlord to assist with the rent or for payment of an electricity account but not to meet hire purchase payments. Alternatively, payment may be made to the family budgetor where this is deemed advisable.

A9.5 Lump Sum Grants

An application for Supportive Family Assistance should not preclude the payment of a Special Needs Grant to the particular family where this is appropriate. Having regard to the circumstances a Special Needs Grant may be authorised in lieu of, or in addition to, a continuing grant under the Supportive Family Assistance Scheme.

A9.6 Assessment of Financial Circumstances and Commitments

If it is established that the problem cannot be solved by budgeting advice or counselling an application for Supportive Family Assistance may be invited.

The amount of any continuing grant is to be assessed under a formula which will take into account the income and living costs of the parents.

The net earnings, together with any other income of the parents, but excluding family benefit, will be taken into account as income. Essential commitments (excluding hire purchase expenses) and an assessed living costs figure equivalent to the appropriate social security benefit that could be paid if the particular family qualified for a social security income tested benefit, will be included under expenditure. Details of this should be worked out in consultation with the appropriate staff in the Benefits Division.

Assessment Example: The following assessment illustrates the formula for assessment in a case where there are five dependent children.

<u>Income</u>		<u>Commitments</u>	
Husband's verified earnings (net - i.e. after deduction of tax only)	\$165.00	Rent	\$40.00
Deficiency	<u>\$ 27.28</u>	Assessed living costs (M/couple with 5 children)	<u>\$152.28</u>
	<u>\$192.28</u>		<u>\$192.28</u>

- Amount payable \$27.30 p.w. (Rounded up to nearest 10c)
- There are no cash assets in this case.

It is not envisaged that applications should be invited from families who have savings accounts or realisable assets in excess of \$400. Any applications received where cash assets exceed this figure are to be declined.

A9.7 Approvals

A grant is limited to the deficiency under the formula with a maximum of \$30 a week. Any case where a grant in excess of this figure is considered warranted should be submitted to Head Office with a full report on the family circumstances and the likely period that assistance will be required. Approval at a local level will be by the Director or Assistant Director (Benefits and Pensions) on the recommendation of the Assistant Director (Social Work).

A9.8 Period of Grant

Grants will be approved from the Monday of the week of application and continued for three months or such shorter period if the position has been corrected within this time. If after review at the end of three months, continuation is necessary, extension for a further three months may be approved locally.

A9.9 Extension of Period of Grant

Any application for continuation of assistance beyond six months is to be submitted through the Benefits Division to Head Office with full details of the financial position, including a history of the breadwinner's employment since the grant commenced with comments on any possible future change in employment or the general overall position of the family. Special mention should be made of the budgetary assistance being given to the family. The need for the continued oversight of the family should also be covered.

A9.10 Pay Procedures

Payments should be based locally and made weekly, fortnightly or four-weekly as appropriate to the circumstances of each case.

Payment is to be made by Director's Payment Orders, class coded for non beneficiaries. Any grants to social security beneficiaries, war pensioners or national superannuitants are to be coded to the parent benefit or pension or national superannuation.

The equivalent instructions are in Part D of the Supplementary Services Manual.

A10 HOME HELP SCHEME

A10.1 Introduction

The Department's Home Help Scheme provides for financial assistance to enable persons with limited means to employ a home helper in certain circumstances.

A10.2 Categories under the Scheme

The Scheme is designed to assist four groups of people:

- a. the sick or infirm
- b. multiple birth parents
- c. young families facing multiple problems
- d. people faced with an unexpected change in their circumstances

Eligibility for assistance under the Scheme depends on financial and other circumstances which vary with each category.

A10.3 Payment for Services

It is not the Department's responsibility under the Scheme to arrange for the employment of home helpers. Financial assistance is made available to pay for services provided by home helpers. Payments are based on a scale of maximum hourly rates and may include holiday pay and travelling allowance.

A10.4 Definition of Multiple Births

For the purpose of the Scheme a multiple birth is the birth of triplets or more children, or the birth of twins where there are one or more other pre-school aged children in the family.

A10.5 Eligibility under Health Department Provisions

In the case of sick or infirm persons eligibility for free home help may exist under Health Department provisions administered by the Hospital Boards particularly where a person would otherwise require hospital or other residential care. If availability of such assistance is likely the person is to be referred to the Hospital Board Social Worker in the first instance.

A10.6 The Social Worker's Role

Details of the Scheme are set out in Part K of the Supplementary Services Manual. Social Workers need to be familiar with the conditions of eligibility in order to identify situations where an application could be appropriate. However, as approval is subject to a means test and other qualifying criteria it is advisable to discuss any possible application first with the Assistant Director (Benefits and Pensions).

Al1 HONORARY SOCIAL WORKERS AND SOCIAL WELFARE VOLUNTEERS

Al1.1 General

The department enlists the services of individual members of the community under two separate authorities.

The Department of Social Welfare Act 1971 (Section 9) as amended by Section 20 of the Children and Young persons Act 1982 provides for the appointment of Honorary Social Workers.

Section 9A of the Department of Social Welfare Act 1971 inserted by the Statutes Amendment Act 1981 makes provision for the appointment of Social Welfare Volunteers.

Al1.2 Functions

Each of these two groups fulfils a distinct function.

(A) Honorary Social Workers:

Honorary Social Workers have the same statutory authority as Social Workers appointed under Section 8 of the Department of Social Welfare Act. Both Honorary and departmental Social Workers exercise this personal, statutory authority under the direction, control and supervision of their senior Social Workers.

Honorary Social Workers enable the department's responsibilities under legislation to be carried out in areas where there is no departmental social work service readily available. Appointment of Honorary Social Workers would therefore primarily be made to provide a service in more remote areas.

(B) Social Welfare Volunteers:

Social Welfare Volunteer schemes represent an effort to tap the resources available in the community to assist with and participate in dealing with social needs and problems and with the provision of social services. Volunteers essentially provide an additional dimension to the existing services in a complementary role to paid staff. Ideally, Social Welfare Volunteers are recruited to meet a particular need or needs in the community which are seen as being appropriate for Volunteer involvement. It should be noted that volunteers are seen as a resource for a wide range of the Department's activities including, but by no means restricted to Social Work.

Social Welfare Volunteers do not have any statutory responsibility and work solely with and under the direction of paid staff. Under no circumstances is a Social Welfare Volunteer to exercise any statutory powers or to undertake work which should more appropriately be undertaken by paid staff.

As the functions of the two groups are quite distinct it is not usually appropriate that Volunteers be appointed as Honorary Social Workers.

All.3 Motor Vehicle Allowance, Social Welfare Volunteers and Honorary Social Workers (ref. H7.4 re delegation)

Honorary Social Workers and Social Welfare Volunteers may be paid a motor vehicle allowance where they use their own vehicle to undertake work or training at the request of this department. (see SWRF 1.8)

The maximum allowable distance that may be claimed in one year is 2500 km. This should be claimed on vehicle running sheets TY 363 at not less than 3-monthly intervals. In those instances where Volunteers are required to cover large distances in their work, or if for some other reason the limit of 2500km is inadequate, the mileage allowance for Volunteers may be aggregated so as to use it to the best advantage.

The Assistant Director (Social Work) has the authority to approve payment of this allowance. Payment is made by voucher TY 39, coded 0675-30236.

A check should be made that a current drivers' licence is held and that the vehicle is insured against the risk of damaging the property of third parties while the vehicle is being used on Government business.

Where an Honorary Social Worker or Social Welfare Volunteer does not own, or chooses not to use a car, he or she may be reimbursed the actual cost of the fare by public transport incurred in travelling to undertake work or training at the request of the department.

All.4 Use of Official Vehicles

Authority to approve the driving of official vehicles by Social Welfare Volunteers and Honorary Social Workers is delegated to Directors at their discretion. This authority is in terms of Treasury Instruction K.28. Directors must be satisfied that the instructions relating to the driving of official vehicles are made known before approval is given.

All.5 Reimbursement Grant (ref. H7.4 re delegation)

A reimbursement grant of \$30 p.a. to cover out-of-pocket expenses is payable to Social Welfare Volunteers and Honorary Social Workers. All Volunteers and Honorary Social Workers doing work for the department (not just those working with children or families) qualify for the grant at the discretion of the Director.

Payments of the grant are to be made at the rate of \$15 per six months, payable on or about 1 July and 1 January each year (for the periods 1 April - 30 September and 1 October - 31 March respectively). If the Volunteer or Honorary Social Worker has worked less than three months at the time of his or her first payment, then that payment is to be reduced to \$5.

The code used is 0675-30689 with district responsibility centre code, and the district office control point (e.g. 0675-30689/140 for Otanuhu district office).

All.6 - All.19 Reserved.

HONORARY SOCIAL WORKERS

All.20 Appointment Procedure (ref. H7.4 re delegation)

Authority to appoint Honorary Social Workers is delegated to Directors. Before appointing a person who has not previously served as an Honorary Social Worker, a check should be made with the senior Police Officer for the area in which the appointee will be working.

The appointee will be notified by letter from the Director and will be appointed for a period not exceeding two years with provisions for reviews and reappointments for further two-year periods. There will be no need to forward copies of correspondence to Head Office. Directors should keep a list on file of all appointments made. This file should provide for reviews to be actioned two years from the date of each appointment.

All.21 Revocation of Appointment (ref. H7.4 re delegation)

If the circumstances call for such action the appointment of a Honorary Social Worker may be revoked. Where such a step is of a controversial nature the matter should be reported to the Director-General immediately.

All.22 Tasks

Honorary Social Workers may perform a variety of tasks according to their personal qualities and the local needs.

Directors must allocate the specific role considered appropriate to the appointee and provide him/her with a clear outline of that role and its related tasks, powers and responsibilities. None of these functions should exceed those of a basic grade Social Worker. Directors also need to ensure that Honorary Social Workers are supervised by a senior Social Worker who must approve any important steps taken as in the case of basic grade Social Workers.

All.23 - All.29 Reserved.

SOCIAL WELFARE VOLUNTEERSAll.30 Introduction

A scheme for appointing, training and supervising Social Welfare Volunteers within the structure of the Department of Social Welfare and deploying them in supportive work has been developed in New Zealand. The purpose is to enable the community to participate in dealing with its own social problems and to provide support for families and individuals from within the community. As the scheme has developed it has become evident that substantial social resources are available in the community to assist with social services.

For many reasons, social problems are growing at a rate that is disproportionate to population growth. Social indicators such as unemployment, housing needs, crime, alcoholism, mental illness, ex-nuptial births, divorce and separation have shown such rapid growth that social work staff are often hard pressed to cope with the sheer number of presenting problems. The concept of involving community members with approaches to some of these problems has a great deal to commend it. More time can be devoted to cases by Volunteers than by departmental staff as volunteers will be asked to undertake only a limited number of tasks at any one time. Probably the most important factor is the quality of the relationship which can develop between the voluntary worker and the client. Because there is more time, the helping relationship can develop in a way that is difficult to establish when time is at a premium for the departmental worker.

All.31 Legal Authority for Use Of

The Department of Social Welfare Act 1971, as amended by the Statutes Amendment Act 1981, at Section 9A provides:

"9A(1) The Director-General may from time to time appoint such persons as he considers fit for the purpose to serve in the community, in association with the Department, as social welfare volunteers.

(2) The provisions of the State Services Act 1962 shall not apply in respect of any person so appointed.

(3) Every social welfare volunteer, while so serving in association with the Department, shall act in accordance with any directions that the Director-General may give to him.

(4) The Director-General may at any time revoke the appointment of any person as a social welfare volunteer."

The above provision gives clear statutory recognition to the practice of involving Volunteers from the community in the Department's work, and also affords some measure of protection and recognition to the Volunteer.

All.32 Head Office Assistance Available If Required

To provide districts with the necessary consultative help in establishing schemes the position of Assistant Director (Volunteer Services) was created in October 1977. The Assistant Director (Volunteer Services) was available to visit districts to advise and actively help with the setting up of volunteer schemes.

With the volunteer service having developed to the stage where schemes were operating in 32 of the department's districts, and following an evaluation of Volunteer involvement, the position of Assistant Director (Volunteer Services) was dis-established and a new position, Assistant Director (Community Development) was created in 1982. The change was in recognition of the fact that it was appropriate to promote the further development of Volunteer services within the context of a co-ordinated community development approach. If districts have queries or require assistance with their Volunteer schemes, they should contact the Assistant Director (Community Development) at Head Office. Assistance may be needed in particular in clarifying boundaries between the roles of volunteers and paid staff.

All.33 Social Worker on Full-Time Basis to Be Responsible for Setting Up A Scheme

Experience has shown that where a Social Worker has been appointed on a full-time basis to be responsible for the development of a Volunteer scheme, the scheme is likely to develop quickly and effectively. Directors of larger districts contemplating the setting up of a scheme should give serious consideration to making the services of a Social Worker available on a full-time basis, particularly in the initial setting-up period. The task of organising and administering a volunteer scheme in such districts should preferably be a full time responsibility.

All.34 Recruitment

The process used for the recruitment of Social Welfare Volunteers will tend to vary accordingly to the sizes of the district and whether it is a rural or urban area. In all cases, consideration should be given to the holding of a publicity campaign. The news media has generally shown enthusiasm about the scheme and consequently, publicity has been of a high standard and has been responsible for a good response to appeals for Volunteers. In the larger districts, up to 100 Volunteers have been recruited by this method, reducing in numbers depending on the size of the district. In these cases, advertising has been done freely on radio, press, television and through various agencies.

In smaller areas, local knowledge of the people available in the community may obviate the need for a formal recruiting campaign. In these areas, it may be sufficient for the Social Worker to select who he or she considers to be suitable Volunteers. The Social Worker should consider the recruitment method most suited to the district and this would normally be done in consultation with the Assistant Director (Social Work).

All.35 Selection Procedure

The procedure adopted for selecting suitable Volunteers from those who come forward will vary from district to district. It will in large measure depend on factors such as the size of the district, the response to the recruiting campaign, the nature of the population to be assisted, and the purpose for which the Volunteers are being sought. As a general rule, more stringent selection procedures will be required in larger districts where applicants are less likely to be known to local staff, where advertising has been carried out by way of a publicity campaign, and where there is a large number of applicants. In these cases, it has been found helpful to have some kind of written material (either a standard letter or a cyclostyled leaflet) giving brief details of the scheme which can either be handed personally to applicants or mailed to them. An example of such a letter is given in Figure 1.

All.36 All Applicants to Be Interviewed

Whether written material is used or not, it is advisable to interview all applicants personally in order to assess their potential suitability. This may be done by the departmental Social Worker on his/her own or by a panel comprising, for example, the departmental Social Worker and representatives of other helping organisations. Where a scheme is already operating, it will be helpful to have an experienced Social Welfare Volunteer as a member of the panel.

All.37 Full Explanation of Scheme to Be Given

Care should be taken that a full explanation of the scheme is given to the prospective Volunteer and that he or she is made fully aware of what is expected of him or her under the scheme. The following headings may form a useful guide in explaining the scheme to prospective Volunteers:

- attendance at a short induction training course (of approximately five half days duration);
- will be required to complete a declaration governing expectations; (ref Fig 2);
- will be introduced to a client who needs help;
- required to attend regular group training and supervision meetings;
- will be supervised by a senior Social Welfare Volunteer or a Social Worker;
- a departmental Social Worker readily available in times of crisis;
- motor vehicle mileage allowance;
- reimbursement grant.

All.38 Qualities to Look for

Clearly the suitability of an applicant to be a Social Welfare Volunteer must in large part depend on the personal qualities and attributes that the person is able to offer, although specific technical skills can also be important. While one needs to be on the look out for negative qualities which would clearly make a person unsuitable for some tasks, it is important to concentrate on an applicant's positive attributes and strengths and how these could be utilised. While it is difficult to be definite about the qualities that a prospective Volunteer should possess, the following list is a useful guide:

- A willingness to be actively involved with and concerned about the client. Such a person should have honesty, openness, genuineness, warmth and understanding which s/he can communicate to the client in a supportive relationship.
- An ability to listen and respond in a supportive but realistic manner.
- To be able and willing to be a Volunteer representative of the department.
- A willingness to discuss objectively the situations s/he finds him/herself in with his/her senior Social Welfare Volunteer or the departmental worker.

All.39 Tasks

The type of tasks that it is envisaged Volunteers will undertake will have a bearing on the selection process. Some tasks that Volunteers can perform very capably are:

- Working with families needing sustained support and a good deal of assistance over a long period of time.
- Working with young people at risk of offending.
- Giving supportive assistance to beneficiaries who may be aged, sick, frail, lonely or inadequate.
- Providing transport for those who need regular treatment or therapy.
- Assisting with gathering, storing, and distributing clothing, furniture and household goods donated for emergency aid or for families in need.
- Assisting single parents.
- Assisting unemployed people.
- Assisting benefits applicants with form-filling and other support.
- Assistance to families in respect of Children's Board and Court-related matters.

- Assisting young people who are seen as having an alcohol or other drug related problem.
- Assisting with selected legal supervision cases or projects.
- Assisting on holiday programmes for families or individual children.
- Assisting families and individuals with household budgeting.

The above list is not exhaustive but is meant to indicate the type of work that could provide a better community service if organised to be carried out by Volunteers. In the larger centres there could be virtue in running a number of different services. This would help overcome the problem of having a Volunteer who may turn out to be unsuitable for casework related tasks but who could well act in a transport, store or supportive group (see All.53).

Volunteers are a valuable resource, potentially able to assist across the total range of the department's activities - in the areas of field and residential social work as well as in income support programmes.

All.40 Obtaining References

Unless prospective Volunteers are already well known to local staff, they should be asked to give the names and addresses of at least two persons (preferably not relatives) who would be prepared to vouch for their character and suitability to be Social Welfare Volunteers. It is the responsibility of the Social Worker having oversight of the scheme to ensure that the above procedure is followed.

All.41 Decision to Accept (see H7.4 re delegation)

The Director should, at the setting-up stage of a Volunteer scheme, decide whether s/he wishes to be personally involved in the final selection of Volunteers. S/he may decide to delegate this responsibility to the Assistant Director (Social Work) or to the senior Social Worker responsible for the oversight of the scheme. S/he must be consulted before a final decision is made in the following cases:

- (i) Where the parent of a child or young person under the guardianship of the Director-General is being recommended for acceptance as a Social Welfare Volunteer.
- (ii) Where an applicant has had frequent psychiatric treatment.
- (iii) Where a prospective Volunteer has a criminal record.

All.42 Induction Training Course

Following the selection of Volunteers, a short induction training course should be mounted. While the content, format, and length of the course will vary to some extent from one district to another (depending on the availability of local resources, the number and background of the Volunteers, and the kind of work for which they have been recruited), courses generally should not be less than five half-days in duration. The Assistant Director (Community Development) is available to arrange advice on the setting up and running of these courses which should broadly cover the following areas:

- The work of the Social Welfare Volunteer.
- Human development and relationships.
- Some introduction to inter-personal helping skills such as listening skills and non-verbal communication.
- Administrative procedures.
- The role of the Department of Social Welfare and other allied agencies, both statutory and voluntary.
- Case studies.

It may be possible to make use of speakers from outside of the department to take specific sessions. If difficulties are experienced in organising a suitable programme, the advice of the Assistant Director (Community Development) should be requested.

All.43 Selection of Suitable Cases

When the decision is made that a Volunteer scheme is to be started in a district, it is important to ensure that all staff are informed of this and are made aware of the nature and aims of the scheme. This applies particularly to Social Work staff. At the commencement of the scheme, Social Workers should be asked to select from their caseloads suitable clients whom they consider would benefit through assistance from Volunteers. These cases should be written up by the Social Workers and referred to the Social Worker responsible for the scheme. Similarly they should be asked to consider the potential for volunteer involvement in any projects or programmes being undertaken or developed.

All.44 Allocation of Cases

Following completion of the training course each Volunteer, depending on his or her ability, should be allocated a case or cases or project. This should be done as soon as possible after the training course as prolonged delay in allocation can cause feelings of uncertainty in a Volunteer who may then become discouraged. This appears to have happened too often in some districts in the past.

As a general rule, the cases should be allocated gradually and in total should not exceed three or four. The Social Worker who referred the case should discuss with the client the proposal that a Volunteer visit and if this is agreed, the necessary introductions can be arranged. At the outset, agreement must be reached on tasks to be undertaken, and this should be through discussions involving the client(s), worker and volunteer. It is helpful to briefly record such agreements and to ensure that each party has a copy. During initial visits, newly appointed Volunteers should be accompanied by a more experienced worker. This would usually be the departmental worker who referred the case. Occasionally a departmental Social Worker may take a Volunteer with him/her for experience or prior to handing over a case. Occasionally also, it may be desirable for a departmental Social Worker to accompany a Volunteer when a difficult situation has developed.

All.45 Volunteers Who Prove to Be Unsuitable

Instances may arise whether either during or after completion of the training course, it becomes apparent that a Volunteer is not suited to working with individual clients or families. Often such persons will themselves come to realise this during the course of training. In these cases, he or she should not be allocated a client to visit. After discussion with the Volunteer, it may be possible to make use of the person's talents in another direction, for example, in a transport, store, or supportive capacity. Similarly, if during the course of training it becomes apparent that a Volunteer breaches confidentiality it may be necessary to restrict the type of client that the Volunteer visits, or dispense with his or her services altogether.

All.46 Senior Volunteers

As the Volunteer scheme has developed, experience has shown the value of selecting a member from each group of Volunteers to be the senior Social Welfare Volunteer, or co-ordinator of these persons. This person takes a measure of responsibility for the group and usually becomes the key organiser. Often this person emerges as the "natural leader" of the group during the early stages of training.

All.47 Functions of Senior Volunteer

The role of the senior Social Welfare Volunteer (or co-ordinator) will vary from group to group and from one district to another.

Some of the functions that senior Volunteers might undertake:

- Assisting the departmental Social Worker at the regular meetings for training and on-going supervision. The senior Volunteer may, for example, act as secretary at these meetings and produce an agenda.
- During the course of the week, act as the point of contact for the Volunteer group and provide individual Volunteers with support and supervision. If the senior Volunteer finds that a case is complex and difficult and requires assistance, he or she may discuss the case with the departmental Social Worker responsible for the scheme or for the case.
- To be responsible to the Assistant Director (Administration) for all details relating to vehicle running sheets and relevant financial claims.

The senior Volunteer devotes most of his or her time (as a guide up to 8 hours a week) to organising and maintaining contact with the group. For this reason, the senior Volunteer usually carries no caseload as such or has only a very restricted number of individual cases.

It is suggested that there be a Senior Social Welfare Volunteer for every 5 to 12 Volunteers. Where it is thought appropriate, a short training course may be organised for senior Volunteers.

All.48 On-going Training and Supervision

The success or otherwise of a Volunteer scheme will to a large extent depend on the on-going training and supervision that is provided. Training in rudimentary casework principles and on-going training through case discussion should play a significant part. Inherent in this is a stress on confidentiality. At the time a person offers himself as a Volunteer, it should be explained that if accepted, he or she will be expected to attend regular group training and supervision sessions.

The booklet, "A Handbook for Social Welfare Volunteers", is a useful resource document which can be used as a basis for discussion with newly recruited Volunteers.

All.49 Regular Meetings to Be Held

Experience has shown that meetings for on-going training and supervision should be held at regular intervals - for example, once a week or fortnightly. At the meetings, the departmental Social Worker usually assumes a chairperson, leadership, tutor, or facilitator role as appropriate and is assisted by the senior Volunteer.

All.50 Content of Meetings

The first few meetings should be devoted to expanding understanding of the department's role and to stressing the confidential nature of our work. To emphasise the latter aspect, rigid rules should be introduced and enforced to ensure that Volunteers do not talk about cases outside of the training meetings. In the interests of preserving anonymity code names or noms-de-plume can be allocated to all families and individuals with whom Volunteers are to work and code names only used in the training and supervision sessions. By this means only the particular Volunteer assigned to a family or individual is aware of the actual identity. Further comment on confidentiality is made at All.52.

While the content and format of the training and supervision sessions will vary according to the composition and experience of the group, each Volunteer usually presents a written report on visits made during the previous week or fortnight. This is done in the form of a note for file. One of these notes for file is held by the senior Volunteer whilst the other copy is placed on the departmental file and minuted to the Social Worker who initiated the Volunteer involvement. This keeps the departmental Social Worker informed of the progress of the case. While the case remains on the departmental Social Worker's caseload, the actual on-going work is undertaken by the Social Welfare Volunteer. In particular cases, Volunteers may work in close liaison

with the departmental Social Worker. Should the statutory powers of a Social Worker need to be exercised, then this would of course be done by the departmental Social Worker.

As a guide, training and supervision sessions might last for one and a half hours each week. Half an hour could be devoted to more formal training to improve the Volunteers' social work skills and to deal with any administrative matters that need attending to. The remaining time might be devoted to a collective discussion of cases visited by Volunteers or to individual supervision sessions by arrangement.

All.51 Departmental Social Worker to Be Readily Available in Time of Crisis

During the week, Volunteers will be in contact with the senior Volunteer who provides them with general support and supervision (see All.47). In most instances, the senior Volunteer will be the first point of contact for the Volunteer if he or she experiences difficulty and requires assistance with a particular case. Situations will arise, however, mostly at a point of crisis, when the Volunteer will need to get in touch with the departmental Social Worker urgently. The departmental Social Worker should ensure that he or she (or a substitute) is able to be readily contacted at these times.

All.52 Confidentiality

The client needs to feel safe in the knowledge that what he or she says to the Social Welfare Volunteer is said to the Volunteer alone - or to the Volunteer's professional group. To enforce this very important rule is difficult, but the following steps will help;

- (i) All Social Welfare Volunteers should be asked to complete the specific declaration for persons engaged as Social Welfare Volunteers. (figure 2).
- (ii) During group discussions of cases, families and individuals may be referred to by code names or noms-de-plume. This can help to conceal the identity of the clients being discussed.
- (iii) At training courses attended by Volunteers, the importance and significance of confidentiality should be stressed. This should be done on a number of occasions during the course.
- (iv) At the regular group meetings for on-going training and supervision, the confidential nature of the Volunteer's work should be kept in view as a fundamental ingredient of practice.

All.53 Different Groups for Different Types of Work

The availability of alternative types of work is important if effective use is to be made of Volunteers. Those not suitable in the case work situation may well make a significant contribution in other directions. Consideration should therefore be given, particularly in the larger centres, to involving Volunteers in a variety of tasks. Suggestions on the kinds of services that can be provided by volunteers is given at All.39.

It is important to remember that the assignment of work is vital in maintaining the interest level in a Volunteer group.

All.54 Recording of Visits

All cases visited by Social Welfare Volunteers irrespective of whether they are supportive service cases, on legal supervision, or children or young persons under the guardianship of the Director-General should be written up as a note for file and placed on the departmental file (for other action see All.50). A form for this purpose has been devised (SW 570 Social Welfare Volunteer - Note for file) and should be used. (Figure 3 refers.)

For new cases coming to notice through Volunteers, entry of the pertinent details needs to be made in the master index and a personal file established as for any other case. These files should be kept in the main filing system with all other personal files.

All.55 Lists of Clients Visited

In order to provide a central record, an alphabetical list of all cases visited by Social Welfare Volunteers should be maintained by the departmental Social Worker responsible for the scheme. The list can be kept in a binder with detachable pages and should include the following details:

- name of family or client;
- code name or nom-de-plume of family or client (if used);
- name of Social Welfare Volunteer responsible for the case;
- the Volunteer group which is involved, e.g., Supportive Service Group, Budgeting Group, Voluntary Youth Group, etc.

(Figure 4 refers.)

All.56 Documentation of Volunteers

It is important to have a record of each Social Welfare Volunteer who has been accepted as a member of the departmental scheme and is actively working in this capacity. A card, showing the following details, should be prepared for each volunteer:

On front of card: Volunteer's name, address, telephone number, age, occupation, previous experience, qualifications, date appointed, date commenced, and courses attended.

On back of card: This can be used to record brief details (name, address, code name, date last visited) of the clients seen by the Volunteer, together with the name of the senior Social Welfare Volunteer co-ordinator.

An example of the suggested format is given in Figure 5.

All.57 Display Board of Volunteers

A display board showing all Volunteers by groups is a very useful addition. It is usually held and kept up-to-date by the Social Worker responsible for the scheme. Serious thought should be given to setting up a display board once a scheme has been established. An example is given in Figure 6.

All.58 Certificate or Other Evidence of Identity

Since the involvement of Volunteers in the social work service of the department, suggestions have been made from time to time that Volunteers should be issued with a written authority or form of warrant of authority or certificate of identity similar to that provided for salaried Social Workers. Such a development would be rather expensive and unduly costly of administrative time if certificates or warrants had to be recovered when a person ceased to be a Volunteer. Without recovery action there is always a greater risk of misuse.

The Volunteer is mainly involved under the guidance and at the request of a departmental Social Worker and is introduced to the client with whom s/he will work. S/he does not repeatedly have to establish his/her identity with people whom s/he has not previously met.

It has been decided, therefore, not to embark on a policy of routinely issuing paper evidence of identification for Social Welfare Volunteers. If a Volunteer requests or is considered to need an aid to establishing identity, he or she should be supplied with a statement of introduction on departmental letterhead to confirm appointment as a Volunteer. A suggested format for such a letter is given in Figure 7. All such letters must be signed by the Assistant Director, Social Work.

A12 MAATUA WHANGAI PROGRAMME (see Appendix, Figure 11 for glossary)A12.1 Introduction

The Maatua Whangai programme was introduced in 1983. It provides an immediate option to foster care for Maori children within whanau Maori by developing a working relationship between the Maori community and the Departments of Maori Affairs and Social Welfare. It also provides a valuable resource for work with families who are known to social workers on a 'supportive service' basis. The programme does not diminish the Department's responsibilities under the Children and Young Persons Act.

A12.2 Objectives

The Departments of Maori Affairs and Social Welfare combine with Maori communities as one "whanau", with the following objectives:-

- (a) To provide child care within whanau Maori for Maori children likely to be placed in institutions or who for various reasons are not able to live in their own homes;
- (b) to provide a valuable local resource not only for children being fostered within the programme, but for other children and families in the community who can use the support which it will provide.

The Maatua Whangai programme is primarily an additional placement resource intended to offer a culturally appropriate and community based form of care in a family setting for Maori children who are coming to notice in some way.

It should be noted that the Maatua Whangai programme will be unable to meet the needs of all Maori children and young persons either because care in this way is inappropriate or a placement breaks down. Some young people will therefore still require other forms of assistance, including residential care. As the programme develops it is likely that whanau groups will be involved in decisions to place individuals in a residential setting, where this is appropriate.

12.3 Operation of the Scheme

The programme is a community based, preventive scheme whereby families and children at risk are identified early. The whanau then supplies the support in an attempt to remedy the situation, hopefully making it unnecessary for the child or young person to be removed from his/her birth parents' home. The quality of the support offered within the whanau will to a certain extent reflect the success of the Maatua Whangai workers in harnessing and directing the goodwill which is available.

When it is necessary for a child or young person to be fostered the aim is to work assiduously so that wherever possible early return of the child to the birth parents is achieved. Support from within the whanau itself and from the Tu Tangata programme can be harnessed to achieve this end. In the long term

it should be possible, through early identification and whanau support, to prevent a large number of Maori children from ever entering the Court system. This emphasises the necessity of having a full knowledge of the whanau resources and of both departments' resources, all of which should be used.

A12.4 The Role of Field Social Workers

The relationship between field social workers and the Maatua Whangai programme must be close and co-operative. Because of the Department's responsibilities for children in care or under supervision the social worker serving the area carries out the "professional oversight of each placement" to provide an assessment of the placement according to the interests and needs of the child and the progress of the placement. Therefore effective liaison is imperative between Social Work teams and the Maatua Whangai programme.

NOTE: In some offices it will be appropriate for the Maatu Whangai Officer to undertake the casework of children placed under the Maatua Whangai as well as the work with the whanau.

A12.5 The Role of Maatua Whangai Workers

In each District one experienced Social Worker and one officer of the Department of Maori Affairs are assigned to the programme and are known as "Maatua Whangai workers". In general terms Maatua Whangai workers make contact with whanau groups and will identify the resources they possess. This includes visiting with individual families, compiling a register of available resources, and assessing the nature of assistance it would be appropriate for particular families to provide. As these contacts are developed the Maatua Whangai workers will facilitate placements within the whanau group. They retain intensive contact with the whanau, and support and work with those families who are providing care for children and young people. Specifically, Maatua Whangai workers have the following duties:-

- (i) to work within the whanau, and harness its strength to support children and families within the community who could benefit from the assistance which it provides.
- (ii) to visit the homes of all those who wish to participate in the programme and assess how families can contribute (e.g. by the provision of short or long-term care, or support in a more general sense).
- (iii) to compile a register of all those who want to belong to the whanau. Tribal affiliations, suitability for emergency, finite period and long-term placements, and other factors will be identified. It is suggested that the register should also record the religion of those who offer their homes under the programme.
- (iv) To arrange placements and participate in the normal planning for children in care provisions of the Department of Social Welfare in co-operation and consultation with the field social worker.

- (v) to maintain records in accordance with normal social work procedures.
- (vi) to provide ongoing assistance and support for the foster family and the child's birth families, where the birth families live in the whanau area in co-operation with the social worker for the area.
- (vii) to report back at regular intervals to the core management team, the Maatua Whangai groups and to their respective departments, to provide the whanau and department with some information as to how the programme is progressing.

A12.6 The Core Management Team

In each District a 'Core Management Team' provides support and advice to the Maatua Whangai Workers. This team comprises:

- . the local Department of Maori Affairs Director or his nominee;
- . the local Department of Social Welfare Director or his nominee;
- . 2 Maatua Whangai Workers (1 Social Welfare; 1 Maori Affairs);
- . a Maori Cultural Worker;
- . a Kaumatua (elder), and as applicable, the Chairman or representative of the sponsoring Whanau or committee.

Where possible, members will participate in planning for Maatua Whangai placements. Non public servants of the core management group will be entitled to the same payments available to Social Welfare volunteers, i.e. mileage allowance etc.

A12.7 Transfers between Districts

Where necessary, children and young persons could be transferred from one locality to another to enable them to be within their own tribe, hapu or extended family group, if a placement away from their birth homes or present situation is essential. Directors will contact the appropriate District in each instance when such an eventuality arises.

A12.8 Supervision of the Maatua Whangai Workers

The Social Welfare Maatua Whangai worker in each district is supervised professionally by a departmental Senior Social Worker. Arrangements need to be made and kept for regular supervision sessions. A similar arrangement is operated by the Department of Maori Affairs. There is value in both Maatua Whangai workers attending together any supervision sessions arranged by either department.

A12.9 Placement of Children and Young Persons

Placement within the Maatua Whangai programme should be the first option considered for all Maori children and young persons coming into care. Multiple foster placements in general are to be avoided. They should only be considered where there are family groups who ought not to be separated.

A12.10 Informal Admissions

Children and Young Persons may be taken into care under "informal admission" status under the Maatua Whangai programme in the normal way set down in SWM A5. The essential features are:-

- (i) The use of informal admission procedures should be restricted to genuine emergencies only.
- (ii) The period for an informal admission is restricted to a fortnight (with one extension).
- (iii) Wherever possible the parents should give their consent in writing.

A12.11 "Community Care"

It has been decided to extend the "community care" provisions which are operating in special Auckland units, to Maatua Whangai units. These provisions make it possible under local authority to pay a double board rate for a limited period to a care giver in the community who will look after a young person as an alternative to placement in a short-term institution. The essential features of this option within the Maatua Whangai package will be:

- (i) Approval to pay double board rate is delegated to the Director only. In those Districts where the ADSW is graded 320.007 or above the Director may delegate this authority to the ADSW.
- (ii) Approval may be given for a maximum period of one month. In exceptional cases, supported by a written recommendation from a SSW the Director may extend this to a total period of three months. After this, the normal provisions for higher board rates will apply.
- (iii) "Community Care" is restricted only to those children or young persons who would otherwise be admitted to institutional care. It is not to be used as a routine for cases which could otherwise be coped with in a family home, with relatives, or in a normal foster home. Shelter care, or informal admissions are excluded. These should be placed under normal board provisions, and only very rarely should a child or young person under a guardianship order be placed on Community Care status.

- (iv) Only specially selected and trained care givers who have particular skills to offer and have undertaken to be available for it, are to be used for this type of exceptional placement.
- (v) Status will be B.MW. Community Care.
- (vi) An important feature in the Auckland special unit practice has been the acceptance by the child or young person of the placement. This is often expressed in the form of a written contract.

A12.12 Payment of Board

The usual guidelines for the payment of board are to be observed. It is not intended that board be paid to relatives of children unless they meet the criteria set out under SWM N4.5. This states that generally board payments are not made to relatives unless they are financially unable to maintain the child. However, Directors have discretion to approve payment where relatives have not previously had continuing care of the child. Where board payments are not made, arrangements can be made to transfer Family Benefit. (see Figure 10 for Board Payment form)

A12.13 Notification Slips

Notification slips issued in respect of all children and young persons on the Maatua Whangai caseload will be identified by the letters "MW" immediately after the basic status - e.g. B.MW (War); Sup. Serv. MW; etc. Kardex cards must be prepared as normal, and either kept in a separate tray, or identified by a tag.

A12.14 Suspensory Loans

In certain circumstances suspensory loans will be available to assist families to increase the accommodation available, and thus to facilitate their participation in the Maatua Whangai programme.

This resource is administered by the Department of Maori Affairs as part of an existing programme.

A13 BUDGETING SERVICES SUPPORT PROGRAMME**A13.1 Introduction**

Frequently budget assistance is required in conjunction with other social work support to families. The Department has a policy of active encouragement of voluntary budgeting services which assist directly with clients financial problems. Where voluntary services do not exist, are overloaded, or clients are beneficiaries with a range of problems already receiving assistance from the Department, suitable Social Welfare Volunteers may act as budget advisers.

A13.2 Budget Liaison Officers

In a number of Districts the Department employs a 'Budget Liaison Officer'. These officers do not give individual budgeting advice but maintain a link with the Department and the voluntary budgeting services. Their prime objective is to offer a support role for voluntary budgeting services where appropriate and requested. Their task is therefore mainly concerned with co-ordination liaison and development.

In districts without a full-time Budget Liaison Officer one staff member has been given partial responsibility for budget liaison.

A13.3 Allowance Available to Budget Volunteers

Budget volunteers attached to budgeting services affiliated to the Federation of Family Budgeting Services (NZ) Inc. may be eligible to receive certain allowances and grants provided they are not being paid for their service through some other source. The following assistance is available:

- a. Reimbursement Grant (to cover out-of-pocket expenses)
- b. Travelling Allowance (similar to that payable to Social Welfare Volunteers)
- c. Training Grant (to cover fees for attending courses)

A13.4 Assistance through the Home Budgeting Advisory Committee

In addition to the allowances and grants available to Budget Volunteers the Home Budgeting Advisory Committee makes various resources available to voluntary budget services. The Advisory Committee's secretariat and the National Co-ordinator are located in Head Office.

A14 STATE SERVICES WELFARE REPRESENTATIVE**A14.1 Introduction**

The State Services Commission recognises that a wide range of problems can have detrimental effects on a person at their workplace. Many people choose to resolve such issues independently or use resources beyond their place of work.

In some cases however, difficulties may not be able to be resolved by such means, or by assistance from supervisors.

The S.S.C. believes it is in the interests of all concerned to provide freely accessible personal welfare service, where the level of client confidentiality is known and assured.

The service is co-ordinated by the Commission's Social Worker in their Wellington office and is provided by an experienced Social Worker from each District/Area Welfare Office of this department.

A handbook is made available to all representatives by the State Services Commission Social Worker at the time of their appointment.

An honorarium is paid to S.S.C. Welfare Representatives by the State Services Commissions annually.

A14.2 Appointments

Nominations for appointment of the District/Area Welfare Office representatives will be submitted by the Director/Area Welfare Officer to their Regional Director for submission to and approval by the State Services Commission. Nominations are required as vacancies occur. Periodically the Commission will also seek to review all appointments.

A14.3 Specific Responsibilities

- (a) The provision of counselling, advisory, consultancy services in welfare matters to public servants and departmental management.
- (b) The maintenance of professionally ethical and confidential standards of Social Work practice.
- (c) The maintenance and security of records and statistics relating to welfare work.
- (d) The development of productive working relationships with other welfare services/agencies and the P.S.A. used as referral and or resource by the public service.
- (e) To forward annual returns for each year ending 31 March to the Regional Director who will collate and forward to Head Office.

A14.1 Relationships

The immediate resource person for Welfare Representatives is the Social Worker at the Commission. The Commission's Social Worker periodically convenes conferences to Welfare representatives and has a Resource Handbook available to welfare representatives.

Representatives also have access to the Assistant Commissioners in Auckland and Christchurch and any other section of the Commission.

Representatives work with any member of the Public Service requiring assistance with welfare matters.

A14.5 Attributes of a Welfare Representative.

Welfare representatives are required to have:

- (a) A high level of professional competence as a social worker.
- (b) Successful experience as a practitioner of social work, particularly the counselling of adults.
- (c) Ability to organise and maintain records and statistics.
- (d) Ability to liaise with departmental officials and officials of other agencies at all levels.
- (e) A working knowledge of the machinery of Public Service Administration.
- (f) The enthusiasm for, and willingness to assist public servants to enhance their working life.

APPENDIX TO PART A

<u>Form</u>	<u>No.</u>	<u>Ref.</u>
Fig. 1 Letter re Social Welfare Volunteer Scheme	-	A11.35
Fig. 2 Declaration of Confidentiality by Social Welfare Volunteers	SW 571	A11.37, A11.52
Fig. 3 Social Welfare Volunteers - Note for File	SW 570	A11.54
Fig. 4 List of Clients Visited	-	A11.55
Fig. 5 Documentation of Volunteers	-	A11.56
Fig. 6 Display Board of Volunteers	-	A11.57
Fig. 7 Letter of Identification (e.g.)	-	A11.58
Fig. 8 Application for Licence as a Foster Parent	SW 516	A8.6, A8.18
Fig. 9 Information on Child Being Placed in Foster Home	SW 521	A8.18
Fig. 10 Maatua Whangai Board Payment form	-	A12.12
Fig. 11 Maatua Whangai Glossary	-	A12

ON DEPARTMENT OF SOCIAL WELFARE LETTERHEAD

Dear _____,

THE SOCIAL WELFARE VOLUNTEER SCHEME

The first question you may well ask is, "Why is there a need for voluntary workers when government departments - especially the Department of Social Welfare - employ large numbers of full-time staff?"

The answer is a simple one, based on long experience. People experiencing difficulty, whether of a brief nature e.g. in approaching the Department for assistance, or longer term, e.g. personal or family problems can often be most effectively helped if the person doing the helping is not seen as an "official".

In addition, the demands on the time of paid staff are so great that they frequently have to concentrate on the more serious and complex cases, or provide only brief assistance where sustained support is desirable.

Volunteers are able to support and supplement the work of paid staff, and bring with them knowledge and personal attributes which adds a new dimension to our service.

The scheme you will be invited to join is neither new nor revolutionary. It is based on experience and it works. It was first started in Napier in 1970 and has since developed throughout the country.

Neither is it a rigid, centralised scheme or one that will be competing with other community programmes such as the Citizens Advice Bureaux and local "self help" programmes that are already operating. It is a flexible scheme developed locally to meet specific community needs.

There is a basic "frame of reference" in that Volunteers will be co-operating with the full time workers of the department who work within a set of rules and ethics, particularly regarding confidentiality of information. Training will be designed not only to help Volunteers to acquire the skills and experience they will need, but to participate in developing and extending the scheme.

As far as possible training programmes will be held in your own community area.

What will Volunteers be asked to do? The simple answer is - what they feel best suited to after they have had some training and after discussion with the departmental Social Worker responsible for the scheme. The latter will help them decide what type of voluntary work they are best suited for and which they feel will be most worthwhile.

This can range from visiting and talking to people who are lonely and isolated within the community, to befriending and counselling people and families who have quite serious personal or family difficulties.

Once you have had sufficient training to undertake a particular job you will be introduced to the person (or family) needing help by a departmental Social Worker. From then on you will work with other Volunteers under a supervisor who will arrange regular casework discussions and will be available to give advice at any time it is needed. You will never be left to "go it alone" without support and backing from a supervisor.

What qualifications are needed to join the scheme?

One qualification is essential; the genuine desire to help others without judging them or attempting to impose your own standards or ideas upon them. Of course, some training or experience in social work or community work is an advantage, but it is not essential.

People who are already engaged in some form of voluntary work may wish to join this scheme. There is no reason why you should not do so; but if so, do please discuss this with the agency with whom you are already working and with your family, if you are married. Whatever you do, do not over-commit yourself.

How old (or young) do you have to be? People have already been involved in various ways from an age extending from secondary school well into retirement years.

Finally, Volunteers are free to withdraw from the scheme at any time they wish.

If you have to use your own car you will be paid an allowance of 21 cents per kilometre for travelling to and from training sessions and for any other journeys you have to make in connection with the case you are working on. A general reimbursement allowance of \$20 a year is also payable to compensate for incidental out-of-pocket expense.

Yours sincerely,

Social Worker

FIGURE 2

DECLARATION TO BE MADE BY PERSONS ENGAGED AS SOCIAL WELFARE VOLUNTEERS

I,

of

Social Welfare Volunteer, declare

1. That I will carry out the duties allotted to me in connection with the Volunteer Service conscientiously and to the best of my skill and knowledge.
2. That I will not, whether during my involvement in the Social Welfare Volunteer scheme or at any time thereafter, divulge or communicate or directly or indirectly disclose any information acquired by me in the course of my duties or otherwise in my capacity as a Volunteer to any person whomsoever, otherwise than in the discharge of my duties.
3. That I shall not use for any purpose, other than for the discharge of my duties as a Volunteer of the Department of Social Welfare, information gained by or conveyed to me through my connection with the Department of Social Welfare, and understand that communication to the press or other publicity media on matters affecting the Department shall be made only by a person authorised by the Department to do so.
4. That I am aware that any breach of the above conditions would be likely to lead to termination of my work with the Department as a Volunteer. I make this declaration in full acceptance of the conditions it imposes upon me.

Signature

Declared at _____ this _____ day of _____ 19__

before me
.....

SOCIAL WELFARE VOLUNTEERS - Note for File

Name of family _____	Code name _____
_____	Volunteer _____
Address _____	Senior Volunteer _____
_____	Notes for the month of _____ 19 ____
Brief Summary	

S.S.W.:

For your information

S.W. :

For your information and please
note Visiting Slip.

LIST OF CLIENTS VISITED

<u>FAMILY</u>	<u>CODE NAME</u>	<u>S.W. VOL. NAME</u>	<u>GROUP</u>
BATESON: Diane	Bettine	H. & E. BURTON	S/O
BASHER: Mrs	Bebe	T. BULLOT	S/O
BOULD: Mrs	bounty	L. PARK	S/O
BLEWETT: Mrs	Blues	N. STEPHINSON	S/O
BUTLER:	Jeeves	A. HANLEY	V.Y.G.
BAKER FAMILY	Kaber	B. WILSON	S/O
BALDOCK: Mrs	Kowhai	M. GARDINER	S/O
BATTEN: Mrs	Post	N. STEPHINSON	S/O
BRAND FAMILY	Rene	(K. MOONEY (J. WALLIS	S/O
BOYD FAMILY	R. & R.	F. EASTWOOD	B

NOTE: Code for Group

S/O = Supportive Oversight Group

B = Budgeting Group

V.Y.G. = Voluntary Youth Group

5

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.....
. NAME: ADDRESS: TELEPHONE NO: AGE: .
.
. OCCUPATION: PREVIOUS EXPERIENCE: . Front of Card
.
. QUALIFICATIONS:
.
. DATE COMMENCED: DATE APPTD:
.
. COURSES ATTENDED:
.....
    
```

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.....
Back of card . CLIENTS VISITED: .
.
. NAME ADDRESS CODE NAME DATE LAST VISIT .
.
Pencil .
entries: .
. SENIOR S.W. VOLUNTEER'S NAME: .
.....
    
```

6

DISPLAY BOARD - VOLUNTEERS

Group I - Supportive Oversight

Mrs Pat SMITH - Ph: 43268
(Senior S.W. Volunteer)

Mr Stan JONES Ph: 36212
Mrs Leslie BROWN 51234
Miss Fiona WHITE 72611
Mr Sid CLIFFS 43218
Miss Joan GREY 31222
Mrs Liz FRENCH 38212
Mrs Jane EMERY 62258

Group II - Supportive Oversight

Mrs Vanessa BRYCE - Ph: 721308
(Senior S.W. Volunteer)

Miss June WALLACE - Ph: 421308
Mrs Cathy BROWNIE 36118
Mrs Sally COUTTS 52237
Mrs Veronica WILSON 61215
Mr Jim KELLS 42348
Miss Freda JONES 22512
Mrs Julene FIELD 72716

DEPARTMENT OF SOCIAL WELFARE DISTRICT OFFICE LETTERHEAD

This is to certify that
full name

Whose signature appears below is a volunteer who has been engaged and trained to carry out work in support of the social work service provided by District Office of the Department of Social Welfare.

Mr Mrs Ms is acting under the direction and guidance of a member of the Department's social work staff.

Assistant Director
Social Work

/ /19

.....
Volunteer

(This letter of identification should be returned to any office of the Department of Social Welfare once the volunteer ceases to work with the Department).

DEPARTMENT OF SOCIAL WELFARE S.W. 316

APPLICATION FOR LICENCE AS A FOSTER PARENT UNDER S.76 OF THE CHILDREN AND YOUNG PERSONS ACT 1974

I HEREBY apply for a licence as a foster-parent under the children and Young Persons Act 1974. I understand that if the licence is granted my home will be subject to periodical inspections by a Social Worker. I also understand that the licence is subject to annual renewal.

Full name of applicant (surname last):

Address: Telephone No.

Religion: Marital status Date of birth / /

Spouse's name and occupation: Date of birth / /

Number of persons resident in applicant's house: Number of bedrooms:

Number of applicant's children at home: boys, aged and girls, aged

Number, sex, and age of children proposed to receive:

Have you or your spouse previously applied to foster a child?

Names and addresses of persons to whom reference can be made as to character:

	Date	Applicant's Signature	Spouse's Signature
THIS SPACE FOR OFFICE USE			
Action on application:			Licence issued: / /19.. Number of children:
			Licence surrendered/revoked: / /19..
			Reason:
			Bring up date:
Applicant's surname:		M.I. Card completed:	
Christian names:			
Address:			

REMOVE FLAP AFTER TYPING 87733G-8.000/11/76 W

DEPARTMENT OF SOCIAL WELFARE S.W. 317

INFORMATION CONCERNING INFANT PLACED IN FOSTER-HOME LICENSED UNDER CHILDREN AND YOUNG PERSONS ACT 1974

Child's full name (surname last):

Child's date of birth: Place of birth: Birth registered at: Religion:

Child's health (note past illnesses):

Has child been immunised, if so, state by whom and date:
 (a) Diphtheria: Other:
 (b) Whooping cough:
 (c) Polio:

Parent's names, addresses, and occupations:
 Mother: Father:

If the parents are separated, or divorced, has any legal order been made concerning the custody of the child?
 If the child is born out of wedlock, has any action been taken against the father?
 Reason for placement and additional remarks:

804300-3.000/8/76 TC

Index: [] Placed by: on / /19..

Surname: Christian Names: Signature of Parent or Guardian: Expiry Date: Renewed by:
 Date of Child's birth:

(Remove flap after typing)

FIGURE 10

MAATUA WHANGAI

Name and Address of Payee

Office: _____

Amount:	\$ _____
---------	----------

Allocation

Pocket Money
0675-340300-6204-_____ \$ _____

Board
0675-340300-6201-_____ \$ _____

Payment for fortnight ended ____/____/____

Authority (Note Slip Number)	Surname	Full Forenight	First Name	Date of Birth	Pocket Money	Board Rate

Sub Total

Pocket Money for	at \$	per fortnight		
Board for	at \$	per fortnight		

Authority (Note Slip Number)	Surname	Broken Period	First Name	Date of Birth	From	To	Board	Pocket Money

I certify that to the best of my knowledge and belief the above mentioned were resident in the Foster Home for the periods stated, that these payments are due and that the provisions of Treasury Instructions have been complied with.

Totals
to be paid

Prepared	_____
Checked	_____
Cashed	_____

Signature of Officer Authorised to Cash

GLOSSARY

maatua	parent
whangai	to feed
matua whangai	foster parent
maatua whangai	foster parents
Maatua Whangai	foster parent programme
whanau	family, extended family, group
hui	meeting
kaupapa	purpose, policy, reason
kokiri	to advance
kokiri centre	advancement centre
Tangata Whenua	the "home" people (people of the land)
Tu Tangata	to stand tall
kaumatua	elder
Hui Whakatauirā	planning conference (held annually)
iwi	tribe
hapu	sub-tribe
Te Kohanga Reo	"language nest", i.e. Maori language pre-school
rapu mahi	work skills programme (literally search for work)
koha	gift, contribution
mokai	servant, worker

PART B

PART B: CHILDREN'S BOARDS AND YOUTH AID CONSULTATIONS

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PART B: CHILDREN'S BOARD AND YOUTH AID CONSULTATIONSB1 CONSTITUTION AND POWERS OF THE CHILDREN'S BOARDB1.1 Introduction

The introduction of Children's Boards has opened a new area of preventive measures for children. The Boards are not judicial bodies but rather comprise a group of skilled and sensitive people who are available to assist children and their families to overcome personal and social difficulties in a flexible and informal manner. They provide an opportunity for the family to freely discuss an alleged offence or other aspects of family life in a confidential and supportive setting without the formality and exposure to labelling which is often associated with the Courts. The Boards are an alternative to the Children and Young Persons Courts and as such remove the less serious cases from the scope of the Court. They allow opportunities for families not referred to Court, to benefit from discussing areas of concern within the Board setting and where desirable receive continuing counselling with the hope of preventing more serious developments at a later stage. Having said this however, it should be recognised that the combined skills and experience of Board members will assist them in their prime function which is to be a decision making body.

B1.2 Legal Provision to Establish Children's Boards (S.13)

The Children's Boards are established under Section 13(1) of the Children and Young Persons Act 1974. This section states that "the Minister shall establish for each Social Welfare District one or more Children's Boards".

Each Children's Board is given a distinctive name which may be changed from time to time at the Minister's direction.

The department will provide "such secretarial recording, and other services as may be necessary to enable each Children's Board to perform and exercise its functions and powers".

The resident panel member and Honorary Community Officer who attend meetings are to be paid for their services out of money specially appropriated by Parliament and in accordance with the Fees and Travelling Allowance Act 1951. The rates of payment are notified from time to time in Stores and Accounts circulars.

B1.3 Membership of Children's Boards (Section 13) (ref H7.4 re delegation)

Section 13(2) also provides that, "Every Children's Board shall consist of -

- (a) A member of the Police appointed by a commissioned officer of the Police.
- (b) An officer of the department appointed by the Director-General.

- (c) An officer of the State Services or an Honorary Community Officer appointed by the Secretary of the Department of Maori Affairs.
- (d) A resident of the Social Welfare District for which the Board is established who shall be a member of a panel of not more than 6 such residents for the time being appointed by the Minister...."

"Each member of a Children's Board shall hold office at the pleasure of the person who appointed him." The members of the Board will elect one of its members to be Chairman for a period of up to 2 years before re-election.

B1.4 Provisions Concerning Resident Members (Section 14) (ref H7.4 re delegation)

The members of the panels are appointed by the Minister of Social Welfare for a period not exceeding 3 years but they may from time to time be reappointed. Only one member of each panel attends each meeting of the Board. Who, of the members, attends any particular meeting is to be determined by agreement between panel members or if necessary "in such manner as other members of the Board shall decide".

"Any member of a panel may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may resign his office by written notice to the Minister."

B1.5 Matters to be Referred to Children's Boards (Section 15)

Under the terms of Section 15(1), "Every member of the Police and every Social Worker, dealing with the case, -

- (a) Shall report to the Children's Board details of every offence alleged to have been committed by a child, and details of every incident in which a child has been involved, if he considers that proceedings under this Act should be taken in respect of the alleged offence or incident.
- (b) May report to the Children's Board details of any other matter in which a child has been involved and which he considers should be dealt with by the Board."

It is not necessary to comply with paragraph (a) above when a child is arrested for murder or manslaughter.

Section 27 (2A) strengthens the above direction by making it clear that the Court may not hear or determine a complaint unless the facts have been reported to a Children's Board or unless the delay in so doing would be prejudicial to the care and well-being of the child or contrary to the public interest (see C2.2).

Under Section 15(2) "Any District Judge who, on hearing a complaint under this Act involving a child, finds it proved may direct the complainant to report details of the complaint to a Children's Board".

It is the responsibility of the Police officer or Social Worker who reports any matter to the Board to notify the parents or guardians of the child concerned of the fact.

- NB. Where complaint action is considered necessary, the matter must be referred to the Board for a decision as to whether or not a complaint is warranted. This means that a complaint must not be sworn until -
- a) Court action is officially recommended by the Board; or
 - b) the Board finds that the child or his parents do not admit the facts of the matter reported; or
 - c) the Board finds that any question of compensation or restitution is unresolved.

The only exception to this procedure occurs when a delay would be prejudicial to the care and well-being of the child or contrary to the public interest such as is the case when a child is removed on warrant or arrested and held in custody. The case then proceeds direct to the Children and Young Persons Court. (Refer C2.2.)

B1.6 Traffic Offences

As the Act stands Traffic Officers are unable to take any direct action against a child who is alleged to have committed a serious traffic offence. Any such case, where a Traffic Officer believes that Court action is warranted, should be reported either to the Police or to a Social Worker who would then take the appropriate action under Section 15 or Section 27.

B1.7 Functions of the Children's Board (Section 15)

It is the function of the Children's Board "to consider details reported to it under subsection (1) or subsection (2) of this section and to determine what action (if any) is required". (Refer B1.5.)

In deciding on its course of action in seeking to prevent the child from committing further offences or to reduce or remove any problems or difficulties which have arisen because the child's needs for care, protection or control are not being met, the Board must "bear in mind the needs and rights of the child, his parents or guardians and the community". This clause places an onus on the Board, in that, when it is looking for the best possible solution in dealing with each child all interests must be taken into account. This onus is also extended to a consideration of "the degree of co-operation offered by the child and his parents or guardians".

In order to decide on the best course of action in any case, the Board may make any preliminary inquiries it thinks fit and it may, when necessary, obtain reports from members of the Police, Social Workers, Maori Affairs Community Officers, school teachers, medical practitioners, and other persons. (For applications to obtain school reports see appendix Fig.6 (SW 657).)

Bl.8 The Powers of the Children's Board (Section 15(7))

The Board is not required to take any action if, after due consideration of the case, it decides that action within its powers is unwarranted. However, in cases where it decides that some measure must be taken the Board may -

- "(a) Warn or counsel the child or any parent, guardian, or person having the care of the child or arrange for any of those persons to be warned or counselled by a member of the Police or a Social Worker or a"
Maori Affairs Community Officer:
- "(b) Arrange for the child or any parent, guardian, or person having the care of the child to receive counselling from a Social Worker or a"
Maori Affairs Community Officer "or any other suitable person whether employed by the Crown or not":
- "(c) Arrange for the child or for any parent, guardian, or person having the care of the child to receive medical, psychological, or psychiatric assistance:
- "(d) Where the report was made under subsection (1) of this section, (refer Bl.5) recommend to a member of the Police or a Social Worker, who shall where practicable be the member of the Police or the Social Worker who made the report to the Board, that he make a complaint under Section 27 of this Act."

The Board may not make any arrangement stated in paragraph (b) or (c) above for any parent, guardian or person having care of the child unless that person agrees to the arrangement.

Bl.9 Immediate Referrals to Court (Section 15(8) and (9))

In any instance where a case has been referred to the Board by a Social Worker or a Police officer without the case first going to the Court, the Board may not continue to inquire or to take action from any point at which -

- "(a) the child or either of his parents or his guardian does not admit the alleged offence or disputes any fact that is material to the substance of the report; or
- "(b) any question of compensation or restitution is unresolved."

Where the Board is unable to continue with any case because of a denial of the facts or unresolved resitution, it must under Section 15(a) ask the Social Worker or Police officer concerned to decide whether or not complaint action under Section 27 should be made.

81.10 Confidentiality of Children's Board Meetings (Section 16)

Admissions to the Board are privileged. That is, anything said or any admissions made to the Board or to any person making inquiries on behalf of the Board, by the child or his/her parents, are not admissible in any Court or before any person acting in a judicial capacity.

81.11 Meetings of the Children's Board (Section 17)

The Board or the Chairman should decide on the times and places at which meetings are held. Meetings may not be held in either a Courthouse or a Police Station.

Section 17(2) states that, "Any meeting of a Board may be adjourned from time to time or from place to place, by the Board or the Chairman". 'Meeting' should be read to mean the individual session with the family. This clause allows the Board the opportunity to continue contact with a family after a short adjournment to allow for inquiries or reports on aspects necessary to conclude the 'meeting'. Such adjournments should be as short as possible having regard to the requirements of each particular case.

Three members form a quorum and the Chairman presides at all meetings at which he is present. If the Chairman is absent from any meeting the members present should elect a Chairman for that meeting and that person will have all the powers of the Chairman in respect of the meeting.

Any question arising at a meeting should be decided by a majority of votes of the members. The Chairman has a deliberative vote and also, where necessary, a casting vote.

81.12 Liability Clause (Section 18)

"No member of a Children's Board shall be personally liable for any act done or omitted to be done by the Board or any member thereof in good faith in pursuance or intended pursuance of the powers and authorities of the Board."

"Any medical practitioner, member of the education service, or other person who supplies any report required for the purposes of this Part of this Act shall not be under any criminal or civil liability in respect thereof unless he has acted in bad faith or without reasonable care." Education service as used here includes not only teachers but also specialists such as psychologists, visiting teachers etc.

81.13 Procedures of the Children's Board (Section 19)

The Act allows freedom for each Board to decide on its procedure. However it does state that all meetings at which parents and child are present should be conducted as informally as possible and in no way should suggest that the Board is a Court. Section 19(2) allows for parents and child, in respect of whom details have been reported, to be invited to attend the meeting. There is no compulsion to this invitation.

Any warning given to the parent or child under Section 15(7)(a) (refer Bl.7) must be given by the Chairman or by another member if s/he is nominated to do so by either the Board or the Chairman.

Bl.13A Publication of Proceedings Prohibited

Section 4 of the Children and Young Persons Amendment Act 1977 introduces Section 19A of the principal Act which prohibits the publishing of any proceedings at any meeting of a Children's Board.

Bl.14 Recovery of Compensation Payments as Resolved by Children's Boards

Under Section 15(8)(b) a Children's Board is precluded from acting or continuing to act if a matter of restitution or compensation is unresolved. Once an agreement has been reached between the parties concerned about restitution or compensation, the matter can be regarded as "resolved" without necessarily waiting for actual payment to be made, or property returned. This department has agreed to accept a lump sum payment for forwarding to the aggrieved party or to accept payments by instalments where this has been agreed to because of the sum involved and the parents' inability to pay in full immediately. The department has no powers to enforce payments nor any responsibility to see that payments are made but simply acts as a receiving agent.

Payments of compensation received in this way are to be paid into the Trust Account and will be treated as a Special Account within the Trust Account. Individual trust ledger cards are to be maintained for each case.

Bl.15 Training and Study Provision

Boards may meet for training and study purposes for up to three full days in any one year. Remuneration and other financial provisions apply for these meetings as for the regular client meetings.

B2 THE CHILDREN'S BOARD SETTING

B2.1 Accommodation (ref H7.4 re delegation)

The Act states that no meeting of the Board shall be held in a Courthouse or a Police Station. Apart from this restriction it leaves the choice of venue to the Board. It is expected that the accommodation should be large enough to comfortably seat eight people in arm chairs. A coffee table is to be provided to give as much informality as possible to the setting. In addition to the room in which the Board sits there needs to be a suitable reception/waiting area, tea making and toilet facilities.

Where necessary the department is to provide any furniture or finance for rented accommodation. Proposals re accommodation of Boards need to be subject of consultation between the Assistant Directors, Social Work and Administration.

B2.2 Informality of the Children's Board

It is specifically stated in the Children and Young Persons Act 1974 that the Board is to be run as informally as possible and should in no way resemble a Court. The manner of reception, the introduction and process of the total Board meeting, as well as the setting, should reflect a relaxed and easy atmosphere, in which the facts surrounding the referral and any family difficulties can be discussed as a joint concern of a group of interested and involved persons.

B2.3 Police Referrals

Where the Police decide to report a matter to the Children's Board the reporting member of the Police will also prepare form SW 653. This is a notification to parents that a matter has been reported to the Children's Board as required by Section 15(3) of the Act. The Police will send a copy of that form to the Board as confirmation that the parent or guardian has been notified. (See Fig. 1 for example of form SW 653.)

B2.4 Referrals by Social Workers

Unless Social Workers are taking warrant action in respect of children where complaint action is seen as necessary, the matter must be reported to the Board as required by Section 15(1)(a). Matters reported under the provisions of both Section 15(1)(a) and (b) (see B1.5) must have the prior approval of a senior Social Worker. Any matters reported under Section 15(1)(b) should not be trivial, but rather those situations which cannot be dealt with on a miscellaneous basis and generally are considered borderline Court cases.

It is essential to the successful operation of the Children's Board that clients are well advised in advance on the role and function of the Board and how it aims to assist them. This will help the family to approach the meeting with the Board in the correct frame of mind and increase the chances of a profitable discussion.

When a Social Worker decides to report any matter to the Board s/he must notify the parents on form SW 653 (Fig. 1) and prepare individual Case Records for each child involved. A copy of the SW 653 and all copies of the SW 512 should be forwarded together to the clerical officer for the Children's Board.

B2.5 Clerical Action Prior to Children's Board Meetings

With each case referred to the Board, whether by the Police or Social Welfare, the Board requires a Case Record (SW 512). The procedure for supplying this is set out in B5.3.

B2.6 Preliminary Children's Board meetings

Preliminary meetings of the Board may be used for discussing the merits of further action in the cases referred. Only matters so trivial as to be, in the opinion of the Board, inappropriately referred to the meeting should be considered for no further action. There are no other grounds for such a decision by the Board at a preliminary meeting.

It is not anticipated that Children's Boards should require or obtain in-depth reports. The information contained on the Case Record (SW 512) should be sufficient for its consideration and decision. Any further enquiries or reports under the provisions of Section 15(6) should be restricted to those matters which are essential to the Board's final disposal and matters which are not obtained from discussions with the parent or the child at the meeting.

The large majority of cases will proceed to a full consideration without initiating further enquiries.

B2.7 Invitations to Attend the Children's Board Meeting

Parents are to be invited to attend a meeting of the Board, as required by Section 19(2) of the Act. Even where the Board decides at a preliminary meeting that no further action will be taken and informs the parents of this fact, an invitation must, nonetheless, be issued to the parents, giving them the opportunity to attend.

An appointment should not be allocated for a case until the clerical officer has received the required copies of the SW 512 and confirmation that the form SW 653 (refer Fig. 1) has been sent to the parents. As soon as both of these arrive a time should be allocated on the appropriate Children's Board list and form SW 654 'Invitation to Parent or Guardian and Child(ren) to attend meeting of Children's Board' completed and dispatched.

The form SW 654 provides for the parent to acknowledge receipt of the invitation and allows the opportunity to change the appointment time if it is found to be inconvenient to the parent (see Fig. 2).

B2.8 Procedure at Children's Board Meetings

When parents and children arrive at the meeting the clerical officer has the important task of putting them at their ease, and ensuring that there is no congestion in the waiting area.

The purpose of the meeting is to conduct an open discussion on the matter reported with a view to arriving at a consensus as to the most appropriate disposal. In the event that the parents and child do not attend, the Board will either decide on a disposal in their absence or decide to extend a second invitation to the parents.

In establishing intervals between appointment times the Board may find it useful to allow 5 minutes at the completion of each meeting for a review of the movement of the session, any actions, reactions etc. Such a practice can be helpful in building a good working relationship between members.

B2.9 Referrals from the Children's Board to Court

There are two clauses in the Act under which cases may be referred from a Board meeting to the Children and Young Persons Court.

Where matters referred are considered serious enough or where it is believed to be in the best interests of the child, the parents and the community, the Board may recommend to the Social Worker/Police officer who reported the matter, that s/he take complaint action under Section 27. Such a recommendation is provided for under Section 15(7)(d) and may be used after a full consideration of the facts has been made, where possible, in consultation with the child and his/her parents. Under Section 15(9), however, it is mandatory for the Board to ask the Social Worker/Police officer who initially reported the matter, to consider whether or not to take complaint action, in every case where the child or his/her parents deny any alleged offence or any question of compensation or restitution is unresolved.

B2.10 Clerical Action Following Final Disposal

The clerical officer will complete form SW 655, to notify the parents of the Board's decision when the disposal of each case is finalised. At the same time the clerical officer will complete and send form SW 656 which notifies the Police and Social Welfare Departments of the decision of the Board. The clerical officer should recover the photocopy or white copy of the Case Record from the resident member. If a photocopy has been used, the final disposal should be noted on it, before it is placed on a district office general file. (Form SW 655 see Fig. 3, Form SW 656 see Fig. 4.)

B3 THE HELPING PROCESS

B3.1 Introducing the Family to the Children's Board

As important as the physical surroundings of the meetings are the introductions and opening remarks to the families. No matter how well prepared families are prior to the meetings there will still be uncertainties and tensions. Although remarks may become stereotyped, care should be taken to encourage a relaxed atmosphere in which participation is possible even by those families who find difficulty in engaging in official and professional interaction. There may be temptation for members to dominate the meeting with questions and comments particularly where the less articulate clients are concerned and this should be avoided.

B3.2 Working with the Family

Board members should always endeavour to involve the family in the discussions. This applies as much to the child as to the parents. Care should also be taken to ensure that rapport is maintained with both parents and child. The positive aspects and actions of parents and children should not be overlooked. Praise has a high value.

Board members should be encouraged to keep abreast with the various resources available in the local community to facilitate the giving of information, suggestions for future action and referrals for further action.

Care may be needed to avoid monotony developing in meetings, particularly when dealing with similar referrals one after the other. In this situation there is the added temptation to prejudge the outcome of the meeting before the family appears.

B3.3 Recognition and Understanding of Cultural Factors etc.

An attempt has been made to ensure that Board members represent, as far as possible, a cross section of the community. In spite of this, Boards will often meet families of very different cultural and social backgrounds. It is important that members recognise and understand the significant differences in norms and expectations. Without an understanding of social relationships, family circumstances, authority roles etc. poor communication and less effective meetings are likely to result when dealing with families of minority and low socio-economic groups. The various minority groups, e.g. Cook Islanders and Samoans, cannot be treated as one. They each have their own set of cultural factors which has a bearing on their reactions to, and abilities to cope with, the recognised norms and values of New Zealand society.

B3.4 Use of Interpreters (ref H7.4 re delegation)

The use of interpreters should not be overlooked when the Board is meeting with families to whom English is a second language. For the Board to be effective in coming to a decision on the best possible solution for each child, it must ensure that every family has the opportunity to participate with understanding in the discussions.

A good interpreter should not be a relative. S/he should be competent in both languages, serve the family rather than the Board, possess basic interpreting and interviewing skills and have an understanding of the Board system and process.

Boards may find it useful to establish contacts and keep a list of people in their districts who would be suitable for and willing to be interpreters. In larger districts contact may be established with the Department of Internal Affairs and use made of their interpreting services. Public servants who act in this capacity will not require payment. The authority to engage paid interpreters is delegated to Directors (ref H7.4).

B3.5 Warning or Counselling

Board members are aware that they have within their powers the right to warn or counsel a child or his parents or to arrange for that warning or counselling to be carried out by a Social Worker or a member of the Police. Care should be taken to note the differences between a warning and counselling and to ensure that the use of one or other is appropriate to the situation. In completing the Board section of the Case Record (SW 512) it is seldom likely to be accurate to note that a child or his/her parents were warned and counselled.

When issuing a warning it should be remembered that to use Court action as a serious threat is not within the spirit of the Act. Apart from the likelihood of creating a false expectation in the children and parents, the image of the Children and Young Persons Court suffers. Any reference to the Court should be made in a positive context.

B3.6 Adjournments

While it is expected that the use of adjournments will not be regular practice, they can, nonetheless, be used effectively in certain cases. This is particularly so where, in discussion with the child and his/her parents, it becomes apparent that more information would be desirable and a report from a school or doctor, for example, is called for. It is considered that the use of adjournments as good behaviour bonds is inappropriate.

B4 YOUTH AID CONSULTATIONS

B4.1 The Youth Aid Section - New Zealand Police

The Youth Aid Section of the New Zealand Police was established in 1968 to take over the functions of the Juvenile Crime Prevention Section. It has three broad objectives:

- to prevent crimes by children and young persons
- to assist in the reformation and rehabilitation of child offenders
- public relations and education.

In close liaison with the Department of Social Welfare Social Workers and Maori Affairs Community Officers a scheme is operated for dealing with children who come under adverse notice of the Police. The scheme aims:

- to identify as early as possible children who are potentially delinquent,
- to deal with children whose offences are not serious in the manner best calculated to guide them into acceptable patterns of behaviour,
- to implement an educational programme designed to provide children and young persons with an understanding of some important aspects of the law, with special emphasis on understanding the role of the Police.

B4.2 Terms and Definitions

a) Youth Aid Section (Y.A.S.) is the section of the Police Department whose function it is to deal with children and young persons who come to the notice of the Police and to assist in their reformation and rehabilitation. (See B4.1.)

b) Youth Aid Consultations (Y.A.C.) are the regular meetings held between representatives of the Youth Aid Section of the Police, this department and the Department of Maori Affairs. From these meetings recommendations are made as to any further action in each case referred. (Section 26 Children and Young Persons Act 1974).

c) Police Referrals (Pol 333). The Police use their form Pol 333 (Juvenile Report) for referring cases to Youth Aid Consultations and Children's Boards.

B4.3 Characteristics of the Youth Aid Section

The scheme gave official recognition to, and broadened, the informal practice which had for years existed in most districts to varying degrees. Recognition given to the scheme has decided advantages:

- By the public, the Y.A.S. officer is now regarded as being interested in the personal problems of his/her clients and concerned to reconcile these with their obligations as citizens.
- What was previously a hit-and-miss, at times even irregular procedure, is now systematic and has Ministerial blessing, and the policemen and women chosen for the Y.A.S. are carefully selected for their suitability to deal with children.
- The informality of the disposal of minor cases has led to a greater willingness on the part of many people to disclose offences and unsatisfactory behaviour which they would not otherwise have bothered to bring to notice.
- The amount of preventive work undertaken by the Y.A.S. in districts depends on local conditions but, as the scheme has grown, more and more full-time officers have been appointed and growing emphasis has been placed on the need to meet and assist young people.

B4.4 The Role of the Youth Aid Officer

The Police are expected to convey to the Director all decisions concerning children/young persons under notice. In addition the Police have the final responsibility for deciding whether or not a young person should be prosecuted for an offence. Youth Aid Officers do not investigate complaints or collect information for prosecution except in some small centres where part-time Youth Aid duties are combined with other Police duties. They receive information about children/young persons from other members of the Police and from the public. The information may concern children/young persons who are neglected, ill-treated, living in a detrimental environment, or are delinquent, or children whose conduct, although not delinquent, requires investigation.

Youth Aid Officers are responsible for Police liaison with other agencies dealing with children/young persons and our communications to the Police should be made through them.

When, for example, a young person is arrested and a decision to prosecute is made before the case has been discussed at the Youth Aid Consultation, Y.A.S. make their information available for use in the report to the Court.

B4.5 Legal Provisions for Consultations (Section 26)

Consultations between Social Workers, Maori Affairs Community Officers and Youth Aid Officers have been a regular and recognised practice since the establishment of the Youth Aid Section. The benefits of the case discussions between the three departments were such that with the passing of the Children and Young Persons Act 1974 provisions were made under Section 26 for legal recognition of this area of responsibility to young persons appearing before our Courts.

The Act now states that: "Where a young person is alleged to have committed an offence and the offence is such that if the young person is charged he will be required pursuant to Section 25(3) of this Act to be brought before the Children and Young Persons Court then, unless the young person has been arrested, no information in respect of the offence shall be laid until consultation on the matter has taken place between -

- (a) A member of the Police or the informant, or person acting on his behalf (e.g. Traffic Officer, Wildlife Ranger, Forest Services officer, a local body officer, S.P.C.A. officer or an officer of an acclimatization society) and
- (b) A Social Worker."

A Maori Affairs Community Officer "..... may be present at any consultation and may take part where he believes that it relates to a person who is a Maori or a descendant of a Maori."

Consultations are not mandatory if the young person:

- (a) has been arrested in connection with the incident;
- (b) is already under the supervision of a Probation Officer at the time of the alleged offence;
- (c) is being charged with an offence against any provisions of Section 21(1) of the Criminal Justice Amendment Act 1962 - (e.g. breaching periodic detention).

Because of the compulsory nature of Consultations in offence cases, including serious traffic offences, proof may be needed for the Court that consultation has actually taken place prior to prosecution. The Police Department has designed a slip which will accompany the Case Record to the Consultation and will be signed by the member of the Police and Social Worker present. The slip will be filed with the other relevant papers on the young person's file belonging to the appropriate department. The officer who lays the information at the Court will then have evidence that consultation has taken place and will be able to include a comment to that effect within the information. Court officers have been instructed not to accept informations concerning young persons without such confirmation being contained within.

B4.6 Traffic Offences

It is now mandatory under Section 26(1) for all serious traffic offences (see definition in Cl.2) to be referred to Consultation prior to the laying of information at the Court. This means that the local Traffic Division of the Ministry of Transport should be included in Consultations when traffic offences are being discussed. The procedure to be followed in such cases is set out in B5.4.

B4.7 Reserved.

B4.8 Initial Procedures

When inquiries have been completed a file relating to a delinquent or troublesome young person coming to the notice of the Police is passed to the Y.A.S. who refer it to Social Welfare for the addition of any other information available in our records. Regular case consultations are held and where Maori children are involved Maori Affairs Community Officers are invited to attend. Where information available enables him/her to do so, the Social Welfare representative gives his/her opinion of the possible causes of the behaviour and attempts to suggest a remedy. In cases where an offence has been committed the Youth Aid Officers submit to their superior a recommendation for disposition. Cases may be disposed of by -

- Prosecution
- Police warning only
- Police warning and Social Welfare follow-up
- Police warning and Maori Affairs follow-up
- Police warning and Youth Aid follow-up
- Social Welfare follow-up
- Maori Affairs follow-up
- Youth Aid follow-up
- Referral to other agency
- No action
- Other

B4.9 Police Criteria for Non-prosecution

Generally recommendations for Police warning or Social Welfare follow-up etc. may be made by the Youth Aid Consultation only where:-

- The offender admits the offence.
- The offender has no previous record of offending, or, if he/she has offended previously and been relieved of prosecution, the circumstances of his/her further offending are unusual, justifying further action without prosecution.
- Restitution or compensation has been made by or on behalf of the offender, or has otherwise been satisfactorily resolved.
- The offender's parents or guardians are prepared to co-operate with the Police and Social Workers by accepting any help or advice that may benefit the child.

B4.10 Recording and Actioning the Referral

The Police complete a Juvenile Report (Pol 333) where any child or young person comes under Police notice. The completed Pol 333 is then sent to the local district office with advice as to action being taken (i.e. Children's Board, YAC, or Court). For the procedures to be followed see B5.3 (for Children's Board), B5.4 (for YAC), and B5.5 (for Court action).

B5 THE CASE RECORD (SW 512) (refer Fig. 5)B5.1 Introduction

The Case Record (SW 512) which came into use in 1975 originally comprised a combined Police/Social Welfare form. The combined form (Pol 333/SW 512) was withdrawn during 1978 and replaced with the current SW 512 for use by this department only.

The Case Record provides most of the basic statistical case data required by the department for its policy, planning, statistical and research purposes. It also summarises individual case information for use by districts and Head Office. As such it serves the important function of collecting data in a uniform way. Social Workers and clerical staff should therefore try to ensure that the form is completed as fully as possible.

The Case Record (SW 512) is completed by Social Workers for every child or young person who:

- attends a Children and Young Persons Court
- is the subject of a
 - Youth Aid Consultation
 - Children's Board meeting
 - Section 11 agreement
 - supportive service recommendation.

Detailed instructions on the completion of the various items on the SW 512 are provided in B6 and (for the Court section) C8.

B5.2 Distribution and Filing

The three copies of the Case Record (SW 512) are held together on the district personal file (or where there is no such file, on a general file) pending final disposal.

The copies are finally distributed (i.e. after final disposal) as follows:

- blue - original - district personal file
- yellow - 1st copy - Head Office (Statistics Unit)
- white - 3rd copy - district general SW 512 file.

The only exception to this is in supportive service cases where the district office retains all the copies.

B5.3 Use of Case Record in Children's Board Meetings

In each case referred to the Board by Social Welfare the clerical officer will distribute the copies of the SW 512 (which will have been completed by the Social Worker) as follows:

- blue copy to Social Welfare Board member
- white copy (or photocopy) to resident member
- 1 photocopy to Maori Affairs member
- 2 photocopies to the Police.

The Police refer cases to the Board using their form Pol 333. Upon receipt of this in the district office the information on it is transposed as fully as possible onto the Case Record (SW 512). The district index is noted accordingly and the 'Previous Notice' section of the SW 512 completed before referral to a Social Worker. The Social Worker adds any missing information to the SW 512. It is then distributed as for a Social Welfare referral except that the Police will use their own form, Pol 333, instead of photocopies of the SW 512.

On completion of each Board meeting the copy supplied to the resident member must be collected. If the final disposal of the case is reached all the copies of the Case Record (including the yellow Head Office copy) are completed and distributed in the usual way (see B5.2).

B5.4 Use of Case Record in Youth Aid Consultations

The Police refer cases to Consultation using their form Pol 333. Upon receipt of the form Pol 333 in the district office the information is transposed onto form SW 512, indexed and the 'Previous Notice' section completed. It is then referred to the Social Worker who adds any missing information where possible.

The Ministry of Transport also refer cases to Consultation using either a Pol 333 or a SW 512 to provide the necessary information. The procedure then continues in the same way as with Police referrals.

Where a final disposal other than prosecution is recommended following Consultation all copies of the SW 512 should be completed and distributed as usual (see B5.2).

When prosecution is recommended following Consultation, the Director will be notified in writing by the Police of the date of the Court hearing as soon as it is set. All copies of the SW 512 should be retained on the personal file until the matter is finally disposed of, then completed and distributed as usual.

In instances where the local senior Police officer does not accept a recommendation from Consultation and substitutes prosecution the clerical officer should write immediately to Head Office to obtain the two yellow copies. Upon receipt in the district these should then be processed, with the other copies, as per the instructions in B5.5. The Youth Aid Consultation section of the Case Record is then amended to include initial recommendation and later decision. Before forwarding to Head Office the word "Amended" should be written clearly on the top front of the forms.

B5.5 Use of Case Record in Court Cases

Instructions for recording the outcome details of a Children and Young Persons Court case are provided in C8. This section also notes other post-Court action such as the procedure in postponements and transfers to other Courts.

Where a case has been referred through the Children's Board or Youth Aid Consultation on to the Court a Case Record will already have been initiated. Consequently when the matter reaches the Court the Court officer will have received the personal file with all relevant papers including the Case Record. This is completed in the usual way by the clerical officer or the Court officer when the outcome is finalised.

In the case of Police warrant or arrest where there is no adjournment for a Social Worker's report and in cases referred from the Children and Young Persons Court to the District Court, the outcome details are usually obtained by the Court officer who contacts the Court soon after the hearing date. The same applies for any cases referred to the High Court.

B5.6 Case Record Required Where Court Deals with a Charge Without a Social Worker's Report

Where a matter is dealt with in the Children and Young Persons Court without a Social Worker's report extra care must be taken by the senior Social Worker responsible for Court matters in each district to ensure that the Case Record (SW 512) is completed and the yellow copy forwarded to Head Office. This is necessary for statistical purposes.

B6 COMPLETING THE CASE RECORD (FORM SW 512) (refer Fig. 5)B6.1 Introduction

Form SW 512 is used both for statistical purposes and as a repository for basic casework material. Care should therefore be taken to complete the form fully and accurately. The points in the following paragraphs should be well noted to help provide consistency in completing the form.

Throughout the form where there is a choice of responses delete what is not applicable.

B6.2 Child or Young Person

"Surname": Enter surname in capitals.

"Given Names": Enter first or given names.

"Age at Incident": Enter completed years and months.

"Date of Birth": The correct date of birth should be established wherever possible. If necessary confirm from benefit files.

"Place of Birth": Should be entered wherever possible.

"Race": Give detailed classification down to one eighth where subject is of mixed blood, e.g.:

1/2 Fijian : 1/2 European

1/4 Maori : 3/4 Indian

Social Workers should elicit as much detail as possible but are not expected to probe into racial origin where such information is not readily forthcoming.

"With whom living and relationship": Indicate the relationship to the child or young person.

e.g. Flatting with friends

Mrs Brown - grandmother

Parents

If the child or young person is living in a departmental institution it is sufficient to name the institution.

"Current or Last School Class": Use the general class level rather than names specific to a particular school:

e.g. Form IV

Primer 2

"Name of Employer and Occupation": Complete only if young person has left school and entered full-time employment.

Care should be taken to distinguish between the person's occupation and the industry in which s/he is employed; for example an employee of an oil company may be an accountant or a labourer, and to state the place of employment only would give no indication of the occupation.

B6.3 Family

"Mother's Name and Father's Name": Enter here the names of the mother/father figure in the person's life. In most instances this will be the natural or adoptive parents. In the rare instance where a person has been raised as a member of a family other than his/her natural or adoptive home please indicate by completing "Name and address of natural/adoptive parents if different from above".

Ensure the relationship to child, employment and occupational details are completed as these provide important research and planning information as well as basic case data.

Where possible provide age and race details also.

Siblings information should be completed as fully as possible and any break in the family unit noted.

B6.4 Present Incident

"Summary of Offence/Incident": Summarise the incident(s) in a few sentences. Where the case is Police initiated, do not copy the entire Police report. When summarising incidents which give rise to Social Welfare complaint action include the dates on which specific incidents occurred.

"Date of (first) incident": Note the incident date, or where there was more than one incident, the date of the first incident.

"List Offence/Incident": List all the offences or incidents relative to this coming to notice, regardless of whether or not a charge is to be laid in respect of any offences. Enter the number of times each incident occurred, e.g.

Theft	3
Wilful damage	1
Beyond Control	1
Ill-treatment/abuse	1
Family breakdown	1

"Companions": Include the companions (names and ages) and whether prosecuted or not. If names of companions are not known enter number of companions. Where there are no companions enter "nil".

"Action Initiated by": Delete the options which do not apply.

"Legal Method of Coming to Notice": Delete the options which do not apply.

"Status at Incident": Enter here departmental status only; e.g. State Ward, Supervision, Section 11, Probation. Detailed State Ward statuses are not required.

B6.5 Outcome (Summary)

This section on the front of the form is to summarise the outcome section on the back so that main information can be located quickly without turning the form. This section should not be completed until after the final outcome and all relevant boxes should be marked with a cross e.g. if a case went first to Youth Aid Consultation, then to Children and Young Persons Court, then to District Court, put a cross in each of the three boxes.

"Details of Outcome": Enter here enlargements of the outcome, e.g. S.W. follow up, fined \$50, supervision 12 months. Note also date finalised and status (e.g. Ward, Supervision etc.) after outcome, note 'nil' for no status.

B6.6 S.W. District

The name of each district or agency should be entered in full after the colon, e.g. NEW LYNN. Take care not to type over the boxes at the right hand side of the page.

"Year": Enter the year in which the SW 512 was initiated (i.e. the year when the serial number was given).

"Serial No.": Serial number allocated:

- (a) at the time of initiation if generated by a Social Worker; or
- (b) at the time of transposition from Pol 333 if generated by Police;
or
- (c) at the time of receipt of notification, if initiated by Traffic Division; or
- (d) immediately upon arrival if transferred in from another office.

B6.7 Cases Transferred Between Districts Prior to Final Disposition

When a case is transferred out to another district the receiving district will cancel the original number and allocate a new one from its own series, and alter the district name. The transferring district is not to reallocate the old number. Districts should note in their serial number register the destination of each Case Record transferred to another district before final resolution and the forwarding district of each Case Record received on transfer. These numbers will be required for statistical purposes, as will the last number allocated in each district for each calendar year. This is to ensure that all forms are accounted for and accurate figures relating to YAS Consultations and Court and Board appearances are obtained.

B6.8 H.O. Register No.

Leave blank. This will be completed on arrival at Head Office.

B6.9 Previous Notice

In this section space has been provided for eight entries. Where a child/young person has come to notice more than eight times, the details should be given of the seven most recent incidents and the number of earlier incidents noted at the beginning of the list.

Under the various headings note the following layout:

Date: Enter the month and year the case was finalised.
 Place: Give the location only of the body which finally disposed of the case.
 Outcome Agency: Show which body made the final disposal.
 Outcome: Note the final outcome.

Examples:

<u>Date</u>	<u>Place</u>	<u>Reason</u>	<u>Outcome Agency</u>	<u>Outcome</u>
5/76	Auckland	Theft	YAS Consultation	Police Warning
4/78	Gisborne	Truancy	C.B.	Psych. Assistance
8/78	Wellington	Assault	C.&Y.P.C.	Fined \$20

B6.10 (Outcome of Case) Children's Board

This section is completed by the Social Welfare representative at the Children's Board meeting after the final decision of the Board has been made. Where the case is referred to more than one Board the Board's name, location and decision must refer to the Board which made the final disposal of the case. Thus the date of first hearing may refer to a Board other than the one named. The details concerning the Board's final decision should be entered against the appropriate section, subsection and paragraph number. There may be more than one entry; e.g.:

- S. 15(7) (a) counselling for parents
- S. 15(7) (c) child to attend speech therapy.

It should be remembered that there are several alternatives in terms of actions the Board may take in each of Section 15(7)(a), (b) and (c), therefore, exactly what was determined for whom, should be stated clearly next to the appropriate section. If the Board determines to take no further action, this should be noted.

In the event of a case being referred to the Court following a Children's Board appearance and subsequently referred back to the Board, the first meeting of the Board should be fully recorded in the 'Children's Board' section of the Case Record. The decisions of both the Court and the second Children's Board hearing should be noted in the 'Children and Young Persons Court' outcome section: e.g. Referred C.B. (Children and Young Persons Act 1974 S15(2)) C.B. meeting (date) Catholic Social Services counselling for parents (S15(7)(b)).

B6.11 (Outcome of Case) The Court Sections

The details for the completion of both the Children and Young Persons Court section and the District or High Court section are dealt with in Part C (The Children and Young Persons Court). Refer C8.6.

B6.12 (Outcome of Case) Section 11 Agreement

Self explanatory.

B6.13 (Outcome of Case) Supportive Service

Approved by: This item should be signed personally by the officer authorised to approve supportive service.

If a form is completed for this section only, do not allocate a serial number in the SW 512 register.

APPENDIX B

PART B: CHILDREN'S BOARD AND YOUTH AID CONSULTATIONS

APPENDIX

	<u>Form</u>	<u>No.</u>	<u>Reference</u>
Fig. 1	Notification to parents that matter has been reported to Board	SW 653	B2.3, B2.4, B2.7
Fig. 2	Invitation to parents and child to attend meeting of Board	SW 654	B2.7
Fig. 3	Notification to parents of Board's decision	SW 655	B2.10
Fig. 4	Notification to departments of Board's decision	SW 656	B2.10
Fig. 5	Case Record	SW 512	B6, B5
Fig. 6	Application for report of principal	SW 657	B1.7



CHILDREN'S BOARD

M

Dear M

Your child
for the following reasons

aged _____ has come to notice

I have reported the matter to the _____ Children's Board. You will be notified of the place, date and time the Board will meet and you will be invited to attend, with your child and discuss with the Board how best the matter may be dealt with.

If you have any questions you would like to discuss with me before the meeting of the Board please telephone me at _____

Yours sincerely,

.....
Police Constable/Social Worker



CHILDREN'S BOARD

C/- Department of Social Welfare,

Telephone: _____

M

Dear M

We have been told that
has

This matter is to be considered by the
Children's Board at
on / / at a.m./p.m.

We would be pleased if you and your child would come to the meeting and talk with the Board about the matter. Please telephone me at the above number and tell me if you are able to attend or not. If the suggested time of the appointment does not suit then a more suitable time can be arranged.

Yours sincerely,

.....
for Chairman Children's Board

(Figure 3)

S.W. 655



CHILDREN'S BOARD

C/- Department of Social Welfare,

Telephone: _____

M

Dear M

When the matter concerning your child
was considered by the Board on
decided that

it was

.....
Chairman, Children's Board



CHILDREN'S BOARD

Name of child:

Date of Birth:

The Board has considered this case and on

* (a) made the following decision, under terms of section 15 (7) (a)–(c).

* (b) decided to recommend that complaint action be taken under the terms of section
15 (7) (d)*
(8) (a)*
(8) (b)*

.....
for Chairman Children's Board

/ /

*Delete whichever is inapplicable

CASE RECORD

ORIGINAL

SW512

CHILD OR YOUNG PERSON

Surname: _____ Given Names: _____ Age at Incident: _____ yrs. _____ mths.
 Also known as: _____ Sex: _____ Date of Birth: ____/____/____
 Address: _____ Telephone No: _____
 Place of Birth: _____ Ethnic Group: _____ Nuptial/Ex-nuptial/Legally Adopted _____

With whom living and relationship:

Name of School: _____ Attending/Left _____
 School progress: _____ Current or Last School Class: _____
 Name of Employer: _____ Occupation: _____
 Work Progress: _____ Weekly Wages: _____
 Previous Notice: Nil/See over page.

HEAD OFFICE USE ONLY

FAMILY

MOTHER FIGURE

Name: _____ Age: _____
 Address: _____ Telephone No.: _____
 Relationship to Child: _____ Ethnic Group: _____
 Employer: _____ Occupation: _____

FATHER FIGURE

Name: _____ Age: _____
 Address: _____ Telephone No.: _____
 Relationship to Child: _____ Ethnic Group: _____
 Employer: _____ Occupation: _____

Name and Address of natural/adoptive parents if different from above:

Brothers/Sisters	Age	Sex	Occupation	Living at Home	Previous Notice

Reason for any break in family unit:

PRESENT INCIDENT

Brief Summary of Offence/Incident:

Date of (first) Incident: ____/____/____
 List Offence/Incident Number

Companions: _____
 Action initiated by Police/Social Welfare/Traffic _____ Status at Incident: _____
 Legal method of coming to notice: Information/Arrest/Warrant/Complaint/Section 11

OUTCOME (Summary only: See reverse for details)

- Board Consultation CYP Court Dist/High Court
 Sec. 11 Supp. Serv. Other: specify

S.W. District: _____
 Year: _____
 Serial No.: _____

Details of final outcome: _____
 Date finalised: ____/____/____ Social Welfare status after outcome: _____

HEAD OFFICE USE ONLY

PREVIOUS NOTICE

Date	Place	Reason	Final Outcome Agency	Final Outcome
------	-------	--------	----------------------	---------------

OUTCOME OF CASE

CHILDREN'S BOARD

Board Name:

Location:

Board's Decision:

Date first meeting: / /

Section Para

Decision Details

Date last meeting: / /

Parents present? Yes / No

Child present? Yes / No

S.W. report requested? Yes / No

HEAD

SECTION 26 YAS CONSULTATION

Consultation recommendation (and Senior Police Officer decision):

Date of consultation: / /

OFFICE

CHILDREN AND YOUNG PERSONS COURT

COMPLAINT: Section Subsection para

Name of Final Court

Date first hearing / /

Date last hearing / /

No. adjournments/postponements

CHARGED OFFENCES:

S.W. custody over period? Yes / No

Act Section Type of Offence No. of Charges

Rem. in Police custody? Yes / No

Plea of guilty? Yes / No

Legal representation? Yes / No

Legal aid? Yes / No

USE

ONLY

Social Welfare Recommendation:
Court's final decision (give details):

Decision made under section Subsection of Act

DISTRICT OR HIGH COURT

Reason for referral:

Name of Court:

Court's final decision (give full details):

Date final hearing / /

SECTION II AGREEMENT

Date of agreement: / /

Length of agreement:

SUPPORTIVE SERVICE

Supp. Serv. category (as in 6 monthly statistical return):

Volunteer Assigned: Yes / No

Number of children in the family placed under Supp. Serv.:

No. of Adults:

Period of Supportive Service

Recommended by:

Approved by:

Date: / /



CHILDREN'S BOARD

application for report of principal

S.W. 657

C/- Department of Social Welfare,
.....
.....

Phone:
..... 19

Confidential

- (1) Name. To (1).....
Principal
- (2) Name of School. (2).....
- (3) Address. (3).....

(4) Full name of child or young person.

PURSUANT to section 15 (6) of the Children and Young Persons Act 1974, I hereby make application for a written report in the form enclosed herewith (or set out on the back of this form) in respect of (4)..... who has been referred to the Children's Board.

Your report is required for the guidance of the Board in respect of the child's intellectual capacity, scholarly performance, and behaviour. Please also give such other details as may prove helpful to the Board in reaching a decision about the child.

Any section of the form for which you have no factual information may be left blank.

The Board may decide to discuss the contents of the report with the child and his/her parents or guardians.

This report will be required by the Board on

Please get in touch with me if you wish to discuss the report or any other matters concerning the child.

.....
Social Worker

report of principal

(1) Full name of school

of (1).....

(2) Full name of child or young person

concerning (2).....

Date of birth.....

Date of enrolment..... Date left..... Present (or last class).....

Attendance this year

Attendance last year

1/2 days present..... 1/2 days present.....

1/2 days school open..... 1/2 days school open.....

Absences

Has the child been absent from school without acceptable reasons? If so, please comment.

.....
.....
.....

Is there a particular pattern to such absences? If so, please comment.

.....
.....
.....

School Progress

General comments on progress (including comment on intellectual capacity).

.....
.....
.....
.....
.....
.....

Health

(including sight and hearing records if appropriate).

.....
.....

Standard of hygiene, adequacy of clothing, general appearance.

.....
.....
.....
.....

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PART C: CHILDREN AND YOUNG PERSONS COURTC1 CONSTITUTION AND POWERS OF THE COURTC1.1 Introduction

The Children and Young Persons Court is provided for under the Children and Young Persons Act 1974, which replaces the Child Welfare Act 1925. These provisions make the distinction between children and young persons, introduce Children's Boards and include a substantial revision of complaint proceeding terms and definitions.

C1.2 Terms and Definitions

- a) Unless otherwise stated the word "complaint" is used throughout this Part in its restricted technical sense, meaning a complaint of being in need of care, protection, or control formally made as provided for under Section 27 of the Children and Young Persons Act 1974. It is to be distinguished from the same word in its wider, popular meaning elsewhere in this Manual, referring to complaints received from neighbours, teachers, etc.. Where the Act is quoted this is indicated, and the section number is given for reference.
- b) A child is defined as "a boy or girl under the age of 14 years" (Section 2 of the Children and Young Persons Act 1974). Under the provisions of the Crimes Act a child over the age of ten years may be guilty of a criminal offence. However, Section 25 of the Children and Young Persons Act prohibits proceedings on such a charge except for murder or manslaughter, although an offence-related complaint can be made under Section 27(2)(i).
- c) A young person is defined as "... a boy or girl of or over the age of 14 years but under the age of 17 years ...".
- d) The age of a child or young person "... shall be his/her age at the date of the alleged offence or incident ..." (S.2). The Court must, "... in the absence of sufficient evidence, fix the age ..." of the child or young person (S. 98).
- e) The Court has no jurisdiction where a traffic offence is not punishable by imprisonment, and for the purpose of the Act (S.25) "... the term, traffic offence means any offence against the Transport Act 1962 or against any regulations or by-law ... (where) ... the offence relates to the use of vehicles or parking places or transport stations". For convenience it is usual in our domestic correspondence and for our statistical purposes to refer to traffic offences punishable by imprisonment as "serious" traffic offences and to all other as "minor". By this definition minor traffic offences are excluded from Court, Board or Y.A.S. records. Minor traffic offences were removed from the Children's Court in 1961 because it was considered that these offences were too trivial to justify the preparation of a background report. There is little public interest or social stigma associated with

these offences and they can normally be dealt with without the youngsters making an appearance.

Cl.3 Jurisdiction Of The Court (Section 25)

This provision sets out the limits of the jurisdiction of the Children and Young Persons Court. The Court can hear and determine any complaint under the Act. The Court can also hear and determine any charge, except:-

- a) Where a child under the age of 14 years is alleged to have committed an offence;
- b) Where any child or young person is charged with murder or manslaughter only a preliminary hearing may take place;
- c) Where any young person is charged with "a traffic offence not punishable by imprisonment".

Cl.4 Appointment Of Judges (Section 21)

Specially appointed Judges are authorised to exercise jurisdiction primarily in any Children and Young Persons Court. However in the absence (for whatever cause) of an appointed Judge, any other Judge may exercise jurisdiction in that Court. For the purpose of doing all necessary acts preliminary to a hearing including adjourning, or releasing on bail, any Judge or Justice of the Peace may exercise jurisdiction.

The Children and Young Persons Courts are separate Courts and, although presided over by Judges who may also preside over the District Courts, they are not subordinate to the District Courts.

As a transitional provision Section 110(2) states that a Judge appointed to exercise jurisdiction in a Children's Court shall be deemed to have been appointed under Section 21.

Cl.5 The Court Setting (Section 22)

Children and Young Persons Court procedure is not laid down by statute and may, therefore, be adjusted to suit the preference of individual Judges and the circumstances of individual cases. Formalities are reduced to a minimum, and, unless special premises are provided, hearings are usually conducted in the Judge's room.

As far as possible Children and Young Persons Court sittings are to be arranged so that:

- people attending are not brought into contact with people attending any other Court;
- the extent to which children and young persons are able to associate within the Court premises while awaiting hearing is reduced to a minimum; and

- the extent to which parents are obliged to congregate in common waiting rooms pending hearing of proceedings in which they are involved is reduced to a minimum.

Cl.6 Proceedings Not Public (Sections 23 and 24)

The Children and Young Persons Court is a closed Court. Except by leave of the presiding Judge only the persons who are immediately concerned with the particular case may be present.

From time to time Social Workers will be required to attend a Court hearing as part of their induction or training. In such circumstances the prior approval of the presiding Judge must be sought.

Any newspaper reports of proceedings must have the approval of the Judge before publication and, in any case, must not contain information "... likely to lead to the identification of the child or young person".

Section 24 as amended in 1982 makes it clear that the prohibition of publication does not apply where a young person is brought before a District Court for sentence. Social Workers should be aware of the full implications of this, including the possibility of publicity, when recommending that a young person be dealt with under Section 36 (1)(j).

Cl.7 Attendance At Hearing (Section 30)

This section of the Act provides that where a child or young person is brought before the Court on a complaint "... he shall ... remain present throughout the hearing unless excused from being present by the Court". The Court may also, (at any stage of the proceedings) "... exclude the child or young person from the whole or any part of the hearing of any proceedings on a complaint ... on the grounds that:-

- The child is too young to understand the purpose of proceedings; or
- The proceedings are, or appear likely to be of such a nature as to (either) cause undue distress or disturbance to the child or young person" (or) "... cause a deterioration in the relationship between the child or young person and a parent, or the guardian or the person for the time being having care of the child or young person."

The intent of this section is clear and Social Workers should inform the Court if they anticipate that all or any part of the proceedings is likely to unduly distress a child or young person or in some way upset parent/child relationships.

Cl.8 Parent May Be Required to Appear Where Young Person is Charged
(Section 39)

This section provides the Court with the power, where a young person is charged with an offence, "... to issue a summons to any parent, guardian, or person for the time being having care of the young person, requiring him to appear before a Children and Young Persons Court ...", and to examine him "... in respect of the upbringing and control of the young person."

This provision also allows the Court to issue a warrant to arrest where "... a person does not appear in answer to the summons ...", and bring him before the Court and fine him if he refuses or fails to appear.

Social Workers are expected to guide and assist the Court by commenting on those cases where a parent intimates his or her reluctance to appear with the young person who is charged with an offence. The criteria for invoking this provision will be whether or not the enforcement of the parents' attendance will serve the young person's best interests.

Cl.9 Appointment of Counsel or Solicitor (Section 29)

In any proceedings whether arising from a complaint or charge, the Court may appoint a solicitor to assist the Court or to represent the child or young person. Expenses incurred will be met by the Crown but the Judge may order any person to refund any part of those expenses to the Crown.

Social Workers will be able to guide and assist the Court in those cases where it seems necessary that the interests of a child or young person should be protected by the appointment of a solicitor. This provision is separate from and additional to the legal aid provisions. (Refer C4.23.)

Cl.10 Duty Of Court To Explain Proceedings (Section 40)

"When any person, being a young person or a parent or guardian or a person having the care of the young person, appears before a Children and Young Persons Court, the Court shall satisfy itself that he understands the proceedings, and shall, if necessary, explain to him in simple language the nature of the proceedings, and of any allegations against the young person or himself, including their legal implications, ...". These provisions do not mention children because in complaint proceeding it is the parent who is the defendant not the child. However, where a child does appear before the Court, the spirit of this provision could be applied where appropriate, in terms of the child's age and level of understanding. Social Workers have a responsibility to prepare parents, children, and young persons for a Court appearance, by giving them a realistic summary of what they can expect to experience at the hearing.

Cl.11 Special Provisions Relating To Evidence (Section 29)

In any complaint proceedings, (including appeals), "... the Court may receive any oral or documentary evidence that it thinks fit, whether it is otherwise admissible in a Court of law or not". An exception to this provision relates to complaints made on the grounds of an alleged offence or offences (S.27(2)(i)) "... and the Court shall not find any such grounds to be proved unless":-

- It would have found the child guilty of the offences if he had been charged with the offence; and also
- The Court is satisfied the child knew either that the act or omission constituting the offence was wrong or that it was contrary to law.

The first exception retains the onus on the Police to follow the usual rules of evidence, and the second incorporates a provision from the Crimes Act 1961 (S.22.) allowing discretion where the child's understanding of the law is in doubt.

Social Workers should be familiar with the basic rules of evidence. The Court's discretion in being able to receive otherwise inadmissible evidence should only be relied upon where it can be shown that the evidence presented is intended to protect the child's best interest.

Section 13 of the Oaths and Declarations Act 1957 provides that witnesses under 12 years of age may, before giving evidence, make the following declaration, rather than the more formal oath; ... I promise to speak the truth, the whole truth, and nothing but the truth ...".

Cl.12 The Right To Elect Trial (Section 34)

Young persons accused of offences which are punishable by more than 3 months imprisonment have the right to elect trial by jury, i.e. in the High Court (refer Summary Proceedings Act 1966). Section 34 as amended by Section 8 of the Children and Young Persons Amendment Act 1982 provides that a young person has the opportunity to choose to be dealt with summarily at virtually any stage of the proceedings, i.e. before the evidence is given; at any time during the giving of evidence; or when all the evidence is completed.

Cl.13 Powers of the Court to Decide Complaints (Section 31)

"If the Court finds the grounds of a complaint ... to be proved it may ... do one or more of the following things: -

- a) In relation "... to any person to whom the complaint was addressed, or the child or young person to whom it relates ..."
 - Admonish them;
 - "Discharge ... (them) ... from the proceedings without further order or penalty;
 - "Order that ... (they) ... come before the Court if called upon within 2 years after the making of the order, so that the Court may take further action under this section", (except where an order for guardianship or supervision is made first).
- b) "Make an order placing the child or young person to whom the complaint relates either:-

- Under the guardianship of the Director-General; or
 - Under the supervision of a Social Worker for a period specified by the Court, being a period of not more than 3 years; but that period shall not extend beyond the date on which the child or young person attains the age of 17 years."
- c) "Make an order requiring the Director-General to arrange for any person to whom the complaint was addressed ... to receive counselling."
- d) "Order the child or young person to whom the complaint relates or any parent or guardian of the child or young person to whom the complaint was addressed:-
- to pay to any person such sum as it thinks fit by way of compensation for any loss of damage to property suffered by that person through or by reason of the actions of the child or young person;"
 - "... to deliver to ... (the owner) any property in the possession of the child or young person, or in the possession of any person for him."
- e) In the case of a complaint relating to an offence:
- order "... the forfeiture of the property to the Crown";
 - make an order under Section 37, which relates to the disqualification of drivers.
- f) Where a person is to be called back within 2 years, the Court may, "... on the application of a Social Worker or a member of the Police ..." direct the issue of a summons to that person. The Court then has the power to make another order under this section, but can only exercise this power once, and it excludes being able to order compensation or the return of property.

NOTE: Section 15(2) provides that, "Any Judge who, on hearing a complaint under this Act involving a child, finds it proved may direct the complainant to report details of the complaint to a Children's Board. See also the note at the foot of Cl.14.

Cl.14 Powers Of The Court To Decide Charges (Sections 35, 36, 37 & 38)

- a) Section 36 contains the main provisions, and it states, "Where a charge is proved before a Children and Young Persons Court, the Court, having regard to the gravity of the offence, the young person's background, personality, and needs, and the public interest, may, subject to ...(the provisions relating to postponement) ... do one or more of the following things:-"
- "Admonish the young person";
 - "Discharge the young person from the proceedings without further order or penalty";

- "Impose such fine as could have been imposed by a District Court if the young person were an adult and had been convicted of the offence ... (other than the power to impose a period of imprisonment in default of payment)";
 - "Order the young person to pay a sum towards the cost of prosecution";
 - "Order the young person or his parent or any guardian to ..." either "... pay to any person such sum as it thinks fit by way of compensation for any loss of or damage to property suffered by that person through or by reason of the offence"; or "... to make restitution ..." as provided by S. 404 of the Crimes Act 1961 which relates to the return of, and restitution for, any property obtained by reason of the offence; or both;
 - Order the forfeiture of property to the Crown;
 - "Order that the young person come before the Court if called upon within 12 months after the making of the order, so that the Court may take further action under this section." (Except that the Court may not then make a supervision or guardianship order.);
 - "Make an order placing the young person either-
 - (i) Under the guardianship of the Director-General; or
 - (ii) Under the supervision of a Social Worker for a period of not more than 3 years; but that the period shall not extend beyond the date of which the young person attains the age of 17 years"; or
 - (iii) If at the time the offence was committed, the young person was under the guardianship of the Director-General, the Court may order that s/he undertake community work.
 - "In the case of a young person who has attained the age of 15 years, enter a conviction and order that he be brought before a District Court for sentence or decision ..." (Where this power is used the Court "... shall not ..." take any of the other actions described here except to admonish.)
- b) "Every order or decision made ..." by the Court relating to fines, costs, compensation, restitution or forfeiture, "... shall have the same effect as if made by a District Court and as if any fine imposed or other sum ordered to be paid had been adjudged to be paid by conviction except that:-
- The enforcement of every such order or decision shall be the responsibility of a Children and Young Persons Court and its officers; and

- No young person shall be liable to imprisonment for failing to comply with any such order or decision".

c) Where a young person is to be called back within 12 months, the Court may, "... on the application of a Social Worker or a member of the Police ..." (S.31) direct the issue of a summons to that young person. The Court then has the power to exercise any of its powers under Section 36 except those relating to fines, costs, compensation, restitution or forfeiture, and in any case it can only exercise the power once.

d) Section 37 provides that, "Where a charge against a young person is proved ..." the Court is "... required or empowered to make an order disqualifying the offender from holding or obtaining a driver's licence", as would be the case if the young person had been convicted in a District Court (i.e. offences where the use of a motor vehicle is in some way involved).

e) Section 38 provides that, "Where a charge against a young person is proved ..." and where the offence is one which the "... Secretary for Transport would be obliged ... to record demerit points", the young person is deemed, (unless the information is discharged under S.35), to have been convicted, as if in a District Court, and demerit points provisions apply accordingly.

f) Section 35 provides that where a young person is charged with an offence which, were s/he an adult, could be decided by a District Court, "... a Children and Young Persons Court, after enquiry into the circumstances of the case, may in its discretion discharge the ..." matter as if it had never come before the Court. However, as well as discharging the matter (which has the effect of it not being entered in the Court's records) the Court may also make orders relating to costs, compensation, restitution, or forfeiture.

NOTE: Section 100 provides that the Court may dismiss the charge "... if it is satisfied that the time which has elapsed between the date of the commission of the alleged offence and the Court hearing has been unnecessarily or unduly protracted and that the proceedings have thereby lost significance or reasonableness". This also applies to complaints under Section 27(2)(i).

Cl.15 Postponement Of Final Decision (Section 31 & 36)

When a complaint in respect of a child or young person, or a charge in respect of a young person is proven before the Children and Young Persons Court, and the Judge has a full Social Worker's report, s/he may make an order postponing his/her final decision for any period, or aggregate of periods, of not more than 3 months.

The Judge may not, at any hearing other than the one at which the complaint is proven, make any order relating to compensation, or return or forfeiture of property. In the case of a charge, any order relating to prosecution costs, compensation, restitution and forfeiture of property can only be made at the time the charge is proven.

In making a final decision, after one or more postponements the Judge may do one or more of the following:-

a) in the case of a complaint

- admonish;
- discharge;
- order the child, young person or parent to come before the Court, again within 2 years if called upon to do so;
- place under guardianship of the Director-General;
- place under supervision of a Social Worker; (for conditions see C8.18, C8.21, C8.22)
- order the Director-General to arrange counselling of the parent or guardian;
- order compensation;
- order restitution;
- order forfeiture of property to the Crown.

b) in the case of a charge:

- admonish;
- discharge;
- impose a fine;
- order the young person to come before the Court again within one year if called upon to do so;
- place under guardianship of the Director-General;
- place under supervision of a Social Worker; (see C8.18, C8.19, C8.20, C8.21 C8.22)
- enter a conviction and order that s/he be brought before the District Court for sentencing or decision (this power can only be used if the young person has attained the age of 15 years);
- order compensation;
- order restitution;
- order forfeiture of property to Crown.

Cl.16 Director During Postponement (Sections 31 and 36)

In making an order postponing his/her final decision on a complaint or charge, the Judge may direct that the child or young person will be either under the supervision of the Director-General or in his custody until such time as the case comes before the Court again.

Cl.17 Cancellation Of Postponement (Sections 31.4 and 36.7)

The Director-General may during the period of postponement, including any extensions of it, bring the case before the Court for final consideration. The Court may then cancel the postponement.

Cl.18 Proceedings Not Invalidated By Mistake In Age (Section 44)

If at the time of the hearing there are "reasonable grounds for believing" that the person in respect of whom the complaint or charge is brought, is a child or young person, then any proof to the contrary at any future time will not invalidate the proceeding. However, if such a situation should arise, either party to the proceedings may apply for a rehearing in the appropriate Court under the provisions of the Summary Proceedings Act 1957, Section 75.

Whenever a Social Worker is aware, or learns, that a young person brought before the Court is mistakenly believed by the Police and Judge to be older than he or she is, the matter must be drawn to the attention of the Assistant Director (Social Work) at once.

The Assistant Director can then ensure that the District Probation Officer and the Court are aware of the true position so that any anomalies in sentencing may be amended.

Cl.19 Initiation Of Proceedings

Only Police, Traffic Officers and Social Workers may initiate proceedings in the Children and Young Persons Court.

A Police officer may either:-

- make a charge, as in other Courts, alleging that a young person has committed an offence against a specific statute; or
- make a complaint under Section 27 of the Children and Young Persons Act 1974 that a child or young person is in need of care, protection or control.

If s/he makes a charge (either following a Youth Aid Section Consultation and decision to prosecute or following arrest) the Police Officer must notify the nearest Social Worker of the fact (S.41(1)) and the date and place of the Court hearing. If s/he is considering complaint proceedings in respect of a child the Police officer must present the information to the nearest Children's Board, except where the child has been arrested or taken on warrant. In this latter case the Police officer must notify the nearest Social Worker.

A Traffic Officer may make a charge alleging that a young person has committed a serious traffic offence, (i.e. an offence punishable by imprisonment).

A Social Worker may make a complaint under Section 27 that a child or young person is in need of care, protection or control or under Section 48 for failure to observe supervision conditions. Where complaint action under Section 27 in respect of a child is considered necessary the details must first be presented to the Children's Board, unless the delay in so doing would be prejudicial to the care and well-being of the child or contrary to the public interest. (See C2.2.)

Cl.20 Complaints In Respect of Wards

From time to time members of the Police initiate action under Section 27 in respect of a child or young person who is in the department's care under a guardianship order. Such a complaint cannot achieve anything that is not already possible under our guardianship responsibility.

Social Workers should discuss this with the Police officer concerned with a view to having the complaint withdrawn. The various actions open to the department to deal appropriately with the offender should be brought to the attention of the Police officer. It can also be pointed out that there is firm agreement with Police Headquarters that such complaints should not be laid.

Where the Police cannot be persuaded to withdraw the complaint (and warrant) the matter should be referred to Head Office urgently so that it may be resolved at Head Office level.

Social Workers may well consider that in the case of a Ward up to the age of 14 coming to Police notice an appearance before the Children's Board could have a salutary effect. In that case it would be appropriate to suggest a referral to the Children's Board as a possible course of action for the Police to take. Of course the members of the Children's Board should then also be aware of the child's status and of the inappropriateness of referring the child back for complaint action.

Children's Board meetings in respect of Wards could involve parents, foster parents, residential Social Workers, case workers, or any other significant persons. The options open to the department to resolve the problem could be discussed and the child could be admonished.

When restitution is appropriate the Board could well assist in settling that issue as part of their intervention.

C2 INITIATING COMPLAINT PROCEEDINGSC2.1 The Gravity Of Court Action (ref H7.4 re delegation)

Initiating Court action may have extremely grave consequences for the child or young person and his/her family, so that it is not to be undertaken lightly. The personal relationship between Social Worker and child or parent is the basis of our most effective work, and this relationship should not be endangered by unnecessary Court action that may savour of coercion. Before recommending to the Director the making of a complaint, the Social Worker should always consider seriously whether the end s/he desires might not be achieved by adopting some other course of action. Once the decision is made to bring the child before the Court by making a complaint, the actions outlined in subsequent sections should be taken and the question of whether execution of a warrant is necessary should be considered.

C2.2 Facts to be Reported to a Children's Board Prior to Complaint Action (Section 27(2A))

Section 27(2A) as inserted by Section 7 of the Children and Young Persons Amendment Act 1982, directs that any complaints, made under Section 27 alleging that a child is in need of care, protection or control are not to be heard (or determined) by a Court unless:

- (a) the facts alleged in support of the complaint have been reported to a Children's Board or
- (b) the Court decides that the delay which would be caused by a referral to the Children's Board would be prejudicial to the care and wellbeing of the child, or contrary to the public interest.

Complaints which may go to Court without prior deliberation by the Boards would include:

- (a) When a warrant to remove a child has been obtained at the same time as a complaint made.
- (b) When a complaint is made under Section 12(3)9b) or Section 43 (5)(b).

In view of this provision it will be necessary for the Social Worker who brings such a complaint to report to the Court that:

- (a) the matter has been reported to the Children's Board, or that
- (b) that it is recommended that the Court invokes the provision of Section 27(2A)(b) on the grounds that delay would be prejudicial to the care and well being of the child (or contrary to the public interest).

In the former instance the outcome of any deliberations by the Board should be given and in the latter case the reasons for the recommendation need to be stated.

C2.3 Warrant Action In Ill-Treatment And Neglect Cases

Whenever there is any reason to believe that a child's life is in danger, or that s/he is being subjected to serious neglect or cruelty, the investigation of such complaints must take precedence over all other duties. The Children and Young Persons Act imposes the duty of prompt inquiry on the department. Emergency situations demand emergency measures, and in these investigations it has to be remembered that we temporarily change our role, and become law-enforcement and child-protection agents. In less serious or less urgent cases investigations may be delayed, but never to the extent that a child's interests or welfare are unnecessarily imperilled. It may be preferable in some cases to take complaint proceedings without warrant action. The effects of separation trauma and anxiety where pre-school children are involved must be a consideration, and may be more harmful to a child than leaving it in its parents' care. Social Workers should seek the guidance and approval of their supervisors where possible, before taking action. There are two methods by which Social Workers may proceed under warrant to investigate complaints and/or remove a child or young person, and an additional provision for the Police to investigate complaints without warrant. Police assistance under this provision should be sought where urgency or circumstance demands such measures.

C2.4 Duty Of Director-General To Arrange Prompt Inquiry (Section 5)

This provision is included in Section 5 which is headed "Duty of Director-General to undertake preventive work". Subsection (1) states that, "It shall be the duty of the Director-General to take positive action and such steps under this Act as in his opinion may assist in preventing children or young persons from being exposed to unnecessary suffering or deprivation or from becoming seriously disturbed or from committing offences."

Subsection 2, in pursuance of the above duty, states that the, "... Director-General shall arrange:-

- a) For prompt inquiry where he knows or has reason to suspect that any child or young person is -
 - (i) suffering or likely to suffer from ill-treatment or from inadequate care or control; or
 - (ii) by reason of his behaviour, causing serious concern to his parents, guardians, or teachers:"

Subsections 2(b) and (c) place a similar duty, for the "provision of assistance", and for "inquiry into any allegation" regarding the care of a child or young person.

C2.5 Warrant To Remove Child Or Young Person (Section 28)

Section 28(1) provides that where a complaint has been sworn under Section 27, "... any Judge or Justice or any Registrar (not being a member of the Police) who, on the application of any member of the Police or of any Social Worker, is satisfied that there is reasonable ground for suspecting that the child or young person is likely to be ill-treated, neglected, subject to inadequate care or control, or to be so seriously disturbed as to be likely to act in a manner harmful to himself or to the person or property of others, may issue a warrant authorising any member of the Police or Social Worker to remove the child or young person from his surroundings: ...". (NOTE: "... the alleged commission of an offence shall not of itself be sufficient grounds for the issue of a warrant.") The "application" is an oral one for this warrant. (Refer Fig. 1.) Any child or young person must be brought before a Children and Young Persons Court within 7 days after being removed on a warrant under this section.

C2.6 Provision Regarding Search And Entry (Sections 7, 8 and 28)

There is a common provision, under Sections 7 and 28 (for execution by a member of Police or a Social Worker), or by the Police alone under Section 8, to "... enter and search by force if necessary, any dwellinghouse, building, aircraft, ship carriage, vehicle, premises or place ...".

These provisions of Sections 7 and 28 should be noted:-

- (a) Where a warrant to search under Section 7 is issued, a duty is placed on "... everyone executing a warrant under this section, to have it with him/her and to produce it if required to do so." This warrant also provides for the use of "... such force as may reasonably be necessary" to remove the child or young person and place him in a residence.
- (b) Where a warrant to remove under Section 28 is obtained, the person authorised by the warrant must have "... reasonable grounds to suspect ..." that the child or young person is in one of the places described above. Where the child or young person is found as a result of a search under these circumstances, "... such force as may be reasonably necessary ..." may be used to remove him/her and convey him/her to a residence. There is also a penalty subsection which provides that every person commits an offence (3 months imprisonment or \$500) who "... knowingly hinders or obstructs any person in the execution of a warrant under this section or who wilfully fails or refuses to afford to any person engaged in the execution of the warrant immediate entrance to any premises or to any part thereof."

C2.7 Warrant To Search For And Remove Without First Swearing a Complaint
(Section 7) (ref H7.4 re delegation)

Section 7(1) provides that, "Any Judge or Justice or any Registrar who, on application in writing made on oath, is satisfied that there is reasonable ground for suspecting that a child or young person is being ill-treated or neglected in a manner likely to cause unnecessary suffering or is living in an environment injurious to his physical or mental health, may issue a warrant in the prescribed form authorising any member of the Police or Social Worker to search for the child or young person and ascertain whether there are grounds for making a complaint under Section 27 ..." (refer Fig. 3).

Section 7(2)(b) provides that, "Everyone authorised by warrant under this section may ... if in his opinion the child or young person is seriously at risk of ill-treatment or neglect or needs to be detained to protect his physical or mental health, remove the child or young person ... and place him in a residence."

The child or young person may not be detained in a residence beyond a period of 3 days unless a complaint is made and a Court presided over by a Judge or Justice directs that the child or young person be held in custody pending the hearing of the complaint. The "application in writing" for a warrant is contained on a separate form (refer Fig. 2). This section provides for more urgent situations where the suspicion is that the child "is being" ill-treated etc., not as Section 28 provides "is likely to be" ill-treated etc. The power is also given just to "ascertain" the child's situation, there being no obligation to make a complaint, whereas Section 28 requires that a complaint be sworn before the issue of a warrant.

In any case where after execution of the search warrant the situation does not appear to require that the child or young person concerned be removed immediately the Social Worker should do one of the following:-

- a) if the case pertains to a child, refer the matter to the Children's Board.
- b) if it concerns a young person bring complaint action on a summons.
- c) gain the Assistant Director (S.W.)'s approval not to take any further action and notify in writing the person who signed the warrant of that decision with the reasons which led to it.

C2.8 Police Power To Enter, Search For, And Remove Without Warrant (Section 8)

Section 8(1) provides that, "Where any member of the Police, who has reasonable grounds for suspecting that any child or young person is in need of care and protection within the meaning of Section 27 of this Act, believes that it is critically necessary for the survival of, or avoidance of injury to, the child or young person that inquiries into the circumstances of the child or young person should be made without delay, he may, for that purpose and without a warrant,..." search for and he "... may, if necessary, take the child or young person to, and place him in, a residence as if authorised to do so by a warrant under Section 7..." The child or young person may not be detained in a residence beyond a period of 3 days unless, within that period a complaint is made and "... a Court, presided over by a Judge or Justice directs that the child or young person is held in custody pending the hearing of the complaint".

C2.9 Completion And Possession Of Warrants

The following points concerning the completion of warrant forms should be noted:

- If a warrant is addressed to a particular Social Worker then the alternative phrase, "To every Social Worker ..." etc. must be deleted and, vice versa. An "open warrant" should be used in those circumstances where the Social Worker initiating the proceedings may be unable to execute the warrant. (Refer Figs. 1 and 3.)
- Only one warrant is prepared and is placed on the child's file after the action is completed.
- A Judge, Justice or Registrar (not being a member of Police) may sign the warrant, however s/he must be given a brief but convincing statement of the reason compelling the urgent action.
- The Social Worker to whom the warrant is issued should have possession of the warrant at the time it is executed (s/he is required by law under Section 7 to be able to produce it) and should, in every case show it to parents, guardians, or other persons, from whom a child or young person is removed. When delivering a child or young person to a residence as defined by the Act, the warrant should be shown to the person for the time being in charge.

NOTE: Social Workers should not swear complaints and warrants before a Justice who is also a member of our departmental staff. When acting as a J.P. in this capacity s/he is not merely being a reliable witness but should also be convinced of the justification for the proposed action and it would be improper to have a staff member acting as a judge of our complaints. An independent J.P. should be used.

C2.10 Execution Of A Warrant (ref H7.4 re delegation)

Section 101 of the Act provides that, "Any warrant issued under any provision of this Act may be issued or executed at any time of the day or night and may be issued or executed on a Sunday as on any other day." A Judge, Justice, or Registrar who issues a warrant must be satisfied of the reasonable grounds for its issue. If a situation is subsequently found not to necessitate the execution of a warrant the Assistant Director (S.W.) must give his/her approval and the person who issued the warrant must be notified in writing of the reason why the warrant was not executed. Where a Section 28 warrant is not executed the complaint must still be brought before the Court.

By its very nature any warrant under Section 7 should be executed at the earliest possible moment. A warrant to remove a child or young person under Section 28 however may be temporarily thwarted by the absence of the child. Under Section 28(3) a period of 21 days is allowed for the execution of the warrant.

When it is necessary to execute a warrant to uplift children or young persons from a school the Social Worker should be convinced that it is impossible to action the warrant at any other time or place. The main consideration must be what is in the best interests of the child and generally speaking these best interests are not served by drawing unnecessary attention to the child or young person.

However should circumstances dictate that action must be taken at a school the Principal should be warned of the pending action, preferably by a senior officer when such a step is possible. Upon arrival at the school the Social Worker should recognise the need to establish his/her identity and show the legal document (warrant) to the Principal who will then give any assistance required.

Difficulties should never arise when a Social Worker has a good working relationship with schools and is known to teachers and pupils alike. Such a relationship can only be achieved by constant visiting and close co-operative work with the teachers.

C2.11 Police Powers In Respect Of Unaccompanied Children In Public Places (Section 12)

This section of the Act empowers the Police to deliver forthwith to parents or guardians, any unaccompanied children found in a public place, where the children are either, "... associating with known criminals or drug addicts; or where they are ... in an environment which is detrimental to their physical or moral well-being". For the purpose of this section "public place" as defined under Section 2 of the Summary Offences Act 1981, has wide meaning and includes any "... place that at any material time is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place ...".

Where the Police are unable to deliver the child to his/her parents, they may deliver him/her to "... any person who ... is able and willing to care for ... him/her or where they cannot find any of these persons they may "... place the child in the custody of the Director-General by delivering the child to a Social Worker".

Where a child is placed in custody s/he may be held for only three days until either, his/her parents are found, or a complaint is brought before a Children and Young Persons Court.

Section 12(4) as inserted by the Children and Young Persons Amendment Act 1982 gives the Police certain powers in respect of school-age children (i.e. aged not less than 6 years and under 15 years) found in a public place during school hours who cannot give a satisfactory explanation for their absence from school. Police may deliver such a child or young person to the school or the parents and may report the matter to a Social Worker. Such an incident is to be dealt with as a miscellaneous inquiry by the Social Worker.

C2.12 The Grounds For Complaint Action (Sections 27 & 48)

Section 27 allows for any member of the Police or any Social Worker "... who reasonably believes that any child or young person is in need of care, protection, or control ..." to bring a complaint before the Court. The grounds for such reasonable belief are stated in subsection (2) as follows: - "A child or young person shall be in need of care, protection or control within the meaning of this Act if -

- (a) his development is being avoidably prevented or neglected; or
- (b) his physical or mental health, or his emotional state, is being avoidably impaired or neglected; or
- (c) he is being or is likely to be, neglected or ill-treated; or
- (d) his parent or guardian, or the person for the time being having care of him -
 - (i) has failed or is failing to exercise the duty and care of parenthood; or
 - (ii) is unable or unwilling to carry out the duty and care of parenthood, or
- (e) he is exhibiting behaviour which -
 - (i) is beyond the control of his parent or guardian, or the person for the time being having care of him; and
 - (ii) is of such nature and degree as to cause concern for his well-being or his social adjustment or for the public interest; or

- (f) he has behaved in a manner which -
- (i) was beyond the control of his parent or guardian or the person for the time being having care of him; and
 - (ii) was of such nature and degree as to cause concern for his well-being or his social adjustment or for the public interest; or
- (g) his parent or guardian or the person for the time being having care of him is unable to provide, or is failing to provide, adequate training and control; or
- (h) being of school age within the meaning of the Education Act 1964 he is persistently failing to attend school without reasonable cause; or
- (i) being a child of, or over the age of 10 years he has committed an offence or offences the number, nature or magnitude of which indicates that -
 - (1) he is beyond the control of his parent or guardian or the person for the time being having care of him; and
 - (2) it is in the interests of his future social training or in the public interest, that a finding be made in terms of this section of this Act."

Section 48(1) provides a further ground for complaint by Social Workers only, in the case of failure to observe the conditions of a supervision order. The subject of supervision orders is discussed more fully under C8.

Social Workers should seek the guidance of the supervisors where there is any doubt about which paragraph of Section 27 most appropriately fits the circumstances of the particular case. In general the ground chosen should be that which can be supported by the most reliable evidence; however it should also coincide as closely as possible with the real area of concern.

(Note: C2.2 regarding the requirement to report the alleged facts of a complaint to a Children's Board before the matter, in respect of a child, can be heard by the Court.)

C2.13 Procedure In Complaint Cases (ref H7.4 re delegation)

The sequence of events for a complaint case is as follows:-

- obtain your supervisor's approval;
- in the case of a child ensure that Section 27 (2A) is complied with (i.e. prior referral to a Children's Board, refer C2.2);
- arrange a date for the hearing;
- have typed three copies of a complaint and three copies of a summons (see Figs. 4 and 5); and one copy of the 'summary of facts' (ref C3.6);

- have one complaint and two summonses for each parent signed by a Judge, Justice or Registrar;
- serve the original summonses on the parent(s) (ref C2.14);
- lodge the signed complaint and the unsigned duplicate (with the date of swearing inserted) at the Court and at the same time;
- sign the statement of service on the duplicate summonses, then;
- lodge these summonses at the Court also;
- while at the Court confirm date of hearing with Registrar;
- place third copies of complaint and summonses on the personal file noting on the summonses that the complaint has been filed at Court and that the statement of service has been signed.

It should be noted that Form SW 501 "Complaint that Child or Young Person is in need of Care, Protection or Control" and Form SW 662 "Summons to Appear before a Children and Young Person's Court unlike their predecessors, do not have identical top portions and will need to be typed separately.

All parties involved should be named on the one complaint form. Details of the complaint will indicate their alleged culpability. A summons should be issued individually to each party named in the complaint. "Where there is no parent, guardian or other person whose whereabouts are known" the complaint can be made in the name of the child or young person.

By signing the complaint and summons the District Judge, Registrar or Justice is agreeing that the proposed action is justified therefore s/he has a right to know the full circumstances of the case and to ask questions or query the proposed action. The complaint should be filed in the Court as soon as possible.

C2.14 Serving The Summons

The original summons without the statement of service completed should be served by the Social Worker on the person named. In most cases the summons should be delivered to the person named but if s/he refuses to accept it, it is sufficient to bring it to his/her notice. Although this should not be a regular practice the summons can be left with an adult member (i.e. of or over 18 years), of his/her family who is living at his/her place of residence (Summary Proceedings Act S.24(1)(b)), or sent to him/her by acknowledge reply post.

Where the summons has been served, the Social Worker should lodge the duplicate copy at the Court after completing the statement of service section (Fig. 5).

Where the parent or person having custody of the child lives in a remote area, or is particularly recalcitrant, the Police may be asked to serve the summons. When asking them to do so they should be supplied with the original and one copy. The statement of service will then be completed by a Police officer and lodged at the Court. The third copy will be retained for the child or young person's file and noted "Summons served by Police".

In complaint proceedings justice to parents would normally require that both parents be summoned. Even where a custody order exists for one parent only it may be wise for the social worker to summons the non-custodial parent as well since his or her guardianship rights may be affected by the Court's decision.

C2.15 Offences By Parents Or Guardians In Respect Of Children

There are three offences which specifically relate to acts or omissions by parents, guardians, or persons for the time being having the care, in respect of children or young persons. In relation to these offences it should be noted that the Crimes Act 1961 (S.59 "Domestic discipline") provides that -

- "(1) Every parent or person in the place of a parent, and every school master, is justified in using force by way of correction towards any child or pupil under his care, if the force used is reasonable in the circumstances.
- (2) The reasonableness of the force used is a question of fact."

Subsection (2) means it is for the Court to establish, on hearing the evidence, whether or not the force used was reasonable. The offences contained in the Crimes Act define a child as being under 16 years, and provide as follows:

"Duty of parent or guardian to provide necessities (Section 152)

- (1) Everyone who as a parent or person in place of a parent is under a legal duty to provide necessities for any child under the age of sixteen years, being a child in his actual custody, is criminally responsible for omitting without lawful excuse to do so, whether the child is helpless or not, if the death of the child is caused, or if his life is endangered or his health permanently injured by such omission.
- (2) Everyone is liable to imprisonment for a term not exceeding seven years who, without lawful excuse, neglects the duty specified in this section so that the life of the child is endangered or his health permanently injured by such neglect."

"Cruelty to a child (Section 195)

Everyone is liable to imprisonment for a term not exceeding five years who, having the custody, control, or charge of any child under the age of sixteen years, wilfully ill-treats or neglects the child, or wilfully causes or permits the child to be ill-treated, in a manner likely to cause him suffering, actual bodily harm, injury to health, or any mental disorder or disability."

It is interesting to note that the section on "cruelty to a child" has an analogous section in the Children and Young Persons Act 1933 of the United Kingdom. The third offence is provided for by our Children and Young Persons Act 1974 as follows:-

"Offence to leave child without reasonable supervision and care
(Section 9)

- Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who, being a parent or a guardian or a person for the time being having care of a child, leaves that child, without making reasonable provision for the supervision and care of the child for a time which is unreasonable having regard to all the circumstances."

C2.16 Police To Be Advised In Cases Of Ill-Treatment And Neglect
(ref H7.4 re delegation)

In cases of serious neglect or cruelty the Police should be advised unless the Director has good reason for not wishing to do so. Generally speaking the Police should be advised about every case of cruelty or ill-treatment where a child is seriously marked or the Director has doubts about the degree of ill-treatment administered. Directors should encourage close liaison with the Police in these matters, particularly where the offences described above are concerned, and joint investigations should be considered in appropriate cases.

The Children and Young Persons Act provides for an order requiring the Director-General to arrange for any person to whom a complaint is addressed to receive counselling and this may be preferable to an abusing parent being released on Probation. Such an order avoids two Social Workers being involved in one case, where both parent and child require oversight, and it also allows for family casework where this is indicated.

C2.17 Medical Evidence In Ill-Treatment Or Neglect Cases

Whether or not warrant or complaint action is taken, or is likely to be taken, by Social Workers in any case of suspected or actual ill-treatment, the child (or young person) should be examined as soon as possible by a doctor, (regardless of the need for treatment) if the parents, guardians, or person for the time being having responsibility for his/her care, agrees. Where any parent (etc.) refuses to consent to the child being examined, and there are reasonable grounds for believing that the child has been ill-treated, Police assistance should be sought to facilitate the investigation of any incident. It is preferable that any medical examination should be conducted by the doctor who is most familiar with the child's medical history and family background. Where this is not possible in the first instance and another doctor has to complete the examination, the child's own doctor should subsequently be consulted as soon as possible. There may be knowledge which s/he has that is relevant to the incident under investigation, and in any case s/he should be made aware of the incident. Doctors may claim privilege only in respect of evidence given in civil proceedings, so that they may be called upon to give evidence in ill-treatment and neglect cases. The above comments relating to ill-treatment also apply in neglect cases where the neglect is thought to have had some detrimental effect on the child's health, and would include psychosomatic symptoms in the case of emotional disturbance.

C3 PROCEDURE IN COMPLAINT CASES

C3.1 Prosecution Of Complaint Cases: Employment Of Crown Solicitor
(ref H7.4 re delegation)

(a) Initiated by Police:

If the Police charge a young person with an offence or make a complaint under Section 27, Children and Young Persons Act 1974, as amended by Section 7 of the Children and Young Persons Act 1977, against the parents, or persons having custody of a child or young person, the responsibility for prosecuting the case in Court is theirs.

The Social Worker in these circumstances appears in the role of a reporting officer, conveying to the Court information on the home background, behaviour, personality etc., of the child.

(b) Initiated by this department:

If a Social Worker wishes to make a complaint under Section 27 etc., Head Office approval for the employment of the Crown Solicitor should be obtained when it is expected or known that the case will be defended.

Application should be headed 'Employment of Crown Solicitor - attention Legal Section, Head Office'. If the matter is considered urgent, the senior Social Worker should telephone the Office Solicitor, Head Office, and inform him of the situation.

Instructions are issued from Legal Section, Head Office, to the appropriate solicitor direct. Once approval is obtained Crown Solicitor should be consulted on what form the complaint should take, which witnesses should be summoned and the personal file and other relevant papers made available to him.

C3.2 Advising Parents Of Their Rights

Social Workers have a duty to inform natural parents of their rights to counsel, and the advisability of being represented. The possibility of access to legal aid should be conveyed to them. They should also be asked to have their solicitor inform the department if a defence is to be entered.

C3.3 Signed Statement Agreeing To A Guardianship Order

Parents cannot merely by signifying their agreement in writing transfer their guardianship responsibilities to someone else and, except in rare circumstances, should not be asked to sign a statement of consent to a guardianship order. Among the unusual circumstances which might justify such procedure could be when a parent has had little to do with his/her child for a long time and does not feel s/he is in a position to offer help or is obviously unsatisfactory; where s/he does not have physical custody of the child; and where attending the Court would involve him/her in considerable expense and inconvenience to no avail. A statement of the type which might be prepared in such circumstances follows:

I Joseph Raymond RENNER Truck driver, of 16 Cross Street, Lower Hutt hereby agree to the placing of my son, Charles Albert RENNER born on the 14th day of June 1975 under the guardianship of the Director-General of the Department of Social Welfare. The implications of such an order have been explained to me and in particular I understand that, if my son is so placed, the Director-General will be given full legal rights of guardianship which he may exercise to the exclusion of all other persons, and that the Director-General may place him in any institution, foster home, or situation which he believes will be in my son's best interests, that such placement may be made anywhere in New Zealand, and that for such time as my son is a charge on public funds I will be required to contribute to his maintenance at the discretion of the Director-General or the Court.

Signed this 8th day of October 1980

by Joseph Raymond RENNER _____

In the presence of _____

Occupation _____

Address _____

The signed statement should be at the Court attached to the Social Worker's report.

C3.4 Conduct In Court

Although the Children and Young Persons Court is less formal than other Courts, proceedings in it still carry a dignity which Social Workers are expected to preserve. The District Judge should be addressed as 'Sir' or 'Your Honour'. Dress should be suitable, tidy, and acceptable to the presiding District Judge. In making statements in Court, a Social Worker should make sure that s/he can be clearly heard, and if s/he is giving evidence which the District Judge is taking down in longhand, that s/he speaks sufficiently slowly. Even though some formalities can seem pointless or irksome, we have a duty not to prejudice the feeling of the Court against us with the possibility of our effectiveness being reduced.

Children and Young Persons appearing before the Court should in their own interests also be encouraged to present themselves in a similar manner.

C3.5 Persons Seeking Admission To Court

Section 23 of the Children and Young Persons Act 1974 specifically mentions that the child may have a personal representative at the Court hearing. It is envisaged that such a representative might be a minister, a teacher, an adult relative, or a youth group leader for example. Any representative from a social work agency may also attend if s/he has a direct interest in the case. Where any representative of a child or young person or a social work agency wishes to attend a hearing, the Social Worker dealing with the case should establish the representative's authority to be present, and where appropriate, introduce him/her to the Court. Any person other than those with a right to be present (refer C1.6) must gain, either through the Registrar or a Social Worker, the presiding District Judge's permission to attend. It is intended that there should be a good reason for the person to be present.

C3.6 Statement Of Facts Where The Complaint Is Admitted

The Registrar of Court will, when the Court is assembled, read the complaint to the parents and will then ask them if they admit it. If the parents admit the complaint the Social Worker should, when the Judge asks him/her to proceed, state clearly and concisely the facts on which the case is brought before the Court.

This "summary of fact" should be prepared in writing and should briefly convey the facts which led the social worker who laid the complaint to "reasonably believe" that the child (or young person) is in need of care, protection or control. Even if the parent admits to the Court that the child (or young person) is in need of care and protection the complainant must be prepared to present the facts.

This can be done in two ways:

- (a) The parent should be asked sufficient questions to satisfy the Court that the statutory ground relied on has been established.
- (b) The complainant could call evidence (if necessary, hearsay evidence) or make a statement in evidence him/herself.

Where it is the behaviour of the child that gives rise to the complaint the questions aimed at establishing the facts must be asked of the child (or young person); where it is the action of the parent that is complained of then the parent may admit the relevant facts.

It has always been good social work practice to present the factual basis of a complaint by means of a "summary of fact" and a report to the Court even if an admission were indicated. Such summary and report, tendered in evidence, may well satisfy the Court without the need for any further statement or cross-examination. Social Workers, however, must not rely solely on the admission of the complaint itself.

If the facts refer to misconduct of the parents or include critical statements about the child or young person's home (as they often will) it would be advisable, if the District Judge has not already required this, to ask if the child might remain outside the Court when the facts of the case are being presented. The child will, of course, be returned to the courtroom before a supervision or guardianship order is made.

C3.7 Witnesses' Expenses (ref H7.4 re delegation)

Section 102 of the Children and Young Persons Act 1974 gives the Department discretion to pay witnesses' fees to witnesses who attend the Children and Young Persons Court to give evidence for the department, whether they come voluntarily, or are subpoenaed.

The amount paid must be in accordance with the scale set out in the Witnesses' and Interpreters' Fees Regulations (Registrars of Courts will provide current rates).

Authority may be delegated down to SSW 104 to approve witness fees in accordance with the regulations.

C3.8 The District Judge's Decision

If, after considering the evidence, the District Judge decides that the complaint has been proved to his/her satisfaction, s/he may order:

- (a) that the child or young person;
 - be placed under guardianship of the Director-General,
 - be placed under supervision of a Social Worker,
 - forfeit any property.

- (b) that the child or young person or parent or guardian;
 - be admonished,
 - be discharged,
 - be brought before the Court if called upon within 2 years,
 - pay compensation for any loss or damage to property,
 - return any property.

- (c) that the parent or guardian;
 - be required to receive counselling.

These orders are more fully explained in Cl.13. If the complaint is not proved to the satisfaction of the Court it will be dismissed. Providing the basis of the complaint was reasonable a Social Worker should not consider such a decision as a criticism of his/her action and certainly should not consider the decision as a mistake. It is the responsibility of a Social Worker to make a complaint (where justified) but the prerogative of the Court to make a decision on the facts before it. These remarks apply equally when the Court makes any decision other than that recommended.

C4 ACTION PENDING FULL COURT HEARINGC4.1 Custody Following Arrest (Section 43) (ref H7.4 re delegation)

Where a child or young person is arrested the Police may:

- (a) Release the child without bail; or
- (b) Release the young person with or without bail; or
- (c) Deliver the child or young person into the custody of his/her parents or guardian or of any person who has the care of the child or young person or of any other person approved by a member of the Police for the purpose.

If none of the above is practicable or desirable the Police shall within 24 hours of the arrest place the child or young person in the custody of the Director-General:

- (a) By delivering the child or young person to a Social Worker; and
- (b) By presenting to the Social Worker on the prescribed form (see Fig. 7):
 - (i) Identifying details;
 - (ii) Circumstances of the arrest;
 - (iii) Date and time of the intended appearance before the Court.

However, a young person may be detained in Police custody for longer than 24 hours and until appearance before the Court provided a senior Social Worker and a senior sergeant or a commissioned officer of the Police have issued a joint certificate (see Fig. 6) that (a) the young person is likely to abscond or be violent and (b) that suitable facilities for the detention of that young person are not available to the Director-General in the locality in which the young person is detained.

To comply with Section 43(4) the senior Social Worker who signed the joint certificate shall report by memo to the Regional Director within three days after the day on which the certificate is issued.

C4.2 Authority To Detain A Child Or Young Person In Custody

If a child or young person has been placed in the custody of the Director-General following arrest then the placement is sufficient authority for the detention of the child or young person by a Social Worker in a residence under the Act, or under the care of any suitable person approved by a Social Worker until the subsequent Court appearance but not for longer than three days following the day of arrest.

The Court may, at any time and from time to time before the charge or complaint is determined, order that the child or young person be held in custody pending the disposal of the charge or complaint subject to the conditions set out in Section 43 (6-8) of the Act. The Act limits Police custody in this case to a maximum of 24 hours unless the Court has specifically ordered that the child or young person may be held in Police custody.

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C4.3 Definition Of A "Residence" (Section 2)

For the purpose of the Act, a "Residence means any institution, Family Home, group home, cottage home, foster home, or other premises, approved or recognised for the time being by the Director-General as a place of care and treatment for the purpose of this Act; and includes any place of care or treatment, so approved, whether administered by the Crown or not and a home registered ..." under the Act, but does not include a penal institution; psychiatric hospital or a house or other place authorised under the Mental Health Act; or a Children's Health Camp.

C4.4 Detention In A Residence On Warrant (Sections 7 & 28)

A warrant issued under either Section 7 or Section 28, "... shall be sufficient authority for the person for the time being in charge of any residence in which a child or young person to whom it relates is placed, to hold the child or young person in the residence ...". It is sufficient that the person in charge of the residence at the time of admission signs the warrant.

In the case of a warrant to search and remove under Section 7 the time limit on the authority to hold is three days. Within this time a complaint must be made, and a Court (not restricted to the Children and Young Persons Court) direction must be obtained if the child or young person is to be detained for any longer period.

Where a warrant to remove under Section 28 is executed, the limit of the authority is 7 days within which time the child or young person must be brought before a Children and Young Persons Court, and a direction may then be given as to the custody of the child.

C4.5 Detention In A Residence Other Than On Warrant (Sections 8, 12, 43 and 103A)

There are four separate provisions in the Children and Young Persons Act which relate to detention in a residence other than on warrant:

- a) Under Section 8, which empowers the Police to search for and remove a child without warrant, a member of Police may place a child or young person "... in a residence as if authorised to do so under Section 7 of this Act". Section 7 provides that the child or young person may be placed there beyond a period of three days if a complaint is made, and, "A Court presided over by a Judge or a Justice directs that the child or young person be held in custody pending the hearing of the complaint".
- b) Under Section 12 where an unaccompanied child (does not apply to young persons) is found in a public place, the Police, if they cannot find his/her parents or guardians or other person who has care, may
 - (i) deliver him/her to any person able and willing to care for him/her; or
 - (ii) place him/her in the custody of the Director-General by delivering him/her to a Social Worker

Such placement is deemed to be "... sufficient authority for the detention of the child by a Social Worker or in a residence ... until:

- a parent or guardian or person having the care of the child is found; or
 - the child is made the subject of a complaint under Section 27 of this Act and is brought before a Children and Young Persons Court so that the Court may determine whether he is to be held in custody pending the disposal of the complaint; or
 - the expiry of three days after the day on which the child was detained ... - whichever first occurs."
- c) Where a child is arrested and is placed in the custody of the Director-General under Section 43(5) of the Act, subsection (6) provides that such placement "... shall be sufficient authority for the detention of the child by a Social Worker or in a residence under this Act until:-
- The child is made the subject of a complaint under Section 27 of this Act and is brought before a Children and Young Persons Court so that the Court may determine whether he is to be held in custody pending the disposal of the complaint; or
 - the expiry of a period of three days after the day on which the child was arrested - whichever first occurs.
- d) Section 103A (inserted by the Children and Young Persons Amendment Act 1977) gives authority for a child or young person serving a sentence of imprisonment to be detained in any residence under the Children and Young Persons Act with the concurrence of the Minister of Justice.

It will be noted that the provisions (b) and (c), only apply to children, there being no similar provisions for young persons. Where a child or young person is placed in a residence or a child is delivered to a Social Worker the member of Police concerned should be asked to identify himself/herself and to specify the section under the Act which authorises the placement or delivery.

C4.6 Use Of Terms Adjournment, Remand And Postponement

The terms adjournment and remand are often confused and the introduction of the postponement provisions in the Children and Young Persons Act 1974 makes it even more important, for the sake of accurate notification and recording, that some direction as to the use of these terms is given. Section 31(3) and 36(6) of the Act provide for the Court to make an order postponing its final consideration where it does not make a full and final decision "in the first instance". This provision is dealt with under Cl.15. The critical point in proceedings then is "the first instance" for once this point is reached it seems that the Court must finally consider the matter before it and can only then make an order postponing decisions. An adequate description of "the first instance" seems to be outlined in Section 41(3) of the Act, which says in effect, that before the Court can make any decision it must find that the charge

or complaint is proved (i.e. by admission or the hearing of evidence) and have before it a full report from a Social Worker. The first instance may be defined as commencing when the child or young person makes an initial appearance and terminating when the proceedings are proven and (where applicable) a Social Worker's report is available. Any adjournments during this time are extensions of the first instance. Although reference to adjournments is not made in the Children and Young Persons Act, Section 99 provides that parts of the Summary Proceedings Act 1957 shall apply in the Children and Young Persons Courts. Section 45(1) of the Summary Proceedings Act applies, and it states that "The hearing of any charge may from time to time be adjourned by the Court to a time and place then appointed." Adjournments relate to hearings only and tell us nothing about custody. In the Summary Proceedings Act the word remand is used only in relation to the custody of the defendant.

Judges will of course continue to refer to remands, as they are accustomed to doing in relation to criminal charges, however for the purpose of our notifications and decision it will be sufficient to note that the hearing is adjourned, owing to the fact that we have an elaborate system of status terms to describe the custody situations of children and young persons. If the term remand were used for official purposes we would have to differentiate between the various situations to which it relates so that it was only used in appropriate cases and this would create needless confusion.

C4.7 Custody Where Complaints Are Adjourned

Subsection (1) of Section 43 states that, "Where any child or young person who is the subject of a complaint ... (including complaints made following the arrest of a child) ... appears before a Children and Young Persons Court presided over by a Judge or a Justice ... that Court may, at any time and from time to time before the complaint is determined, direct that the child or young person be held in custody pending the disposal of the complaint if, in the opinion of the Court -

- The child or young person is likely to abscond; or
- The child or young person is in need of care protection and control for the period of custody; or
- It is desirable in the interests of the child or young person that he be held in custody.

Subsection (2) of Section 43 gives the Court, presided over by either a Judge or a Justice, or the High Court the power to, "... from time to time review any direction given under subsection (1) of this section."

Social Workers have an important role to play in ensuring that the Court has before it all the information available, at the time directions are made about custody. If necessary they should seek a review where circumstances change or new information comes to hand, indicating a need for new directions. Particular care should be taken to see that any error in the reported age of a child or young person is drawn to the attention of the Assistant Director (Social Work) who can then ensure that the Court is made aware of the true position.

C4.8 Custody Where Charges Are Adjourned

Section 46 of the Summary Proceedings Act 1957 provides that "Whenever any hearing is adjourned then in any case where the defendant is liable on conviction to a sentence of imprisonment or where the defendant has been arrested, the Court or Justice, as the case may be, may allow the defendant to go at large or may, subject to the provisions of Section 319 of the Crimes Act 1961 ... (Rules as to granting bail) ... and of Section 47 of the Criminal Justice Act 1954, remand him in custody for the period or the adjournment." The special provisions of Section 47 of the Criminal Justice Act are set out below.

C4.9 Detention Of Young Persons In A Penal Institution

Section 8 of the Criminal Justice Act 1985 states that no court shall impose a sentence of imprisonment on a person who at the time of the conviction is under the age of 16 years except for a purely indictable offence.

A 'purely indictable offence' refers to the more serious offences such as murder/manslaughter, rape, arson and aggravated robbery. The legal definition is rather complex and social workers should in particular instances consult with counsel or with the Court registrar to establish whether an offence comes within the definition of 'purely indictable'. In general they are offences punishable by imprisonment of more than 10 years.

Section 142 of the Criminal Justice Act 1985 provides that persons under the age of 16 years shall not be remanded to a penal institution irrespective of any charge. The same section allows for 16 year olds to be remanded to a penal institution only if charged or convicted of a purely indictable offence. This section further provides for the court to remand a person over 17 years of age but under the age of 20 years to the custody of the Director-General of Social Welfare if in its opinion it is desirable to do so by reason of special circumstances. The Court must also be satisfied that the Director-General is able and willing to keep the person in custody according to this section. Where such a person is remanded in the custody of the Director-General of Social Welfare, that person may, until he or she is brought up for trial or sentence, be placed in any institution under the Children and Young Persons Act 1974, or under the care of any suitable person pursuant to that Act.

Section 68 of the Criminal Justice Act 1985 limits corrective training sentence to persons not less than 16 years of age and under 20 years.

Only in quite rare circumstances should social workers initiate or support submissions for a remand in penal custody from the Children and Young Persons Court and such a submission is only possible in respect of young persons 16 years of age who face charges on 'purely indictable offences'.

On the rare occasions when the Court would consider remanding a person between the age of 17 and 20 years in Social Welfare custody (by reason of special circumstances) a social work will be asked by the court whether the Department would meet such a request. The normal procedures for admission approval would apply but a decision must not be delayed unnecessarily in order to comply with documentation requirements. Unless

the request has been anticipated a short adjournment for consultation may be necessary and should be requested.

If any young person remanded to a departmental institution becomes a major management problem to the extent that alternative custody arrangements are considered desirable, the Social Worker, at the request of the Principal, should bring the matter back to the Court for direction.

Any decision by a departmental officer to seek, or support the remand of a young person to a penal institution is to be carefully documented for the young person's personal file. Each office must have a system for recording and monitoring these decisions.

Where a young person is before the Court and the Judge would grant bail if funds were available to permit paid community placement instead of a remand in prison, social workers are to advise the Court that such finance is available for the remand period. This can be arranged by way of special board coupon on a temporary admission basis. This does not apply to situations where young persons have sufficient funds of their own (whether by being employed or in receipt of a benefit), or where the alternative of remand in prison is not being considered.

All Districts who have a penal institution within their boundaries where young persons may be held on remand are required to have a social worker or senior social worker specially nominated to liaise with the Superintendent of the institution concerned, to ensure that Districts become aware immediately of any under seventeen year old being admitted to the institution, and to ensure that all necessary steps are taken to provide for their needs, including the supply of clean clothing.

Where the young person is a ward, social workers should make every effort to visit him whether or not members of his family are also visiting.

C4.10 Detention In A Residence Where Hearing Adjourned

- (a) In the case of a complaint subsection (3) of Section 43 provides that a direction by a Judge, or a Justice, that a child or young person be held in custody pending the disposal of a complaint (that is, before either a final decision is made or a postponement order is made) "... is sufficient authority for the detention of a child or young person in a residence under this Act or by a Social Worker ...".
- (b) In the case of a charge Section 47(2) of the Criminal Justice Act 1954 provides that where any young person is placed in the custody of the Director-General, by any Court, he "... may, until he is brought up for trial or sentence, be placed in any ..." residence.

The above provision in Section 47(2) also applies to any person who is 17 years of age or who appears to be under the age of 21 years. Section 47(1) of the Criminal Justice Act 1954 states that such persons may be placed in the custody of the Director-General, where, in the opinion of the Court "... it is desirable to do so by reason of special circumstances, and if it is satisfied that the Director-General is able and willing to keep him in custody ...". Directors have delegated authority to consult with the Court on this matter. Procedures relating to admissions to "residences" are included under the parts of this manual dealing with residential care and foster care.

The term 'residence' applies equally to an approved foster home or any other community placement, including an approved placement with relatives (see C4.3). A considerable proportion of placements in the Director-General's custody do not require the use of institutional facilities and particularly first offenders are often more appropriately placed elsewhere. Where possible Social Workers should indicate to the Court what type of placement during remand is envisaged, keeping in mind the needs of the child/young person as well as the interests of the community. Close liaison with the Police will be necessary when making such community placements to ensure that the rationale of the placement is understood. In some cases a higher board rate may be justified when a community placement on remand is made and an urgent telephone recommendation to Head Office for approval of higher board rate may be appropriate in special cases.

C4.11 Detention By The Police Where A Complaint Hearing Is Adjourned
(Section 43(3))

Section 43(3) provides that where the Court directs that a child or young person be held in custody pending the disposal of a complaint s/he "... shall not be held, by virtue of any such direction, in the custody of any member of the Police for more than 24 hours at any one time unless the Court has specifically directed that a child or young person be held in Police custody."

Where the order is Social Welfare custody, it would be unlawful for the young person to be held in Police custody at all. Only in essential cases should Social Workers request that the Court order Police custody, as in most cases every effort should be made to meet the situation from our own resources within the community.

C4.12 Medical Examinations Of Children And Young Persons Temporarily In Care

All children and young persons taken on warrant, arrested or otherwise placed in the custody of the Director-General should receive a medical examination as soon as possible after coming into care. Such examinations should usually include those children and young persons who have already been examined in respect of ill-treatment or neglect. Doctors normally only report on a specified area, i.e. in this case signs of ill-treatment, therefore a more thorough examination is still desirable. Medical examinations are considered important:

- for the child or young person because of any health problem which may affect his/her ability to participate in any aspect of life, can be diagnosed before any damage is done; and
- for the department because a comprehensive statement on the health of the child or young person is then available if at a later stage anyone queries our treatment or care of the child or young person. (See also N2.5 and N11.)

C4.13 Financial And Other Aspects Of Temporary Care

When a child or young person has been taken on warrant or is held in Social Welfare custody prior to or following an initial Court hearing, s/he is regarded in many ways as a Ward and the instructions elsewhere in this manual concerning such matters as:

- the payment of board;
- purchase of essential clothing;
- arrangements for medical and dental attention

should be followed. A child or young person on warrant or held temporarily in Social Welfare custody would not be provided with more than his/her essential clothing needs.

C4.14 Notification Of Complaint Or Charge

Section 41 (C. & Y.P. Act 1974) states that it is the duty of the Police to inform the nearest Director of Social Welfare of the subject matter of all charges and complaints in respect of children and young persons, and the dates set down for hearing. The reason is to afford a Social Worker the opportunity to make inquiries and prepare a report for the Judge before the hearing.

Occasionally the Police may not notify us in advance of a child or young person's appearance. For example, there may be some confusion about a young person's age with him/her being initially referred to the wrong Court or it may be simply that notification is inadvertently overlooked.

C4.15 Action Taken With Notification When It Is Received

Notification of pending Court proceedings are treated in the same manner as any other in-coming mail, whether posted or delivered personally. They are:-

- date stamped;
- checked with the master index to determine whether the child or young person is known to the district office;
- placed on a file; and
- sent to the appropriate senior staff.

In all offices a record should be kept of all notifications received and adjournments made and whether Social Worker's reports are required by the Judge. This provides a safeguard against a case being overlooked.

C4.16 Social Workers' Reports For The Children and Young Persons Courts

Reports are mandatory in complaint cases or where the Court proposes to make a Guardianship or Supervision Order. In all other cases the Judge may exercise his/her discretion to request a Social Worker's report before making a decision (Section 41, Children and Young Persons Act). Where a report is neither mandatory nor requested by the Judge the Social Worker may choose to provide the Court with a report on his/her own initiative in which case the Court is required to consider the report (see B5.5 for statistical requirements). This will be of particular assistance to the Court where the Social Worker has special knowledge of the child or young person.

Prior to the enactment of Section 9 of the Children and Young Persons Amendment Act 1982 practically all Court appearances required a report. It was felt however that a Social Worker's assistance to the Court could be improved by directing the available resources to those cases where a report would be most helpful. Initial opponents of the amendment were generally persuaded by the argument that Social Workers provide a better service by exercising this option at their own discretion.

In deciding whether or not to provide an optional report the Social Worker will carefully consider all available information and any comments which may be obtained from teaching staff or other professionals with a knowledge of the family. Whether the charge is trivial is not in itself the decisive factor. More important is any indication that there are underlying problems of which the Court should be aware and which may require family support measures. Only by carefully exercising judgement in every case will the Social Worker be able to justify the decision whether or not to report. This decision must be approved by the Social Worker's supervisor and the justification for the decision must be recorded on the SW 512.

C4.17 Preliminary Inquiries

Before the Social Worker visits the home other sources of information should be explored. Often there will be a file for the child or for another member of the family from which information can be obtained to save asking unnecessary questions. If the child already has a file the notification will have come to the Social Worker on that file. If the child's family has a file the clerical staff will supply the Social Worker with that file together with the new file and will also note on the cover sheet of the latter that a family file exists. Where it is probable that another social work agency has had dealings with the child, Social Workers should check with this agency. For example, if a visiting teacher saw the child at some time s/he could be consulted. It is also desirable that the case be discussed briefly with the Police, if this is possible, before visiting the home.

C4.18 Conducting The Inquiry

Interviewing and casework techniques receive general treatment in Part C5 of this manual. Social Workers are particularly referred to paragraphs C4.9, C5.6 - C5.9, C5.17 - C5.19. Only a few points will be stressed here. It is necessary to establish, first of all, that the right person is being interviewed (e.g. not an aunt who is staying in the house, in mistake for the child's mother). It is desirable, but not always possible, to interview both parents when conducting a Court inquiry. Whenever possible the child or young person should be interviewed on his/her own. While considerable detail is required in completing a Court inquiry the Social Worker should bear in mind that form-filling is not the essence of the inquiry and that it is better to omit some relatively unimportant question than unnecessarily threaten the formation of a good Social Worker/client relationship. A report should be as comprehensive as possible but this does not mean that every question, because it is included in the guide, must be answered.

In country districts, particularly, a visit to the Honorary Social Worker, Community Officer of the Department of Maori Affairs, or Policeman usually provides useful information regarding the standing of the family in the local community.

C4.19 Parents Refusing Information

At times parents may refuse to co-operate with the Social Worker who is preparing a report for the Court. Where the complaint or charge is denied it may be appropriate to postpone the preparation of the report until the Court has found the charge/complaint proven. If the Social Worker wishes to indicate to the Court that a visit has been made to the home but the parent or guardian has declined to provide information because of an intention to deny the charge/complaint it would be in order to do so by way of a preliminary report.

Once the charge has been proven or the complaint upheld the Social Worker will need to proceed with the preparation of the report irrespective of the parents' co-operation. While it is necessary to avoid co-operation under duress parents should be made aware of the inevitability of a report being submitted to the Court whether they co-operate or not.

C4.20 Availability And Use Of Interpreters

Occasionally the persons to be interviewed regarding the Court proceedings have difficulty in speaking or understanding English. There are some Maori and many Island families in this category as well as people of other nationalities. In such instances the services of a Community Officer, a Maori Land Court interpreter or some other officer of the Department of Maori Affairs can normally be obtained. Immigrants may also experience difficulty with the English language. These people usually live in the main cities where the Court through the Department of Internal Affairs will be able to offer the services of interpreters or indicate where they can be obtained. However, it is vital that these persons understand the nature of the proceedings and a Social Worker should take all reasonable steps to safeguard this right for them, especially where they are the subject of a complaint under Section 27, Children and Young Persons Act 1974.

C4.21 Engaging Counsel

Every person involved in Court proceedings is entitled to engage counsel and a Social Worker must make no attempt to dissuade a client from this intention. Parents will sometimes ask if they should engage counsel. It is in such circumstances our duty to inform them that they have the right to do so but it would not be proper or wise for us to recommend for or against. It often happens that a parent will ask us to recommend a solicitor to them. Again it would not be either proper or wise to do this, but the parent could be referred to the 'yellow pages' in the telephone directory or to the Registrar of the local District Court who will hold a list of legal practitioners in the area. (Refer also C1.9 which relates to the Court's power to appoint counsel regardless of the parties wishes or their means.)

In cases where hardship would preclude the engaging of counsel the parent or young person should be advised that they can:-

- in the case of a complaint - make application through a solicitor of their own choice for free legal aid under Section 15(1)(b) of the Legal Aid Act 1969, (as provided by S.106 of the Children and Young Persons Act);
- in the case of a charge - make application to the Court for similar assistance, but under the terms of the Offenders Legal Aid Act 1954.

Duty solicitors who act in the capacity of legal referral agents to people involved in Court proceedings are available in the main centres. Parents and young persons may prefer to approach the duty solicitor in the first instance.

C4.22 The Question Of Innocence Or Guilt

In reporting to the Court when a Police charge has been laid a Social Worker is not primarily concerned with the offence. The circumstances and significance of the offence for the young person are certainly of importance and it is inevitable that by the time the inquiry is completed a good deal of detail about the offence from the viewpoint of the young person and his/her parents will be known. Nevertheless, to prove or disprove the offence is the concern of the Police, and Social Workers should avoid becoming engrossed with the actual offence to the possible detriment of the chief task of preparing the report which is to give the Judge some knowledge of the young persons personality, home circumstances, etc. There will be cases, however, where a Social Worker feels that the investigations have brought to light some information apparently not known to the Police which may suggest that the young person has been wrongly charged. It is necessary to tread warily in making any comment on this situation as there may well be another side to the story. In cases where some mistake seems to have been made the matter could be discussed discreetly with a senior police officer.

In another case a young person or his/her parents may consider that s/he has been unjustly implicated in an offence. A young person charged jointly with other young persons (e.g. with breaking and entering or theft) may feel unfairly treated as s/he may have been an unwilling partner in the affair. Although legally responsible the young person may be morally innocent (of the charge). The young person's, and the parent's point of view can be incorporated in the report together with any information supplied by anyone else other (e.g. a Headmaster) which has contributed to our knowledge of the case. Thus while the report may include some material which may have some indirect bearing on the question of guilt or innocence it is definitely not the prerogative of a Social Worker to pass judgement on this matter.

Section 29(2)(b) of the Act requires, in relation to an offence related complaint under Section 27(2)(i), that the Court shall not find any such complaint to be proved unless "The Court is satisfied that the child either knew that the act or omission was wrong or that it was contrary to law." This paragraph relates to Section 21 and 22 of the Crimes Act 1961 as discussed in Cl.2 and Cl.11. In most instances we would expect that the child in this situation would have at least a vague notion that his/her action was wrong though there could be genuine exceptions. In reporting to the Court a Social Worker could mention the existence of such a situation in discussing the child's attitudes.

C4.23 Giving Information To Institutions And Foster Parents

Where any child or young person is admitted to a foster home, Family Home, private institution or departmental institution as a result of proceedings under this Act we have a responsibility to supply the person in charge, as soon as possible, with all the relevant information that is available on the circumstances of the child or young person and any proposed plans for them. The nature of the information supplied and the way in which it is conveyed will vary depending on the function and the person in charge of the particular placement.

Where s/he is admitted to one of our institutions (i.e. a Boys Home, Kingslea, etc.), the Social Worker responsible for liaison with the institution should supply the person in charge with a photocopy of the Case Record relating to the child or young person at the time of, or as soon as possible after, admission. Copies of any Social Worker's report or other relevant reports, (e.g. psychologist's), should be forwarded as soon as they become available.

Information to foster parents and managers of private institutions should either be given verbally or in a specially written letter. Care should be taken in handling confidential information especially where the people concerned are not departmental employees. However the management of a child or young person in care is made easier if the person having responsibility for his/her care has a knowledge of his/her background and any future proposals for him/her and is therefore able to have appropriate responses to the child's/young persons's needs.

C4.24 Accepting Children And Young Persons Into Temporary Care (ref H7.4 re delegation)

Sections 43, 7(3)(b), 8(1) and 12(2)(b) all allow the Police to deliver children and young persons into the care of the department. Action taken under these sections is usually of an emergency nature and the need for ease of access to our institutions and Family Homes is important. However, the Police have written direction that they must approach the local Assistant Director (S.W.) as to where they may place the child or young person in each instance. Responsibility to arrange a suitable placement may be delegated down to SSW 104. When admitting the child or young person to care the Police officer must clearly identify the section of the Act under which s/he has taken action.

C5 SOCIAL WORKER'S REPORTC5.1 When Reports Are Required (Section 41(3))

Section 41 of the Children and Young Persons Act as amended in 1982 makes it mandatory for the Court to consider a full report from a Social Worker in complaint cases or where the Court proposes to make a Guardianship or Supervision order. In other cases the Judge may request a report or a Social Worker may take the initiative in furnishing a report. (See C4.16.)

The Act also requires that "reasonable time shall be allowed to enable the Social Worker to furnish a report and the Court shall consider any report furnished by the Social Worker."

It would be expected that at least one week's notice should be given of the date of hearing of every case which requires a report. Some cases will need longer because of delays in obtaining information, e.g. from another district. Social Workers must, however, prepare reports for the Court without delay.

Any Social Worker, Principal or Head Teacher who supplies a report under this section shall not be under any civil or criminal liability in respect thereof, unless s/he has acted in bad faith or without reasonable care (S.41(5A)).

C5.2 Access To The Report (Section 42)

Section 42 states that any report furnished under subsection (3) or (5) of Section 41 of the Act, "shall be shown to the parent of the child or young person and to any solicitor or counsel appearing for the child/young person or parent, and the Court may order that a copy be shown to the child or young person."

Subsection (5) of Section 42 states that, "Notwithstanding anything in subsection (1) the Court may order that any report made available to a solicitor or to counsel under this section be not given or shown to the person for whom he is acting." By implication this can be interpreted as meaning that the Court, in its discretion, may exclude a parent from being shown the Social Worker's report, and that in order to exercise this discretion the Court must be given the opportunity to see the reports before the solicitors do. At the same time there is the view based on a past decision of the Chief Justice, that Social Workers' reports should not be read by the Judge until the matter before the Court has been admitted or proven.

In order to arrive at a practical solution to this apparent conflict while also observing the general principle of justice that legal counsel should have an opportunity of knowing all available information on his/her client which comes before the Court, the following guidelines must be observed:

- (a) Social Workers reports should be freely available to all solicitors representing an interest in the subject of the report (This includes duty solicitors).

- (b) The reports should be available on request at any time after final completion (not necessarily after the report has been lodged in Court).
- (c) Social Workers who consider that the report may contain factually correct but potentially harmful information such as that which may seriously effect the mental health or personal relationships of the client must advise the Court as soon as possible by memorandum attached to the report recommending an order that the report not be disclosed to the client and substantiating the reasons for the request.
- (d) Where such an attachment to the report exists any solicitor seeking access to the report needs to be advised of the possible embargo by the Court and of the reasons for it. The solicitor, however, should have access, provided it is made clear to him that his client is meanwhile barred from learning about the contents of the report until the matter has been considered by the Court.

Section 42(2) allows for the Court to tell the child or young person the substance of any portion of the report which has a bearing on his/her character or conduct. Where a report is shown to a child or a young person, following a direction by the Court, (and Social Workers could suggest this to the Court) a Social Worker should supervise the reading and be available to explain any of the content.

It will not be necessary for the Social Worker who prepared the report to attend the hearing for the sole purpose of showing the report, as in most cases Courts will be prepared to adjourn or stand down any proceedings where it wishes to call a Social Worker as a witness in relation to the report. A duty Social Worker may be given the responsibility of supervising the reading of the reports as required by the Court. A report should not be left with a parent unless they undertake not to show it to the child or young person, and to return it before they leave the Court. As a general rule reports should be shown at a time and in circumstances which allow the reader to carefully consider the content of the report.

Any attachment to the Social Worker's report (e.g. a school report) is to be regarded as forming a part of the substantive report and must be shown as required by the Act, unless the Court directs otherwise.

C5.2A Psychiatric Reports

The Judge may order a psychiatric report on any child/young person for whom proceedings under Section 27 or 34 are in progress. The adjournment, remand, or release on bail is limited to 14 days.

If a psychiatric report available to the Judge or a medical practitioner certifies that a psychiatric report is necessary, the Judge may make an order detaining the child/young person in psychiatric hospital so that an examination may be carried out. The maximum period of the order is 14

days, but if the examination is completed before the order expires, the child/young person may be released, or returned to Social Welfare custody once the hospital authorities certify in writing that the assessment is complete.

Where the Judge has ordered a psychiatric report, s/he must consider the report before finding a charge or complaint proved, or as the case may be, make an order under Section 31 or 36.

The report obtained is available to the persons listed in C5.2.

Treatment while in a psychiatric hospital under such an order may be provided if the young person being 16 years or over agrees, or in the case of younger children/young persons, the parent or guardian (not being the Director-General) agrees, or the Director-General if none of the former can be traced. (See also C7.)

C5.3 Evidence In Rebuttal Of Report (Section 42)

Subsection (3) provides that, "The child or young person or parent, directly or through his solicitor or counsel, shall have the right to tender evidence in rebuttal of any matter referred to in the Social Worker's report and brought to his attention through being given access to the report or being told of its contents."

The Social Worker making the report may, under subsection (4), be called as a witness by the Court, "... if it thinks fit, of its own motion or at the request of any parent, child, or young person or their solicitor or counsel...".

(N.B. Any reference to parent in Section 42 includes a guardian or other person having the care of the child or young person).

This provision implies that care should be taken to ensure that the statements reported are as accurate as possible and that any opinions expressed are well substantiated and suitably phrased. This means that information in a report should be checked wherever possible.

Where a parent does take up his/her right of rebuttal a Social Worker may cross-examine that parent on the evidence s/he presents. This means that the Social Worker should be prepared. S/he should have some knowledge of the law of evidence and how to conduct cross-examinations.

In acting as a witness to any statement in his/her report the Social Worker should endeavour accurately and objectively to defend his/her stand but at no time should s/he become defensive or upset over any turn of events. The purpose is to enable the Court to establish facts.

C5.4 One Report Only Where Several Children Of A Family Involved

Where two or more children appear before the Court (e.g. a complaint relating to all the children in a family), much repetition can be saved by preparing one report, to include the details which are common to all

the children. Details which apply specifically to any one of the children could be entered alongside a subheading of that child's christian name. Separate Case Records for each child will be required, as well as any extra copies of the Social Worker's report for any personal files which are established for any of the children.

C5.5 Number Of Copies To Be Prepared

The following number of copies should be prepared for all Court cases:

- 1 White original copy for the Court.
- 1 White copy for the parents or their solicitor to read. (This copy is to be recovered after the hearing and filed on a Court record file at district office.)
- 1 Blue copy for the personal file plus any extra copies where several members of a family are involved and there is more than one file. A copy of the Case Record also goes on the personal file(s).
- 1 Yellow copy for Head Office.
- 1 White copy for the Probation Service where the recommendation is that the young person be ordered before the District Court.

C5.6 Interviewing Method

The desirability of completing a standardised form of report should not be allowed to set the structure of the interview. Whether or not the form of report is used as an aid to memory for an interview, it is seldom wise for a Social Worker to follow its pattern strictly as s/he may well miss highly significant pauses, gaps, or points in the story if s/he treats the interview as an opportunity to administer a questionnaire. Most people need little encouragement in telling their own story in a way which is meaningful to themselves. This usually provides all the information needed to complete a report but where necessary further details can be obtained later by tactful questioning. However, at an initial interview it is better to leave even a relatively important question unasked rather than endanger future casework. Social Workers need to exercise discretion as to when and how certain information is to be obtained.

C5.7 Reporting Past Events In Development

The Social worker should attempt to gauge in interview, and portray in his/her report, not only what the pattern of a child's life has been but how much past events have meant to the child and how much s/he is aware of them. For example, it may provide useful information to state that a child was adopted but if nothing further is stated many important questions may be left unanswered. There are obviously limits on the extent to which Social Workers can probe into the past on first investigating a case but if important factors are discovered they should be commented on even if only to give a few facts and the statement that full particulars are not known. This provides a more satisfactory report for the purposes of a Judge, psychologist, psychiatrist, or another Social Worker who is taking on the case than no information on the matter.

C5.8 Need To Avoid Value Judgements

In more subjective matters, e.g. personal relationships, evidence of emotional disturbance, etc., a situation should not be described as abnormal unless there is fairly clear evidence to support this description. Similarly, emotive language should be avoided. One example to illustrate a point is better than a string of adjectives.

If examined in the Court as a witness a Social Worker could be required to justify any emotive comments or judgements used in his/her report.

C5.9 Discrepancy In Birth Date

A discrepancy of a year, for example, which does sometimes occur, can be extremely important if one is considering intelligence, school progress, or school exemption, etc. If it is found that the school has the wrong date of birth on its records, or has just made a typing mistake, the Social Worker should endorse the school report 'incorrect' and his/her own report 'verified' if s/he has been able to obtain reliable verification.

C5.10 Signing And Dating Of Social Worker's Report

A Social Worker of the department reporting to the Children and Young Persons Court can do so only in one capacity, i.e. as a Social Worker. Other designations such as Director, Senior Social Worker, or Principal are not recognised in the statute, they are domestic terms for use elsewhere than in the Court. The person writing and presenting the report should sign it in his or her own name. The Social Worker who is

the author of the report and signs at the foot of the narrative section may in fact not be the same Social Worker who represent the department at the Court and who notes the Court decisions on the Case Record. The person who signs the report is however the one who is examined on it.

The date entered at the foot of the narrative section should be the date on which the report is completed.

C5.11 Use Of Report For Other Than Court Purposes

In addition to Children and Young Persons Court appearances the standard form of report should be used with minor modifications (e.g. "Presenting problems" could replace "Charge/Complaint") in the following cases:-

- Supportive Service;
- Section 11 Agreement;
- Report on a child (e.g. a Ward) who is to be examined by a psychologist or psychiatrist and for whom no comprehensive report has recently been prepared.

C5.12 Interim Reports

It will not always be possible for a Social Worker to prepare a full report in time for the Court hearing. When a delay is unavoidable an

interim report should be sent with a recommendation that the hearing be adjourned until such time as a full report can be submitted. Such a report should be headed -

"Interim Report on Aged"

and should contain brief details of the charge or complaint, and the reason for requesting the adjournment.

However, Social Workers should avoid wherever possible the use of interim reports. It is easy to establish a habit of always delaying the writing of a full report for a variety of reasons. Such reasons should be carefully considered and except in those cases where it is in fact impossible to complete reports for the Court hearing, interim reports should be avoided. Always take into account the effect on the person on whom the report is being written if an adjournment is being requested. Senior Social Workers responsible for casework supervision are to endeavour to keep interim reports being prepared to an irreducible minimum. Wherever possible a case should be concluded at the first hearing.

C5.13 Supplementary Reports To The Court

There are two kinds of reports which may supplement a Social Worker's report according to the particular circumstances. Any supplementary reports should be attached to the full Social Worker's report on which the final and any intermediary decisions are to be recorded.

a. A supplementary report will be needed to inform the Judge of any findings or changes which have occurred during the period of a postponement order and to recommend on the final decision. A supplementary report will also be required in most instances where an extension of a postponement order is sort. Where a new charge or complaint is brought against a child or young person before the previous one has reached the stage of a final decision and the two charges/complaints are to be heard at the same time, a supplementary report should be prepared giving full details of the new charge/complaint along with brief details of the original one and a recommendation to cover both. Such reports should take a similar form to that of the interim report (refer C5.12) except that it should be headed thus -

"Supplementary Report on Aged
(To be read in conjunction with report dated)"

b. The supplementary report may be used, unless circumstances have changed considerably or a Judge insists on a new report, when a child or young person reappears on a new charge/complaint before the same C. & Y.P. Court within a short period. As a general rule the Court should not be referred to a report prepared more than six months before the present appearance. It is important that in all cases where a supplementary report is used, a copy of the original report be attached to the supplementary for the information of the Court. It can not be expected that the Court will resurrect old reports.

With the new provision which allows parents, counsel and in some instances children and young persons to read the reports and rebut anything contained therein, Social Workers should be very cautious about supplementing a report written by another Social Worker. Unless the Social Worker is satisfied that the information given in the original remains entirely accurate and that any opinions expressed are completely in line with his/her personal opinion s/he should ensure that the Judge and any other person reading the report is made well aware of the differences. It would be improper and very difficult to answer to the Court for statements made by another person at another time. The best way to cope with this is to prepare a new report and put excerpts from the original report in quotation marks where they are relevant.

N.B. For most cases where a child or young person reappears within six months, a new full report should be completed for his/her first appearance after 31 March 1975. The reason is that reports written for a hearing up until that date may not be in a suitable form to be shown to parents and counsel. From 1 April 1975 parents and counsel have a legal right to read the reports and complications may arise where old style reports are supplemented by the new ones.

C5.14 Oral Reports

On rare occasions the Court may request that a Social Worker give an oral report.

For example, a young person who is an overseas seaman may appear on a charge shortly before his ship is due to sail. In such circumstances where the Court is unable to give "reasonable time" for a written report to be prepared, it may adjourn or stand the matter down for an oral report. The information for such a report is likely to be limited and not able to be verified. In this example the sources of information would be the Police, the young person, and probably a ship's officer or the shipping company's representative. An oral report should be given in the presence of the young person so that he has the opportunity to rebut any matter. A written report should be prepared after the hearing, (Court copy not required). All available details, should be completed, and the 'Social Background' section should be as full as possible so that it contains the substance of the oral report.

C5.15 Withdrawal Of A Case

A case can be withdrawn when called on the date set for hearing. The prosecuting party may ask leave to withdraw the information or complaint at any stage prior to the making of any orders under Section 31 or Section 36 of the Act. If the matter before the Court is a complaint made by a Social Worker very good reason should be submitted for asking leave to withdraw the complaint; otherwise the Court may well regard the action as frivolous.

C5.16 Verification Of Identifying Information Supplied By Police

Social Workers should verify the identifying information (e.g. date of birth) supplied by the Police (on Pol 333) by checking its accuracy with the parents of the child or young person. Where any errors in the identifying information are found the Social worker preparing the SW 512 should amend the Pol 333 and initial the amendment to signify that the corrected information has been adequately verified. These remarks do not apply to Police information about the incident reported, which must be relayed without interpretation to the Court.

C5.17 Quoting From Other Documents And Hearsay

Social Workers should exercise caution in quoting from other documents. The common danger is that the quote is taken out of its context and the original meaning may be lost or distorted. Another difficulty is that a quote may not be appropriate for a Court setting by virtue of the language used or the audience it was written for. These remarks are particularly pertinent where psychological and medical reports are concerned. These reports are dealt with in more detail below.

Hearsay information (i.e. what one hears but does not know to be true) should not be repeated unless it can be substantiated and is highly relevant to the case. The truth deteriorates through repetition.

C5.18 Social Worker's Opinion

While 'hunches' or intuitive 'feelings' are acceptable, provided they are clearly identified as such, it is preferable that opinion should be based on evidence which is adduced. (This does not apply, of course, where the Social Worker has made a complaint and is prosecuting the case, giving evidence on oath and not merely providing a background report.) It does not mean that every opinion stated must be backed up by a barrage of observed facts, but that some illustrations in support of opinions should be introduced wherever possible. For instance, it would be better to say "Each time I have visited the home, Mr and Mrs Jones have spoken derogatively about each other, sometimes in Allan's presence.", or alternatively, 'I feel that there is considerable strain between them', rather than to make a sweeping and subjective statement such as 'There is considerable strain between the parents.' The report should make clear what kind of evidence has led to the formation of firm opinions.

C5.19 Information Given In Confidence

When Social Workers conduct an interview for the purpose of preparing a report to the Court, the informant should be told that any information supplied is likely to be included in the report and may be checked for accuracy. They should also be told that the report is available for both parents or their solicitors to read and in some cases, if the Court so orders, the child or young person as well. Some information may be given in confidence and the person being interviewed should have the

opportunity to withhold information or to indicate that any particular aspect of what they have said is likely to upset another member of the family. The Social Worker should make it clear that s/he must be judge of what use s/he makes of confidential information which is given. Social Workers should exercise the utmost discretion and sensitivity in reporting what they are told in individual interviews.

The risk of reporting something which may be detrimental to the Social Worker's future relationship with the family will be reduced if the family is interviewed conjointly. This does not mean that Social Workers should try to avoid any unpleasantness by omitting or distorting any relevant information, but rather that they should exercise skill, impartiality and tactfulness in what they report.

C6 COMPLETION OF SOCIAL WORKER'S REPORTC6.1 Introduction

Reports to the Court are not used for routine research purposes, and the format has been designed primarily to meet the needs of the Court.

The report must assist Judges to consider fully all the pertinent factors relating to the case and must be in a suitable form to show to parents. The first concern of the Court is to establish whether or not the charge or complaint is proven and it is for this reason that these matters are given priority in the report. The factual information which briefly identifies the child or young person is set out in tabulated form for easy reference.

In order that the narrative of the report can be written to suit the particular case the general heading "Social Background" is used without any subheadings. This allows flexibility of style and a well integrated report. Stereotyped phrases and repetition can be avoided, and the opening phrases can be varied. The coherence of the report is an important factor. Significant features of the child or young person's background should be described in a style which is clear, accurate and as brief as possible. Sufficient details should be selected to allow for a summary which convincingly supports the recommendation. The "Recommendation" heading is restricted to the specific recommendation for ease of reference.

C6.2 Format Of The Report

Department of Social Welfare
(Place) _____
Date of hearing: _____

The Presiding Judge,
Children and Young Persons's Court,
(Place) _____

Report on _____ Aged _____

CHARGE/COMPLAINT: (as the case may be)

PREVIOUS COURT APPEARANCES:

DATE OF BIRTH:

RELIGION:*

ADDRESS:

SCHOOL:

EMPLOYMENT:*

FAMILY: (see C6.14 for subheadings)

SOCIAL BACKGROUND:

BORN AT:*

RACE:*

RECOMMENDATION:

(Signature) _____

SOCIAL WORKER

(Date drafted) _____

* these headings may be optional depending on the circumstances.

C6.3 Heading The Report

Plain A4 size paper should be used for the original copy. The details normally included in an official letterhead are inappropriate for use in the report. The heading as set out above is sufficient for the purpose. The date of hearing is given prominence in the heading to assist the Court. The date on which the report was drafted will appear below the writer's signature.

C6.4 Name and Age

The report should simply begin with the words "Report on" and be followed by the child or young person's full name. Place first names in small type, underlining the first name in common use, followed by the surname in capitals. Where a child or young person has been known by any other first name or surname for a period of time this could be noted after the words "... also known as ..." or perhaps "... previously known as ...". These names need only be mentioned where they have significance for the child or young person or where their omission may result in some confusion as to his/her full identity.

The age of a child or young person should be quoted in years and months. The age shown should be the age of the child or young person at the time of the hearing, followed by a statement of the age at the time of the alleged offence or incident in brackets as required by Section 2(2) of the Act. The Judge needs to have ready reference to this age for the purpose of making decisions, e.g. where a child during the course of the proceedings has made the transition to becoming a young person.

C6.5 Charge/Complaint

The opening sentence under this heading should briefly state the exact nature of the formal proceedings.

Where a charge is brought, an example could be, "John appears on a charge of theft and two charges of unlawfully taking a motor car." In complaint cases an indication should be given as to whether it is a Police or a Social Welfare complaint. Where a complaint under Section 27 is brought a brief description of the particular paragraph used should be given. In all cases, where the information is available, the Act and Section should be stated. An example in a complaint case might be, "John appears on a Police complaint that he is in need of care, protection or control on the grounds that he has committed a number of offences. Children and

Young Persons Act, Section 27(2)(f)." The formal statement of the charge or complaint should be followed by a summary of the details of the incident or offence in a manner which does not presume that the matter is proven. For example, the opening phrase could be, "The Police state that ...", or "It is said that ...".

Special care should be exercised when making a Social Welfare complaint. It is not appropriate to use this section to substantiate the complaint. Rather it is the place for a brief objective statement giving the reason for the complaint and any relevant places, dates and times. Where known the names should be given of any companions to an offence. It should also be stated whether the companions were the result of a chance, transitory meeting or whether they were operating as a more permanent group.

In cases where warrant or arrest action has been taken prior to writing a report, it is necessary to state in this section brief details of that action and whether the child or young person was held in custody.

Any statements which the child, young person, or parent have to make about the charge or incident can be included, but it should be clear that the statements are attributable to them and not the Social Worker. The remarks could be prefixed by a phrase such as, "John says that ...".

C6.6 Previous Court Appearances

This section is to be used only for noting previous Court appearances. It is not usually necessary to go into much detail but simply to state the salient facts except where those facts could be misleading and some explanatory material is needed. If there have been several previous appearances it is better to set them out in tabular form showing the date the final decision was made, the Court, the charge or complaint, and the final decision. Where the child or young person has not previously appeared this section should contain a brief word or two indicating the fact.

In cases where an information is discharged (under S.35), dismissed or withdrawn the Court appearance should not be referred to in any subsequent Court proceedings.

C6.7 Date And Place Of Birth

Where there is still some doubt about the actual date of birth after the interview with the parents it should be checked with the Registrar of Births. Accuracy with recording the date of birth is important, particularly where young persons are concerned, e.g. it establishes that they are in fact young persons.

The place of birth need only be mentioned where there is a possibility of a guardianship order being made. This information is used in Head Office to verify the details of the birth record of all children and young persons who are placed under guardianship, with the Registrar-General of Births. Births out of New Zealand may also be shown as a ready indicator that difference in cultural backgrounds is a significant factor.

C6.8 Sex Of Child Or Young Person

A subheading has not been provided for, to indicate the sex of the child or young person. Where their name is not obviously masculine or feminine the heading charge/complaint should be used to indicate sex by the use of "he" or "she" in the description of the incident.

C6.9 Religion

The Court no longer has the power to order that a child or young person who is placed under guardianship be brought up in a stated religion. However many parents for whom a particular religion is an important aspect of life will desire that their child, while in care, be given continued training. In essence this means that in any case where a child is likely to be placed under guardianship and the parents are likely to expect continuing religious training the particular religion should be nominated in the Social Worker's report. In all other cases the religion need only be mentioned where it is felt that it has some significance to the pending hearing. In most instances it will be necessary to explain this significance in the "Social Background" section.

C6.10 Race

Statistical information on race is being collected on the Case Record (SW 512). The use of the "Race" heading in the Social worker's report is optional. Its only use would be to give the reader an immediate reference to the family's likely cultural background, and perhaps as an indication of their understanding of the English language. However it can be a sensitive subject which may be difficult to deal with in stark isolation and is therefore probably better dealt with under the "Social Background" heading.

C6.11 Address Of Child Or Young Person

A full descriptive address is required under this heading. It should include recent changes of address, the reason for any changes of address, and the dates of the changes. The emphasis should be on describing movements in address from, on or about the time the offence or incident occurred until the date of hearing for which the report is prepared.

If the child or young person was living away from home at the time of the offence or incident, a brief description of the type of accommodation (e.g. hostel, flat, etc), should be included, as well as the name and relationship of any significant person with whom they were/are living (e.g. living with paternal Uncle Mr Smith at).

If the child or young person has been removed from his/her address, the type of action taken (e.g. warrant, arrest, etc.) should be noted together with the address at which the child/young person is being detained and the date on which he/she was removed.

Where a child or young person has been remanded in custody the address at which he/she is being held should be noted.

To quote only the usual address when changes have occurred is insufficient. The purpose of noting changes of address is to ensure that the Court is fully informed of the situation.

C6.12 School Attended

Where a child or young person is attending school, the heading should indicate; the name of the school, the class or form level, and whether or not a report from the school is attached. If a report is not available the reason for this should be given.

Where a young person has left school the name of the school, the form level attained and the month and year of leaving should be shown. If a report was obtained it should be noted as being attached.

When quoting class or form levels only a general description is necessary (e.g. form three). The exception may be where the child is in a special or adjustment class.

In the case of pre-school children this heading should be omitted, unless they are attending a kindergarten or playcentre. In these cases the heading could be adapted.

There is no need to record progress or attendance rates as these matters can be dealt with in the school report, or the narrative on "Social Background".

C6.13 Employment

This section should be completed when reporting on children and young persons who are employed either part or full-time. Comments may include the nature of the work, the name of the employer and the wage earned.

Any other information thought relevant to the hearing should be put in the "Social Background" section.

C6.14 Family

This section should only give identifying data. The importance of the various members can be explained in the "Social Background" section. The relationship, full name, age (where significant), employment and home address (where it differs from that of the child or young person) should be set out in tabular form, e.g.:

Mother:	Ann Margaret Jones housewife
Stepfather:	Alan Albert Jones shopkeeper
Father:	John Robert Smith labourer address unknown

Grandmother: Helen Ann Brown
retired
28 Andrews Sq.
Auckland.

The inclusion of anyone from outside the nuclear family in this list should only occur when s/he has particular significance. The importance of that person to the child or young person, should be discussed in the "Social Background" section.

The full names and ages of all brothers and sisters should be included and half and step siblings identified as such. (Many Social Workers when preparing reports use the terms 'step' and 'half' brother as though they are interchangeable. If, as is often the case, there are complex family trees to follow it is helpful to appreciate the distinction clearly. Siblings are half brothers if they have one parent in common, and stepbrothers if they are not related by blood but a parent of one is married to a parent of the other.)

Brothers and sisters should be tabulated, e.g.:

Sisters:	Joy Smith	(16)
	Mavis Smith	(13)
Halfbrother:	William Jones	(6)

C6.15 Social Background

It is important that Social Workers understand that the following guide is what its title says it is, and not a questionnaire which is to be answered in full on every occasion. It is intended to suggest facets of a child's life each of which may, in certain circumstances, suggest fruitful lines of inquiry, but all of which will rarely be relevant in any one case. The art of report writing is very largely the art of summarising, and of knowing what can be omitted without loss. There is, for instance, generally not much point in recording a succession of items in which the situation seems to be 'normal' unless it gives real help in understanding the case. Nor is there any need to refer to situations in the past, which do not seem to have any relevance either to the present problem or ways of dealing with it. For instance, it would be unnecessary to report merely that a child was, or was not, breast fed or was weaned at a particular age unless (and this would be very rare) the report proceeds to show that this is relevant to the matter under discussion.

a. Early experiences; circumstances of birth, symptoms of disturbance and any separations or family breaks; possible influences, both good and bad, of the child's early experiences should be shown and his/her awareness of and adjustment to those experiences.

b. Family relationships; describe the family setting, and the various personalities within it, the family influences and relationships including positive and negative features of the family; moral training and discipline; racial factors worthy of note, material and cultural standards; any adjustment problems as a family e.g. lingual, occupational, cultural and social; any member who is known to the department and the reason why s/he is known.

c. Personality; character, attitudes, self-image, dependence, ability to mix, (beware of the danger of attributing to the child qualities which are based on inadequate observation, personalities may differ from situation to situation, thus it is more accurate to qualify the particular behaviour with the particular situation which evokes it; do not state opinions as facts;) intelligence quotients should not be used but general terms could be helpful if intelligence is an important factor.

d. Health and development; attention may be drawn to any accident, illness or abnormality which might have an influence on past or future development, this may include mental as well as physical problems.

e. Friendship and leisure interests; comments on the sort of friends s/he has, the type of activity s/he likes, any special abilities s/he has displayed.

f. School; if it is felt that the attached school report requires any qualification or addition, or where no school report is available and the Social Worker has a reliable knowledge of such matters as attendance, progress and behaviour then it is here that such comments might be made.

g. Employment; where relevant, matters such as hours, wages, time in the job, attitudes and ambitions may be mentioned along with notes on his/her relationship with his/her employer and workmates and his/her work history; the employers opinion on the child or young person's stability, work habits and performance may be helpful but take care that anything put in the report does not damage relationships; where there is a possibility of a fine or restitution some comments on the state of the child's or young person's finances may be useful.

h. Previous contact; Children's Board appearances, outcomes and responses; Y.A.S. referrals and miscellaneous referrals which appear to have some bearing on the present situation.

i. Any other comments either positive or negative which may be helpful to the Court including any information about the complaint or offence which appears relevant and has not yet been discussed.

j. Summary; a brief resume of the salient points with the reasoning which has led to the recommendation; do not introduce new information to a summary.

C6.16 Recommendation

(Refer C8.) It is usual practice to make a firm recommendation at the conclusion of the report. The recommendation should be suitable, succinct and able to stand alone. It is inappropriate to reason or justify the recommendation in this section. A simple example might be, "I recommend that Robert be placed on supervision for one year."

C6.17 Social Worker's Signature

The report should be signed below the 'Recommendation' section by the Social Worker who drafted it and dated with the date of drafting, e.g.

John White
Social Worker
23 February 1975.

(Refer also C5.10)

C7 ADDITIONAL REPORTSC7.1 Obtaining A School Report

Section 41(5) of the Act provides that, "Any Social Worker may, in the course of completing his/her report, apply in writing to the Principal or Head Teacher of any state or private school for a written report in the prescribed form for the guidance of the Court and to assist the Social Worker in completing his/her report to the Court, and it shall be the duty of the Principal or Head Teacher to supply such written report as will inform the Court of the child's or young person's intellectual capacity, scholastic performance, behaviour, and such other details of background as may prove helpful to the Court in reaching a decision about the child or young person." Refer form SW 514, Fig. 8.

In the case of a notification in respect of a school child, young person or young person who left school less than 12 months ago a school report (form SW 514), should be prepared by a Social worker or clerical officer. The form should:-

- be addressed to the Principal;
- have entered on the reverse side the full name of the Social Worker and the date of the request;
- be signed 'for Director' by the Social Worker handling the case (or by the clerical officer in the Director's name); and
- be sent (with a stamped/addressed envelope enclosed) in an envelope marked 'Confidential'.

It may be more advantageous and desirable for a Social Worker to deliver the form himself/herself, but whatever the method of delivery used the Social Worker should make every effort to discuss the child or young person concerned with the Head Teacher/Principal before the Court hearing.

C7.2 Access To School Reports

As in C5.2 the school report will be shown to the parent of the child or young person, to any solicitor or counsel appearing for the child, young person or parent, and the Court may order that a copy be shown to the child or young person. Any Principal or Head Teacher who supplies a report is protected from any civil or criminal liability by S.41(5A) unless s/he has acted in bad faith or without reasonable care.

C7.3 School Report Not Required In Certain Cases

An SW 514 school report is not required -

- when the charge is of a trivial or minor nature; or
- when the young person has left school for more than twelve months, except in serious cases when, at the discretion of the Director, a report may be requested.

When we ask a Principal for a written report we are seeking detailed information about a child or young person and it is important that we limit such requests to occasions when the information is necessary.

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C7.4 School Reports For Repeat Appearances

Where a child or young person is making a repeat Court appearance or is appearing on an adjournment a further school report must be obtained if six months or more elapsed since the first appearance, or if s/he has had a change of school. If a shorter period has elapsed and a Social Worker has reason to believe there have been significant developments s/he may, at his/her discretion seek a further report.

C7.5 Parents To Be Told That A School Report Will Be Sought

Parents and counsel will have access to any school report which is submitted to the Court. School reports are an integral part of a full Social Worker's report. Parents should be told that a school report will be sought, and that if obtained it will be forwarded to the Court with the Social Worker's report. The person making the school report may be called as a witness by the Court, as parents have a right to tender evidence in rebuttal of any matter referred to in the Social Worker's report. Parents who are apprehensive about the school being told of matter coming before the Court need to be reassured of the confidential nature of the letter requesting the report and of our concern to obtain a balanced report for the Court in their child's best interests.

C7.6 Action On School Report When Returned To Office

If the Court hearing is pending when the completed form is returned from the school a typewritten copy should be attached to the Social Worker's report for filing at Court. A second typewritten copy should be forwarded with the yellow copy to Head Office when a child or young person is placed under the guardianship of the Director-General. The original form received back from the school should be filed reverse side up on the child or young person's personal file.

C7.7 Procedure When Schools Are Closed For Holidays

If the school is closed when the notification arrives and will not re-open in sufficient time for a report to be obtained before the Court hearing, the Case Record should be prepared as usual but under the heading "School" on the report should be endorsed "report not available - school closed". Such particulars as can then be supplied should be incorporated in the Case Record. If the case is one meriting or requiring continuing interest, the Social Worker should then make a bring-up for the file for the date on which school re-opens and a report should then be obtained. If the Court decision was "admonished and discharged", "dismissed", "withdrawn", "fined", etc. a report would not need to be requested from the school at this stage. The complaint or offence and resultant Court action and decision should however be discussed with the school and any relevant comments noted on the file.

C7.8 Psychologists' Reports

Psychologists' reports must not be sent to the Court with the Social Worker's report, unless they were written for that express purpose and on each occasion with the consent of the psychologist concerned. In no circumstances should any part of a standard psychologist's report be quoted in a Social Worker's report and any interpretation of a psychologist's report written for the Court should have the psychologist's approval.

The Psychological Service makes its reports available for the confidential use of persons who have a professional interest in the child concerned. Full reports in standard form presume a specialist level of understanding on the part of the reader. In this form they are therefore of doubtful value to the Court and it is not intended that they be made available to parents or children to read. Where it is felt a psychologist's report is necessary, Social Workers should recommend that the Court itself calls for the assessment and report.

When a psychologist is asked to prepare a special report for the Court s/he should be reminded that parents will be able to read this report, as it will be regarded as part of the Social Worker's report, and asked to state any objection s/he has to the report being shown to the child or young person.

C7.9 Medical Practitioners' Reports

Section 8 of the Evidence Act 1908 provides the two subsections quoted below in relation to evidence by "medical men", (subsection (1) relates to clergymen):

"(2) A physician or surgeon shall not, without the consent of his patient, divulge in any civil proceedings (unless the sanity of the patient is the matter in dispute) any communication made to him in his professional character by such patient, and necessary to enable him to prescribe or act for such patient.

(3) Nothing in this section shall protect any communication made for any criminal purpose, or prejudice the right to give in evidence any statement or representation at any time made to or by a physician or surgeon in or about the effecting by any person of an insurance on the life of himself or any other person."

Where a doctor is giving evidence before a Children and Young Persons Court relating to a charge or a complaint it appears that Section 8(3) would apply. For example, in an ill-treatment case a doctor would not need to have regard to Section 8(2) which applies to civil proceedings only. However, where a medical practitioner's report is submitted in conjunction with a Social Worker's report to assist the Court in making a decision, the application of the above sections is not clear. The contents of any medical report so attached would be available to be read by parents, and a doctor could be called upon as a witness if evidence is tendered in rebuttal of the report. In these circumstances the Judge is not concerned with taking evidence as such since the matter is already proven and the provisions of Section 8(2) relating to civil proceedings are probably more applicable. This subsection places the onus on the medical practitioner to obtain his/her patient's consent before s/he can divulge any communication made to him/her.

If Social Workers were to ask for medical reports on their own initiative this could place the medical practitioner in a situation where s/he was in doubt about his/her legal position and thus, the effectiveness of the report may be reduced. For this reason, if the Social Worker feels that a psychiatric or other medical report will assist the Court in making a final disposal, the Social Worker should ask the Court to adjourn or postpone the proceedings and for the Court to call for a psychiatric or other medical examination and report. In the case of young persons a psychiatric report may be called for under the provisions of Section 47A of the Criminal Justice Act 1954 (refer C8.36). Reports called for by the Court in these circumstances will become the property of the Court.

C7.10 Psychiatric Reports To The Court

Where necessary a Social Worker should recommend to the Court that a psychiatric assessment be obtained. This may be done by the following means:

- (a) In serious cases, particularly where the public or another person is in danger, the Judge could make an order under the Criminal Justice Act for admission to a psychiatric hospital.
- (b) If the child/young person requires urgent treatment he/she should be admitted to the appropriate facility without delay. This may require certification. If certification is necessary then the procedure to use is that provided by Sections 21 and 22 of the Mental Health Act (refer Q7.8). Section 19 of the Mental Health Act should not be used except in an extreme situation.
- (c) In less serious cases placement on adjournment in a Boys' or Girls' Home for a psychiatric report may be appropriate.

The institution needs to be contacted to see if this is possible and what length of time is needed. This procedure is useful for the less obvious psychiatric problems; but young persons with a clear psychiatric disorder or who are a danger to the public or to themselves are not suitably placed in the department's institutions. Borderline cases may need to be admitted in the first instance with the possibility of referral to a more suitable facility after observation.

It should be made clear to the visiting psychiatrist whether his/her report is going to be incorporated in the Social Worker's report or presented as a separate report. If the report is presented separately the Social Worker needs to make sure that the reasons for referral are adequately stated. Any statements which are in conflict with the facts as understood by the Social Worker will need to be discussed with the psychiatrist and resolved before the report is submitted to Court.

- (d) The services of the psychiatrist at an out-patient clinic (in private or otherwise) may be available. The possibilities and practicalities need to be checked out with the clinic first. Involving the clinic prior to the Court order will in many cases lead to a greater degree of co-operation. If hospital clinics refuse to provide a service, or if there are long delays that make the seeking of a psychiatric report impractical then, provided the hospital clinic has been approached first, a referral to a psychiatrist in private practice is justified. If the Court orders a psychiatric report then the Justice Department pays the fee.

C7.11 Referring A Child/Young Person To A Psychiatrist

Where possible it is desirable that a psychiatric opinion be obtained from a psychiatrist who is orientated towards child, adolescent or family psychiatry.

In making referrals Social Workers need to draw the psychiatrist's attention to the need to cover any relevant points in the report which may assist the Court. These may include such items as responsibility for behaviour; possible response to counselling; comments about possible treatment; and when and where such treatment could be given.

A clear statement about the reason for referral is necessary. Where possible the Social Worker should also discuss proposals for recommendations to the Court so that a report is not issued at cross-purposes and does not suggest measures which cannot be implemented at the time.

Information provided to the psychiatrist should, if available, include a Social Worker's report, past medical history, a psychologist's report and a school report.

An important part of the referral procedure is the preparation of the person who is to be assessed. Clear understanding and realistic expectations of the examination will reduce anxieties and assist in bringing about rapport with the psychiatrist.

C8 RECOMMENDATIONS TO THE COURT

C8.1 Submitting Recommendations To The Court

Although there is no statutory provision for a Social Worker to make a recommendation the practice is nevertheless of long standing and in most cases recommendations are welcomed. However, occasionally a Judge asks that we refrain from making a recommendation and in such instances it will be necessary to respect his/her wishes. In such cases Social Workers should conclude their report with a summary of what appear to them to be the salient features of the case, record their impression of the case fully, and convey their point of view, without making a specific recommendation. Unless a Judge requests that no recommendation be included it is necessary to formulate one; adverse comment has sometimes resulted from the omission of a recommendation.

C8.2 Interest Of Child Or Young Person Paramount

Section 4 of the Children and Young Persons Act 1974 imposes the following duty; "Any Court which or persons who exercise in respect of any child or young person any powers conferred by this Act shall treat the interests of the child or young person as the first and paramount consideration to the extent that this is consistent with adopting a course calculated to:-

- Secure for the child or young person such care, guidance, and correction, as is necessary for the welfare of the child or young person and in the public interest; and
- Conserve or promote as far as may be possible a satisfactory relationship between the child or young person and other persons (whether his family, his domestic environment, or the community at large)."

The general intent of the section is clear and represents a helpful guide in formulating recommendations.

C8.3 Approval For Recommendation (ref H7.4 re delegation)

- a. Every proposed recommendation should be discussed with a senior Social Worker.
- b. The minimum delegation level for recommendations to the Court for guardianship orders is SSW 105.
- c. The minimum delegation level for any recommendation that a Ward be convicted and ordered before a District Court is SSW 105.
- d. All proposed recommendations that a young person be convicted and ordered before a District Court should be discussed, (after obtaining the prior approval of a senior Social Worker) with the District Probation Officer or a senior Probation Officer authorised by the D.P.O.

C8.4 Recommendations Relating To Admissions To National Institutions

Judges should not be told of any intention to admit a child or young person to a National Institution unless the Director-General's prior approval has been obtained. No period of time should be mentioned, as this must be left to the department's discretion. The same applies to admissions to the Department of Education schools, (Salisbury and Campbell Park), which require the prior approval of the Director-General of Education. To make mention of proposed admissions without first obtaining approval would be to mislead the Court. Normally, it should not be necessary to make any statement in the recommendation about the specific plans for a child or young person, as the report summary should contain some general assessment of the needs of the child or young person.

C8.5 Recommendation Where Complaint Or Charge Denied

Where it is intimated that a complaint or charge will be denied, any recommendation will need to be qualified, e.g. "Two years supervision if the charge is proven".

C8.6 Recommendation To Admonish

Formerly the word admonish had no statutory meaning and was commonly used in conjunction with a discharge. However, the Children and Young Persons Act provides for any person, to whom the proceedings relate, to be admonished without any other decision being necessary to dispose of the matter before the Court.

The effect of this provision is to allow more flexibility and discretion in the use of an admonishment so that it may be used appropriately and not necessarily in those cases where the matter before the Court is a minor one. For example, it may be recommended that a child simply be admonished, or that a young person be admonished and placed under supervision; or that a parent be admonished and the child discharged. Although the admonishment is administered by the Court, the particular form it takes may be influenced by a Social Worker. To admonish may be to warn, advocate reform, give advice, inform or remind, and the Social Worker may choose to suggest, (taking into consideration the varying approaches of individual Judges) a form of admonishment which will be meaningful to the person receiving it. There is no restriction on the use of admonishments following either the termination or the cancellation of a postponement period, however the lapse of time will be an important consideration where the admonishment relates to the original incident.

C8.7 Admonish And Remain In The Care Of The Director-General

This is the usual recommendation in the case of a Ward who appears on charges and is not considered to be suitable for probation or Youth Prison etc. A recommendation of 'admonish and remain in care' may in effect mean that institutional training is planned. For example, if a Ward at school or in employment commits serious offences, the Director-General's approval may be obtained for admission to a training institution. The report may indicate to the Judge that in the event

of 'remaining in care' the young person will be admitted to an institution for a period of training. On the other hand the recommendation in less serious circumstances may mean the equivalent of admonition and discharge.

C8.8 Recommendation Of Discharge From Proceedings

In cases where the Social Worker feels that the Court appearance alone is sufficient to impress upon the parents, young person or child the seriousness of the situation and/or the matter is relatively minor, s/he may recommend a discharge under either Section 31(b) (for a complaint) or Section 36(b) (for a charge). Under either section the person to whom the charge or complaint is addressed or relates, may be discharged from the proceedings without any order or penalty. However, the fact that the Court appearance has taken place will be noted by both the Court and the Police and may show in any subsequent checks with the Police, e.g. for certain careers. It is important not to confuse these provisions for discharging the person with those of Section 35 which provides for the discharge of any information.

C8.9 Recommendations Of Discharge Of Information

A recommendation under Section 35 has the effect of discharging the information and deeming it "never to have been laid". This means that the young person is not recorded as having had a court appearance or criminal conviction. Such a recommendation would generally only be considered where:-

- a. it is a first offence;
- b. the nature of the incident is such that the young person's involvement could not be considered serious;
- c. although serious, the offence was committed under great emotional stress which could be regarded as virtually excusing the offender; and
- d. the recording of a Court appearance would be likely to unduly prejudice the young person's future career.

In some instances where the charge is proved it may be considered desirable to recommend, in addition to a discharge of the information, that an order be made for one or more of the following:

- the young person pay Court costs;
- the young person or his/her parents pay compensation for loss or damages;
- the young person or his/her parents pay restitution;
- the young person or his/her parents forfeit any specified property.

C8.10 Recommending That Proceedings Be Dismissed

Section 100 of the Act provides that, "In any proceedings for an offence which comes before a Children and Young Persons Court, whether on a complaint under Section 27(2)(f) of this Act or on an information, the Court may dismiss the complaint or information if it is satisfied that the time which has elapsed between the date of the commission of the

alleged offence and the Court hearing has been unnecessarily or unduly protracted, and that the proceedings have thereby lost significance or reasonableness".

A recommendation that any Police complaint or charge be dismissed should not be made without prior consultation with the Police officer responsible for the decision to prosecute. If s/he agrees that the time between the commission of the alleged offence and the Court hearing is unreasonable he may also agree to ask leave of the Court to withdraw the proceedings.

Where there is no such agreement any recommendation that the proceedings be dismissed should be preceded by a comment in the summary of the report covering the discussions with the Police on the subject.

Normally any initiative under Section 100 should not be taken by a Social Worker. The onus should be on the defendant or his/her solicitor to raise the matter.

C8.11 Recommendations Involving Compensation, Restitution And Costs

The Court may order, in relation to a complaint or charge, the payment of compensation to any person "... for loss of or damage to property suffered by that person by reason of the action of the child or young person". (Section 31(1)(e) and Section 36(1)(e).) (Refer Figure 9.)

Compensation and restitution, as provided by Section 31 and 36 of the Children and Young Persons Act, may be ordered to be paid by the child, or young person, or his/her parents or guardian. Where such orders are not made where a loss is suffered, or where the order does not fully cover the loss, the person suffering the loss retains the right to take civil proceedings.

Court costs relate only to young persons who are charged and may only be ordered against the young person, not his/her parents or guardian. Section 36(1)(d) provides that a young person may be ordered to pay the cost of prosecution excluding Court fees which are not payable (S.99(5)) in a Children and Young Persons Court.

The payment of any compensation, restitution, or costs, may be enforced under the same provisions as for the non-payment of fines.

In Court proceedings the Police prosecutor usually takes the initiative in asking the Court to consider compensation and restitution. In cases where Social Workers are aware that compensation or restitution is likely to be considered by the Court it is appropriate that any recommendation includes reference to these matters. Paying for damage done, where children or young persons have the means, may be a very worthwhile part of any programme designed to curb delinquent tendencies and will often help to heighten awareness about the consequences of their actions.

The situation where parents may be expected to pay compensation or restitution requires careful consideration. If payment by the parents is going to cause undue hardship the Court should be informed. Where parents are able to pay then their willingness to do so needs to be examined. An order which does nothing but aggravate or engender ill-feeling in a family is of no positive value. In some cases where children or young persons have no means their parents may be able to

arrange to be recompensed, either from future earnings or some form or payment in kind, if such an arrangement is likely to have a beneficial effect.

The amount of compensation or restitution is fixed by the Judge and any prior disagreement about the amount should be raised with him/her by the defendant. The payment of compensation, restitution or costs may be made a condition of a supervision order to be paid as and when directed by a Social Worker.

C8.12 Recommending A Fine

Young persons appearing on a charge may be fined. The fine may be imposed either in a Children and Young Persons Court or, following referral, in the District Court. Section 36(1)(c) of the Act empowers the Children and Young Persons Court to impose fines "... as ... if the young person were an adult ... in a District Court" and confers on the Court the powers provided under Sections 83 and 85 of the Summary Proceedings Act 1957 as amended by the Summary Proceedings Amendment Act 1973. Section 83 provides that the Court "... may do one or more of the following things:-

- Allow time for payment;
- Direct payment to be made by instalments."

The section also states that default proceedings may be taken if any one instalment or all instalments are unpaid as directed. Normally fines must be paid within 28 days or within the time allowed, but Section 85 provides for immediate payment in situations where the defendant has:-

- "sufficient means to pay"; or has
- "no fixed place of residence"; or
- "That for any other reason, having reference to the gravity of the offence, the character of the defendant, or other special circumstances ..." the fine should be paid without delay.

In making a recommendation that a young person be fined Social Workers should give the Court some guide as to the young persons ability to pay a fine and the rate at which they might be reasonably expected to pay it, without specifying a total amount. There will, of course, be local variations in Court attitudes towards imposing fines on young persons. Social Workers should, in making a recommendation, consider the effect that a fine will have on the young person's attitudes and whether or not some other course of action may have more rehabilitative value.

In cases where it is felt that some form of oversight is unnecessary a nominal fine may be seen as having a salutary effect. In those cases where formal oversight is likely to have little effect owing to the young person's attitudes, and where residential care is inappropriate, a heavier fine may be recommended. Such fines are clearly a punitive measure and the hope is that their imposition will have some influence as a deterrent. A fine may be imposed as well as another order etc. (e.g. supervision) in relation to one charge or where there are several charges the young person may be fined on any one or all of them.

C8.13 Recommendation Of Postponement

A Social Worker may find it desirable to recommend in terms of Section 31(3) or Section 36(6) that, if the complaint or charge is proven, an order be made postponing the making of a final decision. Such a postponement may be useful where a psychological assessment or psychiatric examination appears advisable or where a period of observation in one of our institutions (e.g. Boys' Home or Girls' Home) may throw valuable light on the type of recommendation which will best meet the child's or young person's needs, (see also C8.36 and C8.37). The postponement order may be extended from time to time but it should be remembered that such an order, including all extensions of it, must not exceed 3 months.

A recommendation may be made to the Court that for the period of the postponement the child or young person be under supervision or in our custody for the duration of the order. (Postponement order, see Fig. 10.)

C8.14 Child Or Young Person On Postponement Order Or Adjournment Facing Further Charges Or Complaint

If a child or young person while on a postponement order or adjournment commits further offences and is to appear in court before the postponed or adjournment date, the Court should be asked if it will deal with both cases on the same day. This is not always possible or practicable but it can save a lot of time in some cases. Where fresh charges plus postponed or adjourned charges are dealt with on the same day both Case Records must be completed separately. The new case will have one serial number and the case relating to the postponed charges will have a separate one.

C8.15 Report To Court On Expiry Of Postponement

When a child or young person has been on a postponement order for a period of assessment, observation or examination it will be necessary to supply the Court with a supplementary report indicating any significant changes and developments which have taken place since the period of postponement was ordered.

C8.16 Recommendations To Come Before Court If Called Upon

The provisions of the Act are set out in C1.13 and C1.14 (S.31(1)(c) and 36(1)(h)). The period during which a parent, (or person in place of), child or young person may be "called upon" in complaint proceedings is 2 years from the time the order was made, whereas for a young person on a charge the period is 12 months. A recommendation that a person come up if called upon, may be used where the offence or incident is too serious to recommend discharge but where the present situation may indicate that the appearance itself will have a salutary effect, and that a postponement or supervision order would not be more appropriate. If the circumstances deteriorate in some way after the order is made, the Court will expect the person or persons responsible to be brought back to Court to be dealt with on the original complaint or charge. Normally there will be no continuing oversight of the case (supervision or guardianship orders may not be made in conjunction with this order) so we will have to rely on any further incident being reported as evidence of such deterioration.

It may well be, however, that an order to come up if called upon is recommended during the period of an existing supervision order, where it is felt that the supervision should continue without alteration. The procedure for calling persons before the Court is discussed in C9.21. (Order To Come Before Court if called, see Figs. 11 & 12.)

C8.17 Recommending Supervision

A recommendation of supervision should be made when the Court inquiry has provided evidence of a need for long-term guidance and direction but where it appears that the extreme measure of the child or young persons removal from home need not be taken. A supervision order does not give us guardianship but does vest us with a legal right to exercise an interest in the family situation for a stated period. Our endeavour is to establish friendly relationships and exercise a supervisory role, but we have the authority to instruct as well as advise and we may take legal action if our instructions are not respected. Social Workers should only take such legal action after discussion with a senior Social Worker. (Supervision Order, see Fig. 13.)

C8.18 Conditions Of Supervision Order For A Child (Section 46(2))

This provision states that, "Where any child is placed under the supervision of a Social worker, the following conditions shall apply:-

- Any Social Worker may at all reasonable times, visit and enter the building or place in which the child is living;
- The child shall report to the Social Worker under whose supervision he is, as and when required to do so by the Social Worker;
- He shall not reside at an address that is not approved of by the Social Worker;
- The parents or guardian or person having the care of the child shall ensure that the officer in charge of the local office of the department knows at all times the address at which the child is residing for the time being."

C8.19 Conditions Of Supervision Order For A Young Person
(Section 46(1))

This provision states that, "Where any young person is placed under the supervision of a Social Worker, the following conditions shall apply:-

- Any Social Worker may, at all reasonable times, visit and enter the building or place in which the young person is living;
- The young person shall report to the Social Worker under whose supervision he is, as and when he is required to do so by the Social Worker;
- He shall not reside at an address that is not approved by the Social Worker;

- He shall not continue in any employment or continue to engage in any occupation, that is not approved by the Social Worker;
- The young person shall ensure that the officer in charge of the local office of the department knows at all times the address at which the young person is residing for the time being;
- He shall not associate with any specified person or with persons of any specified class, with whom the Social Worker has, in writing, warned him not to associate."

C8.20 Recommending Additional Conditions Of Supervision

If a Social Worker considers recommending to the Court that additional conditions be written into the supervision order s/he should be sure that the conditions are practicable. If the condition proves to be unrealistic the Social Worker is faced with the choice of letting the child or young person flout the condition imposed or bringing him/her back before the Court on a complaint for failure to observe a condition which the Court might be reluctant to take action upon. Only the absolute minimum number of additional conditions should be recommended so that we can maintain the maximum amount of flexibility. The recommendation should include the phrase "... as directed by the Social Worker", to allow for changes in circumstances.

For example, a young person could be placed on supervision with an additional condition that s/he open a savings account and make contributions to it as directed by the Social Worker. This allows the amount and rate of contributions to be controlled to meet variations in the young person's income.

C8.21 Additional Conditions Of Supervision For A Child Or Young Person (Section 47(2))

When placing a child or young person under the supervision of a Social Worker, the Court has the discretion to impose, "in addition to any other conditions imposed, a condition that the child or young person undertake such remedial education, such training, or such community activities as are considered by the Court to be in the interests of that child or young person."

C8.22 Additional Conditions Of Supervision (Sections 47(1), (2) & (3))

When placing children and young persons under the supervision of a Social Worker, the Judge may in his/her discretion impose additional conditions. These are as follows, (those marked with an asterisk apply to young person only):

- * "pay the whole or such portion as the Court may direct as the costs of the prosecution". Such payments are to be made under the direction of the Social Worker;

- * "within such period and by such instalments as may from time to time be directed by the Social Worker, pay, by way of damages for injury or compensation for loss suffered by any person through or by means of any such offence as aforesaid, such sums as the Court may direct or as may be fixed by the Social Worker, under direction of the Court, not exceeding in any case a sum specified by the Court";
- * "not own or drive a motor cycle or any other motor vehicle";
- "not associate with any specified person or persons of any specified class";
- "undergo any specified medical, psychological or psychiatric examination";
- observe "such conditions relating to his place of residence, employment, or earnings as the Court thinks fit";
- "attend and remain at for such week day, evening, and weekend hours each week and for such number of months as the Court thinks fit, any specified centre which is approved by the department and which conducts educational, recreational, instructional, cultural, or work programmes, or sporting activity, and reasonably and effectively take part in such activity as may be required by the person in charge of the centre";
- "reasonably and effectively undertake work in the interests of the community for such period as the Court thinks fit under the supervision of an organisation approved by the Director-General, either generally or in a particular case";
- observe "such other conditions as the Court thinks necessary for ensuring his good conduct or for preventing the commission by him of any offence."

The indications for recommending any particular additional condition under the provisions of this section will obviously have to be assessed on the needs of each case, and the general guide is outlined in C8.20.

Community based work projects are covered in C12 and specified voluntary centres, and attendance centres are covered in C13.

NOTE: Section 65 of the Act provides for a review of supervision orders and paragraph (b) empowers the Court to "Remove any condition imposed under Section 47 of this Act and substitute or add such other condition as it thinks fit".

C8.23 The Length Of Supervision Periods

A Social Worker may recommend supervision for any period which seems reasonable under the circumstances. One year is the most common period but it may be recommended for six months, eighteen months, or, in rare circumstances (perhaps more particularly where a family has been brought up on a complaint) for as long as three years. Under the Act, supervision orders may not be for more than three years, and may not extend beyond the date on which the young person attains the age of 17 years.

C8.24 Recommending Further Periods Of Supervision

Where a child or young person already under supervision reappears on another charge or complaint and the Social Worker thinks that supervision still offers the best opportunity for helping him/her a further period of supervision could be recommended. Extensions of existing supervision orders are not to be recommended as this places the Court in a situation of having to give a decision which in fact does not take effect until some future date. A Judge is being asked to say, for example, that s/he is placing a young person on supervision for a period of six months to take effect in five months time to coincide with the expiry of a current period of supervision. The legal soundness of such an order is in doubt.

Any new supervision order recommended should be concurrent with the existing order from the date of hearing until the date the existing order expires. The period of any additional supervision order will commence from the date on which the order is made. Example: A young person reappears three months after s/he has been placed on supervision. The original period of supervision was for twelve months. The Social Worker feels that the young person should remain on supervision for a further three months in addition to his/her present period, so s/he would then recommend another period of twelve months supervision.

C8.25 Recommending That Parent Or Guardian Receives Counselling

Section 31(1)(h) provides that in complaint cases the Judge may make an order requiring the Director-General to provide counselling for the parent or guardian of a child or young person. Such counselling is to be arranged by the Director of the district where the parent resides and it may be carried out by a Social Worker or any other 'suitable' person (Section 33). This provision may be useful in situations where the child or young person to whom the complaint relates, appears to be exhibiting the symptoms of a deeper family problem, that is, a problem which is related to the attitudes and functioning of the parents but is showing itself in the behaviour of the child or young person. In isolated cases where ill-treatment of a child occurs it may be considered that an order for counselling would be more appropriate and beneficial in the long-term than prosecution of the offending parent. As the Act specifically allows for the appointment of persons for this task from outside the department valuable use may be made of experienced individuals within the community who are already known to the parents concerned and/or who have a special expertise. Any order for counselling may be recommended by itself or in conjunction with one or more of the other powers of the Court under Section 31(1) (refer Cl.13). ('Order For Counselling Of Parent', see Fig. 14.)

C8.26 Recommending Guardianship (ref H7.4 re delegation)

Guardianship involves the extreme step of transferring rights of guardianship to the Director-General. (Refer S.49, C. & Y.P. Act 1974) This means that the child or young person is immediately removed from home and is placed either in one of our institutions, in a Family Home, in a foster home, in residential employment, or at board and separate employment. The Director-General may place the child anywhere in New Zealand and adopt such measures as he thinks best in connection with the

care and training of the child or young person. (Refer Guardianship Order, SW 506, Fig. 15.)

Because placement of a child or young person under the guardianship of the Director-General is such an extreme step, it is important that before such a recommendation is made to the Court, Social Workers first explore all reasonable alternatives to guardianship and in particular, the use of community-based alternatives. Community resources such as day care centres, home help services, holiday camps, and the use of volunteers to provide immediate home-based support to families experiencing a crisis situation are among the possibilities that Social Workers could consider. In this regard, Assistant Directors (Social Work) should keep a current inventory of the community-based alternatives and resources which are available in the district so that this can be used as a checklist when decisions regarding the substitute care of a child or young person are being considered. All recommendations for guardianship must be approved by a Senior Social Worker (minimum delegation level SSW 105).

The Judge who places under guardianship a child or young person may express his views about the need for institutional or some other form of training for the child or young person. Social Workers should always carefully consider any views of this nature which a Judge conveys to them; these and any other subsequent observations should be noted on the child's or young person's file. If the judge expresses views which are in an important way of variance with those of the Department, or if the views may have wider policy implications, they should be passed on to the Regional Director together with the comments and recommendation of the Director.

In some circumstances a Social Worker may feel sure that a Judge will refer the matter to the District Court for a sentence of youth prison if there is no assurance that the young person will receive other institutional training. In such cases, provided prior admission approval has been obtained, the Judge may be told that the young person will be admitted to a National Institution following the making of the guardianship order.

If guardianship is a real possibility in a particular case, the meaning of such an order should be explained to the parents prior to the Court hearing. Where this can be done, tactfully, and if they are accepting the possibility of a guardianship order, they could be asked to prepare the child's or young person's clothing, etc., on the Court day as a considerable amount of inconvenience and sometimes unpleasantness can be avoided in this way.

C8.27 Disqualification From Driving

Section 37 of the Act gives the Children and Young Persons Court the same powers and obligations as a District Court in relation to offences where a Judge is either required or empowered to make an order disqualifying the offender from holding or obtaining a driver's licence. The following list of offences is taken from the Third Schedule, Part III of the Transport Act 1962, which is headed, "Offences For Which Disqualification Is Obligatory Unless For Special Reason The Court Orders Otherwise":

- a) Driving while disqualified or breach of partial disqualification (S.39);
- b) Causing bodily injury or death through reckless or dangerous driving (S.55(1));
- c) Causing bodily injury or death through driving while under the influence of alcohol or drugs (S.55(2));
- d) Reckless driving (S.57(a));
- e) Driving at a speed which is or might be dangerous (S.57(b));
- f) Driving in a manner which is or might be dangerous (S.57(c));
- g) Driving or attempting to drive while under the influence of alcohol or drugs (S.58). Part III also gives a description of the minimum period of disqualification.

On most other traffic offences and a number of criminal offences the Judge has the discretionary power to disqualify from driving. As disqualification is generally viewed by the young person as a punitive measure Social Workers have a responsibility to make known to the Judge, where such action is a possibility, the situation of the young person with regard to driving. Unless one is sure that disqualification is likely to have a beneficial effect or is essential to protect other road users then such a recommendation is of doubtful worth. On the whole it is probably wiser not to make any recommendation on the matter but rather to add relevant comments in the narrative as to the worth or otherwise of disqualification in the particular case. The demerit point system is obligatory and is thus not an appropriate matter to comment on in recommendations.

C8.28 Referral To Children's Boards

Section 15(2) of the Act empowers a Judge, on finding that a complaint is proved, to "... direct the complainant to report the details to a Children's Board." There may be circumstances where a child comes before a Court that, upon further examination, it seems preferable that the matter be dealt with finally by a Children's Board. For example, a child who is arrested and appears in Court away from his/her home district, may be a suitable prospect for referral to a Children's Board once s/he is returned home. Another example may be where a matter is referred to a Board after the Court has found a denied complaint has been proven, or it has resolved a dispute as to compensation or restitution. In making a recommendation to the Court that a matter be reported to a Children's Board, the interests of the child should be the prime concern. If it is likely that the parents or the child will be unco-operative in any arrangement which may be proposed by a Children's Board, a referral may be inappropriate. Where ill-treatment or neglect is a factor, it may be desirable to maintain more control over the situation in the interests of the child at risk, by having the Court deal with the matter.

For the purpose of recording the Court decision a Judge's direction to report the details of a complaint to a Children's Board, will be regarded as final disposal. (See Fig. 16 'Direction to Complainant to Report details of Complaint to Children's Board'.)

C8.29 Recommendations In Relation To Group Offending

Where a number of children and/or young persons are to appear in relation to the same incident there is a need to ensure that appropriate recommendations are made. There are two aspects to this situation, firstly there is the question of consultation where two or more Social Workers are involved in reporting on the members of the group, and secondly there is the reaction of the group members to the "fairness" of the outcome. In the first case it is vital that there is a joint consultation between the Social Workers and their supervisors before recommendations are formulated to avoid variations in approach. Where possible, it is preferable that one Social Worker reports on all members of the group. S/he will be able to make a more standardised assessment of group relationships and thus the varying degrees of involvement, influence and culpability in relation to the incident, as well as the needs of each individual.

There may or may not be justification for differentiation in recommendations when all the factors are considered, however the Judge and the defendant concerned should be informed of the rationale for each recommendation.

C8.30 Washing-Up Charges

Occasionally children placed under the guardianship of the Director-General are subsequently brought before the Court on 'washing-up' charges, i.e. charges related to offences committed before the guardianship order was made. In general the only decision the Court will wish to make is to admonish the child or young person and discharge the proceedings. Such proceedings usually waste time and can be harmful to the child or young person. They can also create an awkward situation if the child or young person has been sent to another district or to an institution since being placed under guardianship and has to be brought back, perhaps a long distance and at considerable cost and inconvenience, to face these out-of-date charges. There are of course, exceptional cases where it is necessary to proceed with serious charges.

There is a long standing arrangement with the Commissioner of Police that, except in the case of a very serious crime, no Court action will be taken against any child or young person in these circumstances.

In any case where it appears that less serious charges are being proceeded with in spite of the arrangement, the Director should approach the local Inspector of Police to ask if the charges might be withdrawn.

C8.31 Recommending That A Young Person Be Convicted And Brought Before A District Court

Paragraph (j) of Section 36(1) of the Act provides that the Court may, "In the case of a young person who has attained the age of 15 years ... (where a charge is proven) ... enter a conviction and order that he be brought before a District Court for sentence or decision and the provisions of the Criminal Justice Act 1954 shall apply accordingly." Where the Court exercises this power it may not do any of the other things set down in Section 36(1) except to admonish the young person.

The Criminal Justice Act imposes restrictions on the imprisonment of young offenders and makes provision for probation, Corrective Training, periodic detention, and Youth Prison. These are the main decisions and sentences which the Children and Young Persons Court will tacitly be asking the District Court to consider when it convicts and orders a young person to a District Court.

Social Workers should be aware of the full implications of making a recommendation under Section 36(1)(j) including the possibility of publicity. The prohibition against publicising the proceedings of the Children and Young Persons Court no longer applies once a young person is brought before a District Court for sentencing.

Before recommending a remand under Section 36(1)(j) Social Workers must fully explore the appropriateness of dispositions available under the Children and Young Persons Act. Only when other orders will not satisfactorily meet the circumstances is such a recommendation warranted. In the summary of the report the reasons why it is considered that the young person can not be appropriately dealt with by the Children and Young Persons Court should be indicated. The fact that the recommendation has been discussed with the Probation Service, plus any comments on the outcome of this discussion should also be reported. The summary of the report may intimate the Social Worker's view on the course which might be adopted in the District Court to meet the young person's needs. However the actual recommendation is to the Children and Young Persons Court and should only relate to the powers of that Court, namely to convict and order to the District Court for sentence or decision.

An extra copy of the report should be prepared for the information of the Probation Service, and in every instance a Probation Officer will prepare a fresh report for the District Court hearing.

C8.32 Probation

Where any person is convicted of an offence punishable by imprisonment, instead of being sentenced to imprisonment (Youth Prison, etc.) s/he may be released on probation for a period of not less than a year nor more than three years. The person is issued with a licence setting out the conditions of his/her release.

The mandatory conditions of his/her release are similar to those of supervision orders made in relation to young persons. The effect of failing to observe the conditions is also similar in that the person can be sentenced for the original offence. However, breach of probation is an offence and the offender may be arrested by the Police or a Probation Officer.

Breach proceedings are often used as a salutary lesson, either by adjourning the charge as a further trial, and/or imposing a penalty on the breach only and not the original charge. It is only as a last resort that the Court is asked to sentence on the original charge as this almost inevitably leads to a loss of liberty.

Probation Officers have the duty to advise the Court whether the convicted person would be likely to respond satisfactorily to probation and whether any condition of probation should be imposed.

Owing to the provision that a period of supervision may not extend beyond a young person's seventeenth birthday there will be instances where it will not be realistic, in terms of the time available, to recommend a period of supervision. For example, where a young person of over 16 years commits a serious offence or offences, but is likely to respond to supervised oversight, it may be appropriate to recommend, after prior discussion with the Probation Service, that he be convicted and ordered to the District Court. In other cases the possibility of supervision or some other course of action by the Children and Young Persons Court offering a more appropriate decision should be closely examined.

C8.33 Periodic Detention

Where any person who is not less than 15 years of age is convicted of any offence punishable by imprisonment s/he may be sentenced to periodic detention for a term not exceeding 12 months. As a part of the sentence the person may be ordered to be released on probation for a period ending not later than one year after the expiry of the term of periodic detention. Periodic detention may not be imposed where the person has at any time previously, been sentenced to Corrective Training, or to Youth Prison, or to imprisonment for one month or more. Because of this provision (Section 14 of the Criminal Justice Amendment Act 1962) young persons who have spent a period of postponement in a Boys' Home or a term in a National Institution could possibly be considered unsuitable for periodic detention. A medical report must be obtained (as well as a Probation Officer's report) before any person can be sentenced to periodic detention.

A person sentenced to periodic detention is required to report at a work centre on a specified number of occasions in each week and on each occasion to place himself/herself in the custody of the warden of the centre for a specified period.

The Justice Department has established periodic detention work centres for young offenders, and the work programme may include, as well as suitable work, attending classes, or undergoing such instruction as the warden considers conducive to the young person's reformation and training. Similar programmes are possible as a special condition of supervision, although for young persons in these situations there is no specific control over their custody. The possibility of periodic detention should not be discussed with the Probation Service unless the young person's attitudes, maturity, personality, and response to previous oversight, indicate that this form of treatment would be more likely to succeed than any facility which the department can offer. Where there is any doubt about the young person's suitability the matter could be discussed with the Probation Service.

C8.34 Corrective Training

Where any person who is not less than 15 years of age and is under 20 years of age is convicted of any offence punishable by imprisonment, that person may be sentenced to corrective training.

A period of probation always follows a sentence of corrective training.

Corrective training is a sentence of up to 3 months and is designed to be 'of a short, sharp punitive nature'. The objective is to reduce re-offending by the experience of a punitive but fair sentence. In keeping with this, 'the programme is to provide a rigorous way of life and work for a short period'. Inmates are subject to an exacting regime with the emphasis on a fast tempo and alertness. Of importance, but secondary to the fundamental programme activity, is a programme of counselling and social skills training designed to assist the inmate on his/her release.

C8.35 Youth Prison

For those young persons considered unsuitable for corrective training, the Courts have the option of imprisonment. Those aged between 15 or 19 years inclusive, the sentence of imprisonment must be served in an institution specifically designated a youth prison. Sentences are for a finite term of up to a maximum of six months.

C8.36 Recommendation That The Court Obtain A Psychiatric Report

Section 47A of the Criminal Justice Act 1954 gives any Court the power "... where any person charged with or convicted of any offence punishable by imprisonment or death is in custody ... (prior to the determination of the charge, etc.) ... and it appears to that Court to be expedient that a psychiatric report on the person's mental condition should be made available to the Court, ... That Court may:-

- make it a condition of any grant of bail to the person that he attend, for psychiatric examination by a medical practitioner, at a psychiatric clinic approved by the Court; or ...
- where a medical practitioner has certified or given evidence to the effect that a psychiatric examination of the person is requisite ... make an order for his detention and examination in a psychiatric hospital for such period, not exceeding one month, as the Court thinks fit".

There is also provision under this section for committal to a penal institution for psychiatric examination for up to 14 days, and detention in a psychiatric hospital is only possible where it appears to the Court that committal to a penal institution is not practicable. Detention in a psychiatric hospital for further observation may also be ordered on the recommendation of the psychiatric clinic attended by the person while on bail.

These provisions of Section 47A will apply only to young persons who are already in custody (or on bail following their arrest), and in most cases such examinations can be arranged informally with the consent of the young person and his/her parents or guardians. However, where such consent is not available, it may be necessary to recommend the use of this provision to the Court. (Refer C7.)

C8.37 Recommending Detention For Observation In A Hospital Regarding Disability To Plead etc. Or Insanity

Section 39B of the Criminal Justice Act 1954 provides that, "... where any person charged with any offence punishable by imprisonment or death is in custody pending a hearing or trial before any Court, and it appears to the Court that he may be under disability, or that at the time of the commission of the offence he may have been insane within the meaning of Section 23 of the Crimes Act 1961, the Court may ... make an order that he be removed to a hospital and detained there under observation ...".

The Court has to be satisfied that it is necessary or expedient that the person's mental condition should be under observation in a hospital, and the order has to specify a period not exceeding one month.

"Under disability" is interpreted by the Act as meaning "... mentally disordered to such an extent as to be unable to plead, or unable to conduct a defence, or instruct a solicitor for that purpose, or unable to comprehend the course of proceedings."

Section 23(2) of the Crimes Act 1961 provides that, "No person shall be convicted of an offence by reason of an act done or committed by him when labouring under natural imbecility or disease of the mind to such an extent as to render him incapable:-

- of understanding the nature or quality of the act or omission; or
- of knowing that the act or omission was morally wrong, having regard to the commonly accepted standards of right and wrong".

Section 39C of the Criminal Justice Act 1954 states that, where any person is "... found to be under disability or ... is acquitted on account of his insanity - the Court shall make an order that he be detained in a hospital as a special patient under the Mental Health Act 1969".

Except that where a person is acquitted on account of his/her insanity the Court may:-

- "order that the person be detained in a hospital as a committed patient; or
- make an order for his immediate release."

Recommendations in relation to these provisions are not common and Social Workers should seek the opinion of a medical practitioner before recommending that a young person be detained for observation.

C8.38 Power Of Court To Order Detention And Treatment Of Alcoholic Or Drug Addict On Conviction

Section 48A of the Criminal Justice Act empowers any Court, where any person is convicted "... for any offence of which drunkenness or the taking of drugs forms a necessary element, or for any offence which is shown to have been committed under the influences of alcohol or drugs or of which drunkenness or the taking of drugs is shown to be a contributing cause, it appears to the Court or Judge that the offender is an alcoholic within the meaning of the Alcoholic and Drug Addiction Act 1966, or is a person to whom Section 3 of that Act applies, the Court or Judge may, if it or he thinks fit, make an order requiring the offender to be detained for treatment for alcoholism or, as the case may be, for drug addiction in an institution within the meaning of the Act."

Except that no such order shall be made unless:-

- "Two medical practitioners either give evidence, or give certificates in the form prescribed pursuant to the Alcoholism and Drug Addiction Act 1966 to the effect, that they believe the offender to be an alcoholic within the meaning of that Act, or as the case may be, a person to whom Section 3 of that Act applies, and that the making of such an order is expedient in his own interests or in that of his relatives; and
- The Court or Judge is satisfied that the Manager or Superintendent of an institution, as the case may be, is willing to receive the offender in the institution".

A person may not be detained under this order for a period exceeding two years. Social Workers should be aware of the nature of local facilities that are available for the treatment of alcoholism or drug addiction in particular whether the institution would be a suitable environment for a young person before initiating any consideration of an order under this provision.

C9 POST-COURT ACTIONC9.1 Social Worker's Checklist

Immediately after the Court hearing the Social Worker should:-

- (a) complete the final disposal section of the Case Record (SW 512).
- (b) enter particulars in his/her visiting book in cases where contact is to be continued, and include a note of restitution, special conditions, expiry date of supervision, etc.
- (c) complete where necessary a draft notification slip indicating where extra copies should be sent.
- (d) initiate whatever maintenance action may be required. When a child or young person is placed under guardianship or otherwise becomes a charge of the department, the entry "maintenance action initiated" should be recorded in the "Remarks" section of the notification slip. The typed notification slip should contain the initials of the Social Worker who made the draft.
- (e) notify the Principal of the school the child or young person attends of the outcome of the hearing. (Refer C9.27.)
- (f) pass the completed reports to the appropriate clerk who will dispose of the copies as set out in C5.5.
- (g) supply the Probation Officer with one copy of the Social Worker's report in cases where a young person is being referred to the District Court for a decision. (Refer C8.31.)
- (h) if the parents of a Ward referred to the District Court for sentencing, were not present at the Court they should be advised or, if they live in another district, the Director of that district should be advised so s/he can tell them.
- (i) prepare a memorandum for minuting by the Director to the Director-General if a case presents unusual features which it is felt should immediately be brought to the attention of the Director-General.

C9.2 Action On Court Papers For Postponed And Adjourned Cases

When a case is postponed or adjourned for more than a week the Social Worker's report and the Case Record (SW 512), (including the extra copies) should be filed on the file in date order. A record should be made of the interim Court decision, either on the file copy of the Social Worker's report or a separate folio. The Case Record and the report are not to be given folio numbers. A bring-up can be recorded on the file transit sheet for about a week before the next hearing. File copies are to be finally filed in date order using the last date of hearing and then allotted folio numbers.

C9.3 Allocation Of Serial Numbers Where Cases Are Adjourned To Another District

In those cases where children or young persons first appear at a Court in one district and are then adjourned to a Court in another district, the Case Record (SW 512) must be given a new serial number at the receiving district.

Refer to the section on processing Case Records (SW 512) in Part B of this manual for full instructions.

C9.4 Recording Interim Court Decisions

A record is to be kept of all notifications of Court hearings and subsequent adjournments. In addition to this the full details of any adjournment or postponement must be recorded on the personal file. This record may be written on a minute sheet, or on the file copy of the Social Worker's report, if a report is available for the particular hearing. The details recorded will be needed if there are any inquiries about the custody arrangements etc. for any child or young person and as a source of information for completing the Court sections of the Case Record (SW 512). The following details must be recorded on the file where applicable:-

- (a) the date of the hearing;
- (b) the date to which the proceedings are adjourned or postponed;
- (c) the reason for the adjournment or postponement;
- (d) whether or not the child or young person is held in custody;
- (e) where held in custody;
- (f) whether or not the complaint or charge is admitted;
- (g) whether or not the child or young person is represented by a solicitor;
- (h) whether or not the solicitor is engaged under legal aid (does not include Court appointed solicitors);
- (i) the name of the Judge if this is useful to you.

C9.5 Recording Final Court Decisions

Final court decisions need only be recorded on the copies of the Case Record (SW 512). A blue copy of SW 512 is to be filed on the personal file with the Social Worker's report which covers the incident. There is no need to record the final decision on the Social Worker's report, except on the copies which go on to the district office general Court file.

C9.6 Completion Of The Court Sections Of The Case Record (SW 512)

This instruction assumes that the front of the Case Record (SW 512) has been completed. The information given in this form is the basic data used for policy, planning and research purposes in Head Office. It is essential that attention is paid to accuracy and detail. (Refer Fig. 17.)

Case Record 'Court' section:

"Name of Final Court" means the name of the Court which makes the final disposal.

"Date of first hearing" should include any preliminary or special sittings.

"Date of last hearing" in Children and Young Persons Court only. Include date of final disposal in disposal details for District Court or High Court.

"Was the child in S.W. custody ..." includes young persons as well, and requires the "Yes" or "No" to be deleted as applicable. This only relates to custody during Court adjournments or postponements.

"Number of adjournments/postponements" means the number of times the Court has adjourned or postponed the matter. Do not include adjournments in the District of High Courts.

"Complaint" etc. requires for Section 27 complaints that the appropriate paragraph or sub-paragraphs under subsection 2 be quoted fully. The complaint for failure to observe, Section 48(1) has no paragraphs.

"Offences" etc. means charge related offences only. The details of the "Act, Year, and Section" will be supplied by the Police. "Type of offence" means legal charge; give brief details only, e.g. theft, unlawful taking, etc., and in the corresponding column headed "Number of Charges" enter how many charges of this type the child or young person is being charged with.

"Plea of Guilty?" indicate "Yes" or "No" by deleting whichever is not applicable - record "Yes" if the matter is denied at first but later admitted without evidence being heard.

"Legal representation?" indicate "Yes" or "No" by deleting whichever is not applicable - should include any representation by a solicitor or counsel whether engaged by the defendants or appointed by the Court.

"Legal Aid? Yes/No" delete whichever is not applicable - the Registrar of the Court will have this information.

"S.W. recommendation" should be as full a description as possible including any additional conditions of supervision recommended.

"Court's final decision (details)": This should show details of the decision including additional conditions of supervision, the amounts of fines, costs, etc. When order is made under Section 36(1)(j) referral to District Court for sentencing and the young person is held in custody pending sentence this fact must be shown under 'Final disposal' section e.g. S.W. custody or Police custody. Where there is only one Case Record, but it contains several charges (and/or complaints) and more than one decision is made, it should be made clear under the "Final Disposal" heading, which charge or charges each decision relates to. A number could be placed beside the appropriate charge or complaint described and then used in the "Final disposal" section to indicate the relevant decision, or alternatively the offence could be described again to relate it to the particular decision, e.g.:

"Theft (2) - Fined \$10 and costs \$5 on each.
Unlawful taking and burglary - supervision 12 months not to own or operate motor vehicle."

Where two or more Case Records relate to one final disposal and there is only one decision covering all the charges and/or complaints reported, the final decision should be recorded on only one of the Case Records (the one that contains the most serious charge or complaint) and the other record or records should be cross referenced by means of the district serial number. The crossreference should be placed in the "Final disposal" section, e.g. SW 512. Hamilton 413.

"Decision made under ..." quote relevant sections, subsections and paragraphs.

The District Court or High Court section:

The headings should be completed as described above. The exception is the heading "Reason for referral" where there are four possible reasons:-

- a. convicted in Children and Young Persons Court and sent to District Court for sentencing;
- b. jointly charged with adult offenders;
- c. young person elects trial by jury;
- d. murder or manslaughter.

"Final disposal" should be completed as for the Children and Young Persons Court section, except that the date of the final disposal must also be given. This information is usually obtained from the Court shortly after the hearing date.

(For notes on the completion of the rest of the Case Record (SW 512) see Part B.)

C9.7 Head Office To Be Notified Of All Court Decisions

A statistical analysis is carried out of all final decisions made by the Court. (As well as all Children's Board and Y.A.S. decisions.) The criteria for recording any action as a Court disposal will be whether or not the proceedings actually came before a Court hearing.

For example, if the Police seek leave of the Court, at a hearing, to withdraw a charge, the leave to withdraw is recorded as a Court disposal. On the other hand, if the Police agree to a decision of prosecution at a Y.A.S. conference and later decide not to prosecute before Court proceedings are initiated, then this should be recorded as an amended Y.A.S. conference decision.

All Case Records (SW 512) will be allocated a serial number, and the number is to be contained on all Court decisions including withdrawn, discharged or dismissed proceedings. The Head Office copy of all Case Records (SW 512) are to be forwarded to Head Office regardless of the nature of the Court decision.

C9.8 Head Office Action On Receipt of Case Records

When Case Records are received in Head Office an entry is made in the master index. The Case Records are coded for computer use to serve general reference and research purposes.

C9.9 (Reserved.)

C9.10 (Reserved.)

C9.11 General Court File To Be Held In Districts

A general Court file must be maintained in each district for the purpose of easy reference to recent Court data. In all cases the Social Workers' reports are to be filed in the district where the final Court decision was made, regardless of where the Social Worker's report was prepared.

The general file will contain the white copy of the Social Worker's report which is shown to parents and only the essential details of the final Court disposal need to be recorded on the report for future references.

C9.12 Court Letters

When a child or young person is either placed on supervision or placed under the guardianship of the Director-General, the Court sends out to parents a formal letter which explains the legal implications of the decision and informs the parents of their rights of appeal. The letters (SW 618 and SW 619) are sent out automatically by the Courts and involve no Social Welfare action. (Refer Figs. 18 and 19.)

C9.13 Distribution Of The Supervision Order

Refer Fig. 13. Certified copies of the order are sent by the Registrar to the Director and to the Police who by administrative arrangements, serve the order on the parent or guardian and complete the statement of service (on a duplicate which is returned to the Court). Copies of the supervision order are no longer sent to the Director-General.

Directors are responsible for checking the particulars entered on the supervision orders. If a material error is found such as a supervision order which should be a guardianship order (or vice versa), or a supervision order specifying a period of two years supervision instead of one, or if an order is wrongly dated, the Director should return his/her copy to the Court for correction. The Court should not be asked to correct less serious errors such as the mis-spelling of child's name or error in the date of birth.

C9.14 Need To Explain Supervision Order

The meaning of the supervision order will need to be explained carefully to both parents and child or young person. If supervision is foreseen as a real possibility the Social Worker should have discussed its meaning with the parents when conducting the pre-Court inquiry. It is not generally a good plan to embark on more than a brief explanation immediately after the Court hearing when both parents and child or young person may be too upset to absorb the information. It is better to make an early appointment (preferably - and where practicable - within the next ten days) to call on them to discuss the explanatory letter (refer C9.16) and any other matters of concern.

It should be explained that the Court regards the supervision period as a trial period during which the Social Worker will visit regularly and assist in any way possible with a view to attempting to relieve or resolve any difficulties which may have led to the Court appearance. Where appropriate, various forms of assistance should be discussed and all conditions of the order explained. It should be explained also that the supervision order, being an order of the Court, must be respected and that if the child or young person does not conduct himself/herself reasonably, does not carry out the conditions laid down, or if the response is not an adequate one, the power exists to bring the child or young person back before the Court.

C9.15 Instructions Relating To Conditions Of Supervision

Sections 46 and 47 of the Children and Young Persons Act authorise a Social Worker to issue instructions which qualify the conditions of supervision orders imposed by the Court. These instructions will form a part of the original condition, and thus, may be the subject of a complaint under Section 48 where the conditions are not observed. It is therefore advisable that such instructions are kept to a minimum and are realistic. Instructions should be issued in writing and either delivered personally with a copy signed as a receipt, or sent as an A.R. (Acknowledged Reply) registered letter. The signed copy or the Post Office receipt card should be filed.

Social Workers are expected to observe the usual courtesies when arranging visits to children on supervision, and only in special circumstances (e.g. where a child is suspected of being at risk of ill-treatment or neglect) should Social Workers insist on their right to visit and enter against the wishes of the parents.

Older children may be required to report to Social Workers where satisfactory arrangements can be made. Maintaining contact with parents in these circumstances is important if misunderstandings are to be avoided.

Any directions about addresses, employment and associations which are not approved of must be clearly conveyed in writing. Social Workers must ensure that the reasons for the directions are known.

It is important that the visiting Social Worker be kept informed of any changes in the address of the child or young person. It should be pointed out that where a child is on supervision it is the parents responsibility to ensure that this is done but young persons must be responsible for giving all changes in their own addressess. (The mandatory conditions of supervision are set out in C8.17 and C8.18.)

C9.16 The Social Worker's Role In Supervision

During the currency of the order home visits are made, and both child and parents should be seen frequently with a view to improving family relationships and helping with any problems they may have. Often during a period of supervision a Social Worker may be assisted by teachers, employers, group workers (e.g. Y.M.C.A., leader of youth clubs, etc.), ministers of religion, or honorary officers. A large element of the supervising process is the focusing of community resources on the needs of a particular individual. This is not to underestimate in any degree the strong and beneficial influence which the Social Worker can as an individual have on the child or young person and his/her parents.

C9.17 Frequency Of Supervision Visits

There is no statutory provision or regulation governing the frequency of visits to children under our supervision.

The Director-General requires that a child placed under supervision by Court order must be visited not less than once every four months.

The existence of a minimum requirement is essential but in general many more visits than this will be needed if effective social work is to be carried out. The frequency of visits will vary according to the needs of the case. The aim should be to make a definite and intensive beginning and gradually to withdraw from the situation if progress is being made.

C9.18 Visiting Return For Supervision Cases

Two weeks before the end of April, August and December, the senior clerk will make up a list from each Social Worker's visiting book of all children or young persons not yet visited and minute the list to the Social Worker. On the last day of April, August and December, the list showing those still not visited is referred to the Assistant Director (Social Work) for appropriate action.

C9.19 Procedure For Failure To Observe Conditions Of Supervision

The procedure for taking complaint action under Section 48 for failure to observe conditions of a supervision order, is the same as for complaint action by way of summons as described in C2. The complaint may be directed to the young person or parent or guardian or person having the care of any child who must appear before the Court together with the child. Warrant action is not provided for under a Section 48 complaint, so that if there are grounds for warrant action fresh complaint proceedings under Section 27 would have to be initiated. A complaint of failing to observe conditions of supervision should be reported on in the usual way. (Section 48 complaint, see Fig. 20.)

The provisions for the Court to decide complaints of failing to observe conditions of supervision are described in Section 48(2) of the Act. where the complaint is proven, this section allows that "... the Judge may cancel the order and in substitution for that order make such an order to take such other action under Section 31 or Section 36 of this Act, as the case may require, which is seen by him to be necessary in the interests of the child or young person or the community".

In formulating recommendations to the Court in these cases, Social Workers can assume that this section gives the Court the maximum flexibility possible in decision making to enable the most satisfactory outcome to be achieved. For example, it may be that the effect of a young person having to reappear before the Court to account for his/her failure to observe, is in itself sufficient reinforcement of what is expected of him/her under the supervision order, and the existing order may not need to be cancelled. In another example it may be necessary to recommend that the order be substituted by a nominal fine and a new period of supervision. To recommend that a guardianship order be made in substitution would be a serious step and where possible such cases would be more appropriately dealt with by initiating fresh proceedings. (Summons on complaint - Section 48, see Fig. 21.)

C9.20 Supportive Service Following Court Appearances

There are some circumstances following Court appearances where a family, child or young person may be taken on as a supportive service case. Where a recommendation involving continuing oversight (e.g. supervision or postponement) is not followed by the Court, the family concerned may consent to a period of informal contact. Sometimes it is felt that the Court should treat a group of children and/or young persons alike, where they appear in relation to the same incident. Where the recommendation does not involve continuing oversight, supportive service may be appropriate for those in the group who, regardless of the Court outcome, would benefit from and consent to, informal contact.

C9.21 Procedure In Calling Upon Persons To Come Before The Court

Where an order is made that a person must come before the Court if called upon, Section 31(2) of the Act provides that, "... the Court may at any time during the duration of the order direct, on the application of a Social Worker or a member of the Police, the issue to the person in respect of whom the order is made of a summons in a form prescribed for the purposes of this section", (refer Fig. 22). The Court then makes an "...inquiry into the circumstances of the case and the conduct of the person since the order was made ...", and may make a new decision. It is not expected that Social Workers should keep any person under surveillance, indeed to do so could be seen as contrary to the intention of the provision. However, where any incident comes to the attention of a Social Worker in relation to a person under this order, and it is felt that a recall to Court is appropriate, a supplementary Social Worker's report will need to accompany the application. The report should fully describe the situation since the order was made, and recommend a new decision. Where the Police make an application they should advise us in the usual way, and supply a Juvenile Report (Pol 333) to cover the incident. Where Social Workers make an application they must complete a Case Record (SW 512) to cover the incident.

C9.22 Payment Of Costs And Compensation As A Condition Of Supervision

Section 47(1)(a) and (b) of the Act allows the Court to impose on young persons, conditions of supervision relating to the costs of the prosecution or to compensation. The costs are determined by the Court but the sum of compensation may be fixed by the Court or by the Social Worker. The Social Worker may be expected to fix the sum of compensation in cases where information about the exact amount of compensation is not available to the Court at the time of the hearing. Where costs or compensation are ordered payments may be made within such period and such instalments as may be directed by the Social Worker.

C9.23 Collection Of Compensation And Restitution

Under an arrangement with the Department of Justice this department assists in the collection of compensation and restitution from children placed under supervision or guardianship, but payment is to be made by the child or parents direct to the Court wherever possible. It should be clearly understood that although the department assists in collection of compensation and restitution it is not responsible for seeing that they are paid except under Section 47 (as above). Following a Court hearing the Social Worker should enter the amount of compensation or restitution ordered in his/her visiting book. S/he should also enter the amount and any conditions relating to payment in the decision section of the Case Record (SW 512). Any money collected should be paid into the district office trust account and a receipt issued. Account cards are used by the clerical staff for keeping an easily accessible record of the position regarding compensation and restitution payments, amounts collected are paid over monthly by the senior clerk to the Registrar of the Court at which the order was made. Where a child transfers to another district or transfers to or from an institution before compensation or restitution payments are completed a statement of the amount which is still owing and the Court at which it is payable should be entered on the 'Action Sheet-Transfer' forwarded with the personal file. The following procedures, are the responsibility of the clerical section:

- the issue of receipts;
- recording;
- disposal of compensation and restitution payments; and
- keeping the Court and the Social Workers advised regarding the progress of payments.

When a Ward is placed on a work status for the first time (perhaps after being discharged from an institution), arrangements for the payment of outstanding compensation or restitution should be considered in determining his/her wage allocation. Similarly when W.i status or discharge is under consideration the position regarding compensation/restitution payments should be reviewed. Where a young person on supervision or under our control has not completed payments by the time supervision has expired or discharge is recommended, a note of the amount still owing should be included in the 'Remarks' column of the notification slip which records termination of control or supervision. The accounts section clerk will notify the Registrar of the Court in writing of the amount still outstanding and the Registrar will be able to take any action he thinks necessary.

C9.24 The Enforcement Of Fines, Compensation, Restitution And Court Costs

Section 99 of the Children and Young Persons Act 1974, provides that, "For the purpose of Sections 31(7) and 36(2) of the Act every Children and Young Persons Court and its officers shall have all the powers of a District Court and its officers respectively, and Part III of the Summary Proceedings Act 1957 shall apply accordingly with all necessary modifications ...".

Section 31(7) of the Act says that orders for compensation in relation to complaints "... shall have effect as if made by a District Court as if any sum ordered to be paid had been adjudged to be paid by conviction ...".

Section 36(2) in relation to charges, states similarly, that every order or decision relating to fines, costs, compensation, and restitution, "... shall have effect as if made by a District Court and as if any fine imposed or other sum ordered to be paid had been adjudged to be paid by conviction ...".

The exceptions to both Section 31(7) and 36(2) are that enforcement is to be by the Children and Young Persons Court, and that no young person is liable to imprisonment for failing to comply with any order or decision.

Section 79 of the Summary Proceedings Amendment Act 1973 states that unless the text of Part III "... otherwise requires, references to the sum adjudged to be paid by a conviction shall be deemed to include any sum of money whether as a fine or for costs or otherwise." This interpretation allows for the enforcement of compensation and restitution in the same manner as for fines, that is, where the Act refers to "fine, etc" or the "sum adjudged".

C9.25 Default In The Payment Of Fines, Compensation, etc.

The Summary Proceedings Act 1957 provides a Registrar with powers to summons and examine persons who default in the payment of fines, compensation, etc., and if necessary he can bring them back before a Judge for enforcement proceedings. Under Section 99 of the Children and Young Persons Act 1974 any parent or guardian may be present where a young person is examined as to his/her means.

In cases where a Social Worker has the oversight of a young person who has been fined, or ordered to pay compensation, etc., and difficulties arise over payments, the Registrar concerned should be kept fully informed.

Although young persons may not be imprisoned for default in payment the Summary Proceedings Act provides other ways of dealing with default. For example, the Court may make attachment orders on wages; order the seizure and detention of motor vehicles in certain circumstances; disqualify from driving; or issue a distress warrant. A distress warrant allows for the seizure of goods which may then be sold, under order by a Judge, to pay the whole or part of the debt to the Court. Where a young person (or parent) is experiencing genuine difficulty in meeting payments the Registrar should be informed.

Registrars have the power, after enquiry into the defendant's means, to allow further time for payment. They may also report to a Judge that the defendant at present has no means and the Judge is empowered to remit the sum adjudged to be paid.

C9.26 The Effect Of A Court Appearance On Future Prospects

Social Workers may be asked what effect a Court appearance is likely to have on the future prospects of a child or young person. Although the Courts hold the official records of all appearances, in practice, any criminal record checks are made with the Police Department. The Police have a National Information Centre which is their central record of offenders. They record all Court decisions relating to young persons except those under the Transport Act where the offence is one which (were the young person an adult) is punishable by imprisonment. Charges which are dismissed or discharged would not be recorded. In view of the criteria adopted for the Police records, and the fact that the question may be asked, "Have you ever appeared before a Court?", whether or not a young person is "convicted" of an offence is of little real importance.

The implications are that any appearance as a child will have no effect on future prospects. However, where young persons are concerned, if the offence carries a sentence of imprisonment then any future Police check, (e.g. for prospective adoptive applicants or taxi driver's licence, etc.) may disclose the facts of the Court appearance. To reassure a parent or a young person, that such a Court appearance will have no effect on a young person's future would be misleading.

C9.27 Principal To Be Notified Of Court Decision

It is most important that whenever we have asked a school for information about a child or young person before a Court hearing, we should inform the Principal of the outcome of the Court appearance as soon as possible even if the result might appear to be relatively unimportant, e.g. admonish and discharge. The appropriate 'Notice of Court Decision' letter (refer Fig. 23) should be sent to the school immediately after the case is finalised. Anything about the hearing or the decision which needs elaboration or clarification can be discussed personally with the Principal concerned at some other appropriate time but at least s/he is informed immediately of the outcome.

C10 RIGHTS OF APPEAL IN THE CHILDREN AND YOUNG PERSONS COURTC10.1 Introduction

The C. & Y.P. Act 1974 under Section 53 - Section 63 provides for a right of appeal. In what follows and in the Act itself a distinction is made between the finding of the Court (i.e. that the charges are proven or that the complaint is upheld) and the order of the Court (the decision to make a supervision or guardianship order etc.). The main provisions of the Act as regards appeals are set out below.

C10.2 Appeal By Child Or Young Person (Section 53)

A young person dealt with on a charge will have a right of appeal both against the finding of the Court and against the order of the Court. A child or young person whose parents appear on a complaint will have a right of appeal against the order of the Court or the finding, or against both.

At the request of the Department of Justice, this department has undertaken to notify the parents when any child or young person appeals against a finding or an order. A letter should be sent telling the parents when the appeal is to be heard. A copy of this letter must go to the Registrar of the District Court, who will send it with the rest of the file on the case to the High Court concerned.

C10.3 Appeal By Parents (Section 54)

In a complaint case any parent, guardian or person acting in the place of a parent may appeal against the order of the Court or against the finding, or against both. When a young person has been charged with an offence the parents will have no right of appeal against the finding but they may appeal against any order for guardianship, supervision or postponement of final consideration of the matter. Parents also have a right of appeal against any order made against them to pay compensation or restitution incurred through an offence committed by their child.

C10.4 Appeal By Persons Other Than Young Persons Convicted In The C. & Y.P. Court (Section 55)

Adults dealt with in the Children and Young Persons Court either because they have been charged jointly with a young person or because they have been charged with an offence against a child or young person have a right of appeal against the conviction or the sentence or both.

C10.5 Appeal By Police Or Social Worker (Section 55A)

The complainant (i.e. the Police or the Social Worker) in a complaint under the provisions of Section 27(2)(a), (b), (c), (d) and (g) may appeal against the finding or the order or against both.

C10.6 Action To Be Taken To Initiate An Appeal By The Social Worker

If a Social Worker considers that an appeal should be lodged against the findings or the order in a complaint case under Section 27(2) (a), (b), (c), (d) and (g) and the supervising officer agrees, he/she must forthwith make a recommendation to that effect to the Director-General.

The time limit for lodging an appeal under Section 55A of the Children and Young Persons Act 1974 is 28 days.

The submission must be accompanied by:

- (a) the notes of evidence from the lower Court (if taken),
- (b) a report from the Crown Solicitor (if appointed),
- (c) full notes from the Social Worker conducting the case of the evidence (if no official notes available, and if the Crown Solicitor did not prosecute),
- (d) the Judge's decision,
- (e) a background report - which includes the Social Worker's report to the Court and any additional notes.

The submission must not be deferred if (a) and (b) are not yet available in typed form.

If the background is complicated and not fully covered in the report to the Court the personal file together with a list of referrals by folio number to relevant items on the file would be an efficient means of providing all information. Alternatively the relevant pages could be photocopied and the file retained.

If the Director-General decides to proceed with the appeal either the Crown Solicitor will be instructed or a solicitor from the department will conduct the case in the High Court on behalf of the Social Worker.

Legal opinion indicates that there is no provision allowing the Social Worker to apply for custody pending the outcome of an appeal. There appears therefore to be no option open to prevent the child from being returned to the care of his/her former caretakers if that is the determination of the Court, or if the complaint is found not proven.

However, where the Social Worker considers, in consultation with the supervising Social Worker, that such a return poses a real danger to the child, immediate consultation with Head Office should be sought to explore ways of safeguarding the child.

C10.7 Appeal On Point Of Law Only (Section 56)

Anyone who is entitled under Sections 53 and 54 and 55A, (refer C10.2, C10.3 and C10.5) to appeal against a finding or order may do so if s/he believes, that some error in point of law has been made in the finding or the order.

C10.8 Application Of The Summary Proceedings Act 1957 (Section 57)

This section provides for the application of Part IV of the Summary Proceedings Act 1957 to appeals under Sections 53, 54, 55 and 56 of this Act, with "necessary modifications", e.g. District Court shall be read as if it were reference to a Children and Young Persons Court. Part IV of the Summary Proceedings Act relates to the general legal provision for appeals.

C10.9 Effect Of Notice Of Appeal On Guardianship, Supervision And Postponement Orders (Section 58)

The act of filing a notice of appeal does not affect, "The operation of any order:-

- placing a child or young person under the guardianship of the Director-General; or ...
- placing a child or young person under the supervision of a Social Worker; or
- postponing the final consideration of the matter ..." unless the appellant also applies to the Court for suspension of any of the above orders, "... pending the determination of the appeals."

"Notice of any application or direction to suspend a supervision order shall be given by the Registrar to the Director of Social Welfare of the district in which the Court is situated." Where a direction is given to suspend a supervision order the term of the order shall cease to run from the date of the direction. If the appeal is not upheld the terms of the supervision order would resume.

C10.10 Presence Of Child Or Young Person At Hearing Of Appeal (Section 60)

A child or young person shall be entitled to be present at the appeal hearing unless the Court directs otherwise. If however the appeal is on a question of a point of law s/he is not entitled to be present except with the leave of the Court.

Where a child or young person is ordered to attend a hearing but fails to do so a Police officer or Social Worker may bring him/her before the Court solely on the authority of that order to attend.

C10.11 Presence Of Parents At Hearing Of Appeal (Section 61)

The Court may order any parent or guardian to be present at any hearing of an appeal and if necessary can take steps to enforce such attendance.

C10.12 Proceedings Not Open To Public (Section 59)

This section states that, "The provisions of Section 23 and 24 of this Act, with the necessary modifications, shall apply to the hearing in the High Court of any appeal against a decision of a Children and Young Persons Court." (Refer Cl.6.)

C10.13 Persons Wishing To Appeal To Be Referred To A Solicitor

Whenever parents, children or young persons appear to be labouring under a genuine sense of grievance about a finding or order of the C. & Y.P. court, the Social Worker should explain briefly that appeal rights exist and should refer the person on to a solicitor. S/he should neither encourage or discourage people from exercising a right of appeal and should avoid commenting on the Court's decision. It is the Social Worker's function neither to assist nor obstruct. It is his/her function to be reasonably neutral and impartial.

C10.14 Legal Advice For Child Or Young Person

Social Workers must be sure that a child or young person has the opportunity of obtaining legal advice about the desirability of appealing and the conduct of the appeal itself. If s/he wants a lawyer but has no savings and his/her parents can not help, the Social Worker should assist the child or young person to obtain legal aid under the normal provisions. In the case of Wards refer to N1.9. Social Workers must not attempt to give legal advice themselves.

C10.15 The Department Does Not Attempt At All Costs To Win Appeals

Our policy about recommendations to the C. & Y.P. Court is that we do not strive at all costs for our recommendations to be acted on. We make an honest assessment of the case and make a recommendation to the Court which harmonises in the best possible way the interests of the child and the community. If the Court chooses not to accept our recommendation we are not personally affronted. We take the same attitude in appeal cases. Where required we present our evidence as clearly and concisely as possible and the Court decides whether there are grounds to justify the recommendation.

C10.16 Engagement Of Crown Solicitor (ref H7.4 re delegation)

If an appeal is against an order of the Court based on a Social Worker's complaint under Section 27 of the C. & Y.P. Act 1974, the Director should seek the Director-General's authority to engage the services of the local Crown Solicitor. Social Workers may not conduct cases in the High Court.

The Director may make available to the Crown Solicitor a copy of the Social Worker's report to the Court and, if necessary, supplementary notes about the case, or the child's personal file. Any requests from parents or solicitors acting on behalf of parents, children or young persons, for the Social Worker's report, with reference to the appeal should be referred to the Crown Solicitor if approval has been given for him to act.

C10.17 Notification of Appeal and Result of Appeal to Directors
(Section 62)

Subsection (1) provides that, "Where any appeal under this Part of this Act relates to an order placing a child or young person under the guardianship of the Director-General or under the supervision of a Social Worker, an additional copy of the notice of appeal shall be filed, and the Registrar of the District Court shall forthwith deliver or post that copy to the Director of Social Welfare of the district in which the Court is situated."

As mentioned in C10.9, under Section 58(1) notice of any application for the suspension of a guardianship, supervision or postponement order, or any subsequent direction for such a suspension pending the hearing of an appeal, must be given to the Director by the Registrar.

Subsection (2) of Section 62 states that, "Where the decision of the High Court on any such appeal has been given, the Registrar of the High Court shall send to the Director as aforesaid a certificate setting out the result of the appeal."

Subsection (3) provides that, "Where under Section 107 of the Summary Proceedings Act 1957 (as applied to appeals under this Part of this Act) a Judge has certified that any such appeal has not been prosecuted, the Registrar of the District Court shall send a copy of that certificate to the Director. Where any such appeal has been dismissed for non-prosecution, the Registrar of the High Court shall send a certificate to that effect to the Director."

C10.18 Advice of Appeals to Director-General

The Director should forward to the Director-General two copies of each of the relevant papers (i.e. "Notice of Application for an Appeal", and "Notice of the Court's Decision"). One copy is filed on the personal file and one on the appeals file.

C11 RIGHTS OF REVIEW OF GUARDIANSHIP AND SUPERVISION ORDERSC11.1 Distinction Between Appeals And Reviews

Social Workers should appreciate clearly the distinction between right of appeal and right of review.

- An appeal is made against the finding or order of the Court because it is presumably felt by the appellant that the finding was wrong or the order too severe having regard to all the facts.
- The right of review is not concerned with the original finding of the Court but allows the parent of a child, or the child or young person himself/herself to, in effect, ask the Court to review the order after it has been in operation for a minimum period and to assess whether it can be cancelled, or otherwise dealt with.

C11.2 Reviews Of Guardianship Orders (Section 64)

Section 64 of the Act provides that, "Where an order has been made ... placing any child or young person under the guardianship of the Director-General:-

- the child or young person; or
- a parent of that child or young person; or
- the person who would be his guardian if he were not under the guardianship of the Director-General; or
- the person who had the custody or control of the child or young person before the order was made may, at any time after the expiration of 12 months after the making of the order:-
 - request the Director-General in writing to discharge the child or young person under Section 49 of this Act; and
 - if that request is refused, may then apply to a Children and Young Persons Court for a review of the guardianship order under this Act, and on any such application the Court may, as it thinks proper, having regard to the reasons for the guardianship order, the environment in which it is proposed that the child or young person shall live, and any other circumstance of the case, either:-
 - cancel the order as from such date as it thinks fit; or
 - substitute a supervision order; or
 - refuse the application.

Provided that where an application under this section is refused a further application for a review of the order shall not be entertained unless 12 months have elapsed since the date of the refusal and unless the application has been preceded by a further request to the Director-General to discharge the child or young person under Section 49 of this Act."

C11.3 Requests For The Discharge Of Wards

In practice, such requests are likely to arise from a refusal to return a Ward to the parent's care (ie. allow home status or discharge). The Director-General receives a request to discharge the Ward. This may come from a parent or their solicitor. The authority to respond to such requests has been delegated to district level by the Director-General. On receipt of requests the Director-General sends an interim reply advising of the referral of the matter to the District Director. The Assistant Director (Social Work) is required to review the case and has authority to decline the request. A recommendation by the ADSW in support of discharge is referred to the Director for decision. The AS(SW) will reply in writing to the parent or their solicitor. The grounds for the decision will either be stated in the letter or it will be suggested that the parent and or their solicitor may care to discuss the matter further. (See N3.1).

C11.4 Review Of Supervision Orders (Section 65)

The Children and Young Persons Act 1974 provides that where a child or young person is placed under the supervision of a Social Worker for a fixed period, then that Social Worker, the child or young person or the parent may apply to the Children and Young Persons Court for the review of the order. In considering the application the Court may:-

- a. "If 6 months have elapsed since the date the order was made, cancel the order from such date as it thinks fit and" ... make the cancellation subject to the fulfilment of any conditions it wishes to impose; or
- b. "Remove any condition imposed under Section 47" (refer C8.20 & C8.21) "of this Act, and substitute or add such other conditions as it thinks fit"; or
- c. "Refuse the application".

If an application is refused, no further application may be made until at least 6 months have elapsed. This proviso does not apply when a Social Worker wishes to make a further application.

C11.5 Director To Be Informed Of Applications

When any application is made for the review of a guardianship or a supervision order by anyone other than a Social Worker, the Registrar must inform the Director of the district in which the Court is situated.

C11.6 Procedure In Review Of Guardianship (ref H7.4 re delegation)

The solicitor acting for the parents submits to the Children and Young Persons Court an application accompanied by an affidavit sworn by his/her client, listing the grounds upon which the application is based. In reply to this the Social Worker dealing with the case, swears an affidavit explaining the reasons why the department opposes returning guardianship to the parents.

On receiving 'Notice of Application for Review', districts should forward two copies of it to Head Office so that Legal Section can arrange for the local Crown Solicitor to prepare the Social Worker's affidavit and appear in Court on the Department's behalf.

The Social Worker's statement should include a brief resume of events which lead to the child's placement under guardianship, a brief description of progress since guardianship, a brief description of progress achieved with parents, reasons why parent's application is not supported, future plans for child in care and indication of work planned with parents to facilitate Ward's return to their care (if applicable).

In due course the Court will forward a copy of the Court's decision to the district concerned and two copies of this should be forwarded to Head Office.

C12 COMMUNITY WORK SCHEMES

C12.1 Legal Provision

Section 47(1) of the Act provides that "The Court in placing a child or young person under the supervision of a Social Worker may in its discretion impose ..." a condition (as described in paragraph (h)), "That he reasonably and effectively undertake work in the interests of the community for such period as the Court thinks fit under the supervision of an organisation approved by the Director-General either generally or in the particular case."

Unlike paragraph (g) which relates to various programmes conducted at a centre, work in the interests of the community is community based, and a period of time is involved rather than specific attendance requirements.

C12.2 Organising Committees

A committee may be formed to assist in the organisation of suitable work projects for children and young persons. In some districts there may be sufficient work available to preclude the need for an organising committee. The purpose of a committee is to tap community resources and to gain community involvement. The committee should not be too formal or unwieldy so that efficiency is impaired.

The convenor of the committee should be a senior Social Worker. The membership could include representatives of the approved organisations and any other person who can assist with facilitating an effective programme of suitable work. The need for various participants will be determined by local need but in every case the aim should be efficiency of function. However particular attention should be given to involving in the committee's work, either actively or on a consultation basis, a Maori who is active in Maori cultural activities; a representative of the Court, e.g. a Registrar or Judge; and a representative of the Federation of Labour. In the latter case the Federation of Labour will supply the names of representatives in the various centres who may be used. These representatives will be the same as used by the Probation Service. Organisers of community work in any district should, whether a committee is formed or not, liaise with this representative in relation to jobs to be undertaken. It is important that the work undertaken does not remove work opportunities from normal citizens.

C12.3 Medical Fitness To Undertake Work

There is no legal requirement for a medical report to be obtained for work completed as a condition of supervision, however Social Workers should ensure, prior to making their recommendation that there is no known or apparent medical reason why a child or young person should not engage in any particular work activity. The Judge should be informed of the child or young person's state of fitness.

C12.4 Criteria For Selecting Work

The Act requires that children or young persons undertake "... work in the interests of the community ... under the supervision of an organisation approved by the Director-General ...". This can be interpreted as implying that any work done must be done under the auspices of some organisation which is involved in volunteer work in the interests of the community. This requirement appears to be a safeguard against any accusations that young persons are being exploited for their labours. The criteria for approving the organisation is set out below.

In general the work should be meaningful and be a task with which the child or young person can identify with satisfaction and pride. For example, a predominantly Maori group may be involved in work on a marae. Monotonous repetitive work leads to supervision problems and is unlikely to improve anti-social attitudes. The work should be that which could not normally be undertaken by workmen for reasons of the non-availability of labour, the low priority of the job, or financial hardship. The ideal goal is to engage the young persons in work which has strong elements of service to the community and constructiveness.

A restricting factor, but one which must be given every consideration is the protecting of the children and young persons from being identified as offenders to avoid public humiliation and idle gossip. The spirit of confidentiality which is contained in the Act in relation to the Court should apply. The work should be located where there is a minimum of public observation. The groups may be working with organisation members who will inevitably learn the young persons identity, so that a measure of the organisation's suitability for approval may be the ability of their members to handle this situation in a helpful way. (Department vehicles should not be used for transport where the work is in public.)

C12.5 Approved Organisations (ref H7.4 re delegation)

Directors may approve any organisation which undertakes work in the interests of the community provided that it is not an employing body. Where an organisation does not conform with this description a recommendation should be made to the Director-General for a special approval. The organisations involved in this type of work are usually service clubs or voluntary welfare organisations.

C12.6 Assignment To Particular Community Projects (ref H7.4 re delegation)

There may be a particular community project which a child or young person could be assigned to by the Court as a condition of his/her supervision. In such cases the period of time the child or young person is ordered to work should not exceed the time the project is expected to last. Only one or so children or young persons should be assigned to any one of these projects, so that no extra supervision, other than that provided by the organisation concerned is required. The child or young person recommended for such a project should be sufficiently reliable and well motivated to be trusted to complete his/her work "reasonably and effectively" under the organisation's supervision.

The organisation must be willing to accept responsibility for supervising the child or young person (preferably by nominating one member for the task) and to take note of the hours worked.

The Social Worker who has the child or young person under supervision will be responsible for the overall supervision of the Court's direction and the recording of the work completed. (Where a supervisor is employed he/she will be responsible for keeping records.)

Where more than one child or young person is placed on any one project care should be taken that they do not normally associate with one another, or, being like-minded, are likely to form such an association. Associations of friendship or interest will make supervision on the job more difficult and may be generally unhelpful.

This type of placement has the advantage of providing more confidentiality, in that the child or young person is not identified as one of a group of offenders and obtains more exposure to the influences of the members of the organisation. The success of such placements will largely depend upon the judgement of the Social Worker in predicting the child's or young person's likely response, and the enthusiasm and interest of the people the child or young person is working alongside.

C12.7 Assignment To Supervised Groups For Various Community Projects

A difficulty in assigning children or young persons to particular projects or organisations is that the work available may be discontinuous or of insufficient duration. The result is that a child or young person may through no fault of his/her own, be unable to complete the period of work specified by the Court.

A further difficulty may arise where the numbers of children or young persons who may derive benefit from this work exceed the ability of any given organisation or its members on a particular project to effectively supervise them.

The department has approval to employ a limited number of supervisors to assist by working with groups of up to nine children or young persons. This arrangement will allow the group to move from project to project under continuous and consistent supervision.

Before recommending that a child or young person join a work group, Social Workers will need to consult the senior Social Worker responsible for the group's activities. Factors to be considered will be; the availability of a vacancy, the duration of the period of work, and the child's or young person's likely compatibility with the other group members.

C12.8 Appointment Of Supervisors (re H7.4 re delegation)

The number of hours allocated to most districts for the employment of a Community Work Supervisor is based on a national pool of equivalent full-time staff under staff ceiling restrictions. It is therefore important that these allocations not be exceeded other than by express approval from Head Office.

Directors have delegated authority to appoint Community Work Supervisors within the district's approved allocation of hours. Recommendations for such appointments will be made by the Assistant Director (Social Work) to the Director, while any recommendation for increased hours needs to be submitted to Head Office for approval.

In selecting persons for these positions it is important to find someone with good community contacts, and who is resourceful, can establish rapport with young persons and is willing to work alongside the children or young persons on the job. The success of the scheme largely depends on the qualities of the supervisor.

C12.9 Role Of Supervisor

The supervisor will work in close co-operation with the senior Social Worker who is especially assigned to co-ordinate and direct the scheme for the district. It is for the supervisor, with the help of a committee where available (refer C12.12) to find suitable work. S/he then must take care of the organisation necessary for the children or young persons to undertake the work under his/her supervision. Records need to be kept so that hours worked and attendance at each session are noted.

While the supervisor will have the primary goal of seeing that the task is completed s/he will also have a secondary goal of observing group relationships and encouraging the harmonious development of these relationships. The Social Worker under whose supervision each child/young person is placed will retain overall responsibility for the supervision of the child/young person and have appropriate concern for the child/young person's family relationships.

C12.10 Equipping The Group (ref H7.4 re delegation)

Any material required for the work in hand is to be supplied by the person for whom the task is being done and in so far as possible tools should be similarly supplied. To have sufficient tools available will often present some problems but a resourceful organiser can overcome most such difficulties.

A small stock of protective clothing should be available for the use of the children/young persons. Authority is given for the purchase of up to 9 pairs of shin gumboots and 9 parkas. These items are to be issued as necessary on the job and are to be collected after each work period. They are not to be used by anyone other than children/young persons employed on community work projects.

Tools to the total value of \$150 may be provided either by way of hire or purchase from annual allocations for furniture and equipment. If more substantial sums are required items are to be listed separately and will be considered and if found acceptable, approved when annual programmes are perused in Head Office. Approval will not be given for the purchase of power equipment - e.g. motor mowers.

A suitable first aid kit is to be available at all times and this may be purchased along with a thermette and teapot where necessary. Tea, milk and sugar may be purchased as required from petty cash. When morning tea is supplied the young person will be responsible for providing his/her own food and cup or mug. The supervisor is to be responsible for all equipment and must be able to account for it at any time.

C12.11 Transport (ref H7.4 re delegation)

A readily accessible assembly point for the children/young persons should be established. In most instances the local district office will be as suitable as anywhere. The children/young persons will be expected to meet at the appointed time and place from where transport will take them to the place of work and return them at the end of the period. Departmental cars may be used to transport the children/young persons but care should be taken that such use does not lead to wide public identification of the children/young persons. Where numbers are sufficient a mini bus may be hired.

In those districts where a Community Work Supervisor is employed, and where it can be shown that the need often arises to use a trailer in connection with children/young persons directed to undertake community work. For this purpose Directors have authority to have one car in their district fitted with a tow bar.

The need for a trailer for use on community work projects and for Family Homes is recognised. For this reason when the need to hire a trailer for both purposes exceeds 10 occasions p.a. approval will be given on application for the purchase of a trailer subject to the availability of funds. In this respect, provision must be made in annual financial programmes.

C12.12 Records (ref H7.4 re delegation)

When a child/young person is directed as a condition of supervision to attend a community work project, the District Judge also states the number of hours s/he is required to present himself/herself.

In order that a careful check may be kept on the attendance of the young persons the supervisor must keep a weekly sheet of those present and the total hours worked. This record could also include notes of the attitude and behaviour of each young person and should be given to the Senior Social Worker after each session. It is the senior Social Worker's responsibility to follow up any absences or behaviour problems and, if necessary, bring a young person back to Court under Section 48, 'Failure to observe conditions of supervision order'. The procedure for taking action under Section 48 is described in C9.19.

C12.13 Introducing The Young Person To The Scheme

When a child/young person has been ordered to participate in a community work scheme s/he should be told to present himself/herself, with his/her parents, to the District Office at an appointed time a day or two prior to his/her first attendance at the work group. S/he will there be introduced to the Social Worker and, where possible, the supervisor. This meeting gives an opportunity to discuss fully all requirements and to answer any questions related to fulfilling the number of hours ordered by the Court. A printed list of instructions should be drawn up according to the needs of the individual districts. (A copy of the Rotorua pilot scheme instruction list is given below as a guide to suggested content.) The instruction list should be gone through carefully with the child/young person and his/her parents and two copies of it signed by the child/young person, a parent and either the Social Worker or the Supervisor.

One copy should be given to the child/young person and his/her parents and the other retained in the office.

This meeting is considered an important step in getting each child/young person off to a good start within the scheme. It ensures as far as possible that misunderstandings are avoided not only with the child/young person but also with his/her parents and if the question of bringing action for failure to observe the conditions arises, there can be less room for dispute.

Suggested format of list of instructions:

DEPARTMENT OF SOCIAL WELFARE COMMUNITY WORK SCHEME - ROTORUA

1. You are required to report to the Social Welfare District Office, Social Work Division in Eruera Street (upstairs above Haywright's) with a parent or guardian at the time specified by the Court and thereafter, on the days and at the times detailed by the Supervisor.

Times and dates must be adhered to strictly.

2. Clothing and private effects

Clean walking out clothes are to be worn at all times and the following items are to be brought to the place of departure each Saturday morning:

- a. A raincoat
- b. Clothing suitable for outside working conditions
- c. Working boots or shoes

DO NOT BRING VALUABLES. No responsibility is accepted for losses.

3. Supervisor

The supervisor is responsible for the community work and supervision of all persons directed to carry out this work.

4. Conditions

You will be brought back before the Court if you:

- a. fail to report as directed by the Court or the supervisor;
- b. leave the work group without the authority of the supervisor;
- c. fail to obey any instruction given by the supervisor;
- d. behave in an offensive, threatening or disorderly manner.

5. Morning Tea

Morning tea will be supplied. Bring your own eats and mug.

6. Sickness

If you are unable to attend at any time specified by the supervisor, a doctor's certificate must be produced to the supervisor or your Social Worker immediately.

7. The supervisor is there to assist and advise you. Do not hesitate to seek his/her help at any time.

I have read and understood this:

(Child/Young Person)
(Parent)
Supervisor
Date

C13 SPECIFIED VOLUNTARY CENTRES & ATTENDANCE CENTRES

C13.1 Introduction

The Children and Young Persons Act 1974 allows for the referral of young persons placed on supervision to either voluntary organisations or clubs or to attendance centres as a condition of the supervision order. The young person must attend a nominated centre at a specified time each week for a specified number of months. While there s/he must participate in the activities provided. The basic difference between the two types of centres is that specified voluntary centres are ones already in existence and run by groups for the use of members of the public. The attendance centres are established by the department for the specific purpose of catering for those referred from the Court under Section 47(1)(g).

It is hoped that curtailing the young person's personal liberty in such a manner will prove a constructive method of impressing a greater sense of responsibility on young persons appearing before the Court and kindle within them an interest which will prove constructive and useful and assist them to take their places in normal society.

C13.2 Legal Provisions

Section 47(1) of the Act provides that, "The Court in placing a young person under the supervision of a Social Worker may in its discretion impose ..." a condition (as described in paragraph (g)), "That he attend and remain at for such week day, evening and weekend hours each week and for such number of months as the Court thinks fit, any specified centre which is approved by the department and which conducts educational, recreational, instructional, cultural, or work programmes, or sporting activity, and reasonably and effectively take part in such activity as may be required by the person in charge of the centre."

This provision envisaged the use of existing clubs and organisations as well as the establishment of new facilities by the department. The young person will be required to attend at a specified time each week for a specified number of months. It is hoped that in cases where the young person is attached to an on-going group such as Scouts, Y.W.C.A., Boys' Brigade, etc. attendance will not cease when the specified time has expired. The Social Worker and the group should work to this end when such a placement is ordered.

C13.3 Medical Fitness To Undertake Programmes

As in the case of community based work, although there is no medical report required for centre programmes Social Workers should inform the Court of the young persons fitness to undertake activities of a strenuous nature, and any known or apparent medical disability should be mentioned.

C13.4 Arrangement Of Placement

In many instances Social Workers will recommend that the Judge make, as a part of a supervision order, a condition that a young person attend a specific centre and will have made the necessary arrangements to ensure that a suitable placement is available. However in those cases where the Judge wishes to make an order under this provision and the Social Worker for whatever reason, has not advised of suitable facilities being available then it is expected that a postponement order would be used to allow time for such inquiries and arrangements.

C13.5 The Social Worker's Role

One experienced Social Worker in each district could liaise between the organisations and the other Social Workers to ensure the suitability of placements and to avoid the over-loading of any organisation. The Social Worker under whose supervision the young person has been placed will of course have continuing oversight of the young person in his/her day to day life.

C13.6 Approving Specified Voluntary Centres

Directors will be responsible for selecting and approving suitable clubs and organisations within the local community. The types of clubs and organisations which might be considered for approval include Y.W.C.A., Y.M.C.A., Boys' Institute, some night classes, e.g. at the Polytechnic or local high school, and some sporting clubs where the subscription is not too expensive and a high level of involvement is possible. Only those groups and clubs which express willingness to co-operate should be recommended and used. Approval will basically depend on the programme offered and the type of leadership available. It will be a flexible matter taking into account the inevitable changes which go on in all such organisations. Regular contact will have to be kept with the organisations in order to be able to assess such changes. An experienced Social Worker will need to be assigned to this task. (Refer C13.5.) It is expected that a register of approved centres will be kept and reviewed regularly.

C13.7 Criteria For Selecting Specified Centres

While some centres will be of reasonably wide interest and use for this scheme, others will only suit the very occasional young person. In deciding on suitable centres the following points should be taken into consideration. The quality of leadership should be such that it ensures a reasonable level of good behaviour and motivation. The type of activity should allow continual participation and be meaningful to the young person. Too much standing around waiting one's turn or watching others leads to behaviour problems. The activity should hold at least some interest, either vocational or general, for the young person concerned. Of course the young person's natural interest and ability should be ascertained before recommending s/he attend any specific group or club.

C13.8 Payment Of Fees etc. To Centres (ref H7.4 re delegation)

Where, as a condition of a supervision order, a young person is referred to a specific club or organisation which requires payment of fees and purchase of any equipment (e.g. uniforms), this should be discussed with the parents prior to attachment and their active and practical support encouraged. In those cases where parents are unwilling to have their son/daughter involved then it is unlikely the attachment will prove a success.

Where the parents are unable to meet any cost involved the department may make necessary finance available, e.g. where the parent would normally qualify for supplementary assistance. The minimum delegation level for this decision is SSW 105.

In some cases the young person may, with encouragement and assistance be able to earn sufficient to meet any costs involved. Such an approach should be encouraged.

C13.9 The Establishment Of Attendance Centres By The Department
(ref H7.4 re delegation)

Section 69(1) of the Act gives the Director-General the authority to establish and maintain:-

- "... institutions and residences of such number and types as in his opinion may be required for the effective carrying out of his functions under this Act; and
- in particular he shall endeavour to establish a sufficient range of institutions and residences to cater effectively for the variety of special needs of the children and young persons coming into his guardianship and care."

Subsection (2) provides for the establishment of three particular kinds of institutions and residences ("... without limiting the generality of subsection (1) ...") and one of these is described as follows in paragraph (c):

"Day, evening, or weekend attendance centres which can provide for periodic training for recreational, educational or vocational activities, or for work either at the centre or in the community under supervision."

This provision ties in with Section 47(g) which provides for young persons to be directed to attend these centres (as well as other approved centres) as an additional condition of a supervision order. Approval must be obtained from the Director-General to establish an attendance centre at an institution or elsewhere.

C13.10 Work Programmes

Work programmes should generally follow the guidelines set down for the community based work projects. It is not intended that work in the community be a predominant part of the attendance centre programme and young persons who would gain the most benefit from this type of work should be directed to a community based project or work group.

C13.11 No Authority To Detain

Unlike the corrective training centres operated by the Justice Department, this department has no authority under the Act to detain any young person on supervision at an attendance centre. If a young person fails to attend the centre as directed by the Court, the only recourse is to initiate complaint action, by way of summons, on the grounds of failure to observe the conditions of a supervision order. There is no legal authority to interfere with the young person's custody by detaining him/her against his/her will.

C13.12 The Appointment Of Supervisors (ref H7.4 re delegation)

Where the department sets up premises as an attendance centre a supervisor should be employed on the same basis as for the community based work schemes. Where the centre is at one of our institutions the supervisor would be responsible to the person in charge of that institution. The Director-General's approval is required for the appointment of a supervisor.

C13.13 Establishing Centres At A Boys' Home Or Girls' Home (ref H7.4 re delegation)

A Boys' Home or Girls' Home may have the facilities to effectively run a variety of attendance centre programmes, for example, recreation rooms, gymnasium, workshops, classrooms and playing fields.

The operation of such a programme would be feasible as long as the number of young persons in attendance allowed for firm control, and provided the programme did not interfere with the activities of the residents or the running of the home. There should be no suggestion that the young person is, or could be, prevented from leaving at any time if he/she so desired.

Any proposal to establish a centre at an institution must be forwarded to the Director-General for approval, such a submission should include details of organisation, programme, control, and indications of how the centre could operate without interfering with the running of the institution or the mixing of the residents of the institution with attendees at the centre.

PART C: CHILDREN AND YOUNG PERSONS COURTAPPENDIX

	<u>Form</u>	<u>No.</u>	<u>Reference</u>
Fig.1	Section 28 Warrant	SW 505	C2.5, C2.9
Fig.2	Application for Section 7 Warrant	SW 660	C2.7
Fig.3	Section 7 Warrant	SW 663	C2.7, C2.9
Fig.4	Section 27 Complaint	SW 501	C2.13
Fig.5	Summons on Complaint (S.27)/ Affadavit of Service	SW 662	C2.13, C2.14
Fig.6	Certificate for Detention in Police Custody of Young Person (S.43(3))	SW 672	C4.1
Fig.7	Notice of Placement in Custody of Director-General of Child or Young Person Who Has Been Arrested. (S43(2)(b))	SW 673	C4.1
Fig.8	Application for School Report	SW 514	C7.1, C7.2
Fig.9	Order for Compensation, Restitution etc.	SW 668	C8.11
Fig.10	Warrant for Commitment on Postponement	SW 664	C8.13
Fig.11	Order Requiring Young Person to Come Before Court if Called (2 Years)	SW 666	C8.16
Fig.12	Order Requiring Young Person to Come Before Court if Called (12 Months)	SW 659	C8.16
Fig.13	Supervision Order	SW 507	C8.17, C9.13
Fig.14	Order for Counselling of Parent	SW 667	C8.25
Fig.15	Guardianship Order	SW 506	C8.26
Fig.16	Complainant to Report Details of Complaint to Children's Board	SW 665	C8.28

PART C: APPENDIX (contd)

	<u>Form</u>	<u>No.</u>	<u>Reference</u>
Fig.17	Case Record	SW 512	C9.6
Fig.18	Court Letter to Parents- Supervision	SW 618	C9.12
Fig.19	Court Letter to Parents- Guardianship	SW 619	C9.12
Fig.20	Section 48 Complaint	SW 669	C9.19
Fig.21	Summons on Complaint (S.48)	SW 670	C9.19
Fig.22	Summons Recalling Before Court	SW 661	C9.21
Fig.23	Notice of Court Decision to School Principal	SW 650	C9.27

(Fig 1)

WARRANT TO REMOVE A CHILD OR YOUNG PERSON FROM HIS SURROUNDINGS

Section 28, Children and Young Persons Act 1974

To every Social Worker and to every member of the Police (or to ⁽¹⁾.....

(1) Full name Social Worker
(or member of the Police)).

(2) Full name of child or young person A complaint has been sworn that ⁽²⁾.....
a child (or young person), is in need of care, protection, or control, and I am satisfied on application made on oath that there is reasonable ground for suspecting that the said ⁽²⁾.....
..... is likely to be ill treated, or neglected, or subject to inadequate care or control, or is seriously disturbed as to be likely to act in a manner harmful to himself or the person

(3) Give address or description of dwelling house, building, aircraft, ship, carriage, vehicle, or premises or place or property of others and is living (or is to be found) at ⁽³⁾.....

This is to authorise you at any time or times up to 21 days from the date of this warrant to remove ⁽²⁾.....
into your custody and convey him (or her) to a residence designated under the provisions of the Children and Young Persons Act 1974.

In exercising the authority conferred by this warrant you may —

(a) Enter, by force if necessary, ⁽³⁾.....
where the child or young person is believed to be living (or may be found).

(4) Enter dwelling-house, or building, aircraft, ship, carriage, vehicle, premises or place as the case may be (b) Enter by force any other ⁽⁴⁾.....
in which you may reasonably suspect that the child or young person may be found.

Dated at....., this day of
.....19.....

District Court Judge (or Justice of the Peace or Registrar (not being a member of the Police)).

APPLICATION FOR SEARCH WARRANT

PURSUANT to section 7 (1) of the Children and Young Persons Act 1974,
 I, (1)
 of (2), occupation,
 make application for the issue of a warrant authorising a member of
 the Police or a Social Worker to search (3)
 for (4) and ascertain
 whether there are grounds for making a complaint under section 27 of
 the Children and Young Persons Act 1974.

In support of this application I say on oath:

- 1) Full name
- 2) Address
- 3) Address or description of dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place sought to be searched
- 4) Full name of child or young person
- 5) Full name of child or young person
- 6) Address
- 7) Here state fully the grounds relied on
- 8) Address or description of dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place sought to be searched

1. That I have reasonable ground to suspect, and I do suspect, that the said (5) of (6), a child (or young person) within the meaning of the Children and Young Persons Act 1974, is being ill-treated (or neglected in a manner likely to cause unnecessary suffering or is living in an environment injurious to his (or her) physical or mental health).

2. That the grounds for my so suspecting are (7)

3. That I have reason to believe that the said child (or young person) is living (or may be found) at (8)

Signature of Applicant

Sworn at, this day of, 19, before me:

.....
 Magistrate (or Justice of the Peace, or Registrar (not being a member of the Police)).

WARRANT TO SEARCH FOR CHILD OR YOUNG PERSON

Section 7, Children and Young Persons Act 1974

To every Social Worker and to every member of the Police (or to

(1) Full name.

(1)
Social Worker (or member of the Police)).

(2) Full name of child or young person.

I am satisfied on an application in writing made on oath that there is reasonable ground for suspecting that a child (or young person), namely (2)

(3) Give address or description of dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place.

.....
is being ill-treated (or neglected in a manner likely to cause unnecessary suffering or is living in an environment injurious to his (or her) physical or mental health) and is living (or is to be found) at (3)

This is to authorise you at any time or times within one month from the date of this warrant to search for the said child (or young person) and ascertain whether there are grounds for making a complaint under section 27 of the Children and Young Persons Act 1974.

In exercising the authority conferred by this warrant you may:

(4) Give address or description of dwelling house, building, aircraft, ship, carriage, vehicle, premises, or place in respect of which the search is authorised.

(a) Enter and search, by force if necessary, (4)
.....
.....;

and

(b) If in your opinion the child (or young person) is seriously at risk of ill-treatment or neglect or needs to be detained to protect his (or her) physical or mental health, remove the child (or young person), using such force as may reasonably be necessary, and place him (or her) in a residence within the meaning of the Children and Young Persons Act 1974.

Dated at, this day of, 19.....

.....
District Judge (or Justice of the Peace,
or Registrar (not being a member of the Police)).

(Fig 3
REVERSE)

**Statement of Date that Child or Young Person was Removed and
Placed in a Residence (for purpose of section 7 (5) of the Children
and Young Persons Act 1974).**

I declare that the child or young person,
....., named in this warrant,
was removed by me and placed in a residence (as specified in the
Children and Young Persons Act 1974), on,
.....

Signed:.....
Constable/Social Worker.

COMPLAINT THAT A CHILD OR YOUNG PERSON IS IN NEED OF CARE, PROTECTION, OR CONTROL

Section 27, Children and Young Persons Act 1974.

(1) Full Name I, (1)
(2) Address of (2)
(3) Full name of the child or young person to whom the complaint relates. Social Worker) say on oath that I reasonably believe that (3) is a child (or young person) who is in need of care, protection, or control in that (4).....
(4) Enter specific allegations being one or more of Paragraphs (a) to (i) section 27 (2) of the Children and Young Persons Act 1974.

(5) Full Name *And that the person to whom this complaint should be addressed is (s)....., a parent (or a guardian, or a person having the care) of the child (or young person).

*Delete if inapplicable.

*And that I do not know the whereabouts of any parent or guardian or person having the care of the child (or young person).

(6) Give reasons why person should not be so regarded. *And that the person caring for this child cannot reasonably be regarded as having continuing responsibility for the upbringing, care, and control of the child (or young person) because: (6).....

Complainant.

Sworn at, this..... day of 19..... before me.

District Court Judge (or Justice of the Peace or Registrar (not being a constable)).

(BIO H
REFERSE)

CHILDREN & YOUNG PERSONS COURT

C.R. No. /19

Folio No.

.....
.....

Date of Hearing:

Adjourned to:

.....

DECISION:

.....
District Court Judge

SUMMONS TO APPEAR BEFORE A CHILDREN AND YOUNG PERSONS COURT

Section 27, Children and Young Persons Act 1974

(1) Full name of parent or guardian, or person having the care of the child or young person.
(2) Address.

To ⁽¹⁾
of ⁽²⁾
occupation

• A member of the Police (or a Social Worker) has stated on oath that he (or she)

(3) Full name of the child or young person to whom the complaint relates.

reasonably believes that ⁽³⁾

4) Here enter the specific allegations set out in the complaint.

is a child (or young person) who is in need of care, protection, or control in that ⁽⁴⁾

And that you are a parent (or a guardian or a person having the care) of that child (or young person).

You are summoned to appear on day, the day of

19 at a.m. at the Children and Young Persons Court at

(*together with ⁽³⁾

Dated at, this day of 19.....

*Delete if inapplicable.

.....
District Court Judge (or Justice of the Peace or Registrar not being a constable)

Notice to person summoned:

- (1) If you wish to have a solicitor act for you in this matter, you should employ one immediately.
- (2) Lack of money should not stop you approaching a solicitor as he will be able to tell you, among other things, whether you can have all or part of your costs paid by the Government.
- (3) If you are in any doubt consult a solicitor or the Registrar immediately.

(Fig 5
REVERSE)

STATEMENT OF SERVICE

Where served on Defendant personally.

This document was served by me by delivering a copy of the same to the defendant personally at

(Show full address if it differs from that in summons.)

on the day of 19

Officer of the Court

Constable at

Where served by delivering to a member of family.

This document was served by me by delivering a copy of the same for the defendant

on the day of 19 at

(Show full address if it differs from that in summons.)

.....his usual place of reside with

the *..... of the said defendant, residing with the defendant

and appearing to be over the age of 18 years.

Officer of the Court

Constable at

*Father, mother, wife, husband, child, brother, sister, half-brother or half-sister.

AFFIDAVIT OF SERVICE

I,

of (Occupation), do swear that

I served

with a summons a true copy of which is within written by delivering the same to

personally at

on the day of 19

Signature of Deponent:

Sworn atthis day of 19.

before me:

Registrar.
Justice of the Peace.
Solicitor of the High Court.

CERTIFICATE FOR THE DETENTION IN POLICE CUSTODY OF A YOUNG PERSON

Section 43(3), Children and Young Persons Act 1974

I,
(Full name), a senior Social Worker, and

I,
(Full name), a Senior Sergeant (or Commissioned Officer) of Police,

being satisfied —

(a) That
(Full name), a Social Worker, has good cause to believe

that
(Full name of young person), a young person who was born

on
(Day, month, year) and who was arrested on
(Day, month, year) at

for the offence of
(Describe offence), is likely to abscond (or be violent);

and

(b) That suitable facilities for the detention in safe custody of that young person are not available to the Director-General of Social Welfare in the locality in which that young person is detained, —
certify that that young person may be detained in Police custody for a period exceeding 24 hours and until appearance before the Court.

Signed:
(Senior Social Worker) Signed:
(Senior Sergeant/Commissioned Officer)

Date: Date:

NOTE: Where a senior Social Worker and a member of the Police issue a joint certificate in this form, there shall, within 3 days after the day on which the certificate is issued, be furnished by the senior Social Worker to the Director-General of Social Welfare and by the member of the Police to the Commissioner of Police—

- (a) A copy of the certificate; and
- (b) A written report on—
 - (i) The circumstances in which the certificate came to be issued;

and

- (ii) The duration of the period for which the young person has been detained, or is likely to be detained, in Police custody.

NOTICE OF PLACEMENT IN CUSTODY OF DIRECTOR-GENERAL OF SOCIAL WELFARE OF CHILD OR YOUNG PERSON WHO HAS BEEN ARRESTED

Section 43(2)(b), Children and Young Persons Act 1974

Identifying Details of Child or Young Person Arrested

Full name:

Sex: Male/Female

Date of birth:

Permanent address:

Date of arrest:

Time of arrest:

Circumstances of Arrest

(including brief particulars of the offence for which the child or young person has been arrested)

.....
.....

Date and Time of Intended Appearance before the Court

The above-named child or young person is due to appear on day, the day of 19.... at a.m./p.m. in the Children and Young Persons Court at

Placement of Child or Young Person

I,, a member of the Police, holding the rank of am placing the above-named child or young person in the custody of the Director-General of Social Welfare by delivering the above-named to, a Social Worker, at on at a.m./p.m.

Signed:

Date:

NOTES

(1) The member of the Police who delivers the child or young person to the Social Worker must present a completed copy of this form to the Social Worker to whom the child or young person is delivered.

(2) Placement of a child or young person in the custody of the Director-General under section 43(2) of the Children and Young Persons Act 1974 (which placement is recorded by this form) is sufficient authority for the detention of the child or young person by a Social Worker or in a residence under that Act, or under the care of any suitable person approved by a Social Worker, until—

(a) In the case of a young person, the young person is brought before a Children and Young Persons Court to answer the charge; or

(b) In the case of a child, the child is made the subject of a complaint under section 27 of the Children and Young Persons Act 1974 and is brought before a Children and Young Persons Court so that the Court may determine whether the child is to be held in custody pending the disposal of the complaint; or

(c) The expiry of a period of 3 days after the day on which the child or young person was arrested— whichever first occurs.

APPLICATION FOR REPORT OF PRINCIPAL

Department of Social Welfare,

.....

.....

Phone:

..... 19

CONFIDENTIAL

(1) Name. To (1)

Principal

(2) Name of School. (2)

3) Address. (3)

PURSUANT to section 41 (7) of the Children and Young Persons Act 1974, I hereby make application for a written report in the form enclosed herewith (or set out on the back of this form) in respect of (4) who is being dealt with by the Children and young Persons Court.

(4) Full name of child or young person.

Your report is required for the guidance of the Court and for my assistance in completing my report to the Court.

Under the Act it is your duty to supply such a report as will inform the Court of the child's (or young person's) intellectual capacity, scholastic performance, and behaviour. The report should also give such other details as may prove helpful to the Court in reaching a decision about the child or young person.

You are not required to complete any section of the form of which you have no factual information.

Your report will be attached to my own report to the Court and in this way will be shown to the parents or guardians of the above-named and to any solicitor or counsel appearing for the child or young person or those parents or guardians. The Court may also order that a copy be shown to the child or young person.

You may, if you wish, attend the Court hearing. This hearing will be at a.m. on day, the day of 19 in the Children and Young Persons Court at

I shall discuss the case personally with you as soon as possible, but if you want further information in the meantime please get in touch with me.

.....
Social Worker.

REPORT OF PRINCIPAL

(Fig 8
Page 2)

(1) Full name
of school.

of (1)

(2) Full name
of child or
young person.

concerning (2)

Date of birth

Date of enrolment Date left Present (or last class)

Attendance this year

Attendance last year

½ days present ½ days present

½ days school open ½ days school open

Absences

Has the child been absent from school without acceptable reasons? If so, please comment.

.....
.....
.....

Is there a particular pattern to such absences? If so, please comment.

.....
.....
.....

School Progress

General comments on progress (including comment on intellectual capacity.)

.....
.....
.....
.....
.....

Health

(including sight and hearing records if appropriate).

.....
.....

Standard of hygiene, adequacy of clothing, general appearance.

.....
.....
.....

(Fig 8)
(page 3)

Behaviour

.....
.....
.....
.....
.....

Attitude

To school work

.....

To Teachers

.....

To recreation and sport

.....

Interest or participation in other activities e.g. cultural or hobby pursuits:

.....

.....

Relationships

With other children and adults

.....

.....

Please comment on relationship between home and school:

.....

.....

Any other relevant information

.....

.....

.....

.....

.....

(3) Full name
of Social
Worker.

This report was applied for by (3)

a social worker, in a written request dated and made under Section 41 (7)
of the Children and Young Persons Act 1974.

...../...../.....

.....

Principal

No.

Order for (1) Compensation or Restitution to be made, or (2) Return of Property, or (3) Forfeiture of Property to the Crown

*The Children and Young Persons Act 1974
Section 31(1)(e)-(g), Section 36(1)(e)-(g)*

(1) Name of child or young person.
Address.

(1) of
.....
has this day been brought before the Children and Young Persons Court at

(2) Delete the statement which is inappropriate.

(2) charged with the offence of

(3) Identify the paragraph (a)-(f) under which complaint is made.

(2) on a complaint that he is in need of care or control within the meaning of subsection 2, paragraph (3) section 27 of the Children and Young Persons Act 1974.

(4) Delete words not required.

I have heard and determined the (4) charge/complaint and it has been proved to my satisfaction.
A Social Worker's report has been considered by the Court.

(5) Name of person, (parent, guardian) child or young person to whom order is directed.

I ORDER that (5)
(6) pay to the Registrar of the Children and Young Persons Court at
the sum of \$..... by way of compensation to

(6) Delete section(s) not applicable.

..... of
(6) deliver to of
..... the following property
.....

(6) forfeit the following property to the Crown by delivering it to the Registrar of the Children and Young Persons Court at

(Fia 9
Cont.)

You are required to pay the money and/or deliver the property described above
on or before

Given under my hand at the Children and Young Persons Court at
..... this day of 19.....

N.B. A certified copy of this order must be forwarded
by the Registrar to the nearest Director of Social
Welfare.

Magistrate authorised to exercise jurisdiction of a Chil-
dren and Young Persons Court.

NOTICE OF RIGHTS AND OBLIGATIONS

1. Right of Appeal

You may appeal to the Supreme Court against the finding of the Court or sentence or both. If you wish to do so you must, within 10 DAYS after the day on which you were sentenced or otherwise dealt with or the order was made, file in this Court a notice in duplicate setting out the grounds of your appeal. Forms may be obtained from the office of the Court.

2. Payment of Sums ordered to be paid, and extension of time to pay.

You are required to pay the total sum owing on or before the day noted for payment in the order. If you wish to apply for an extension of the time allowed for payment, you may make application to the Registrar of the Court who issued this notice. There is a special form for this which may be obtained from any Registrar. Any such application must be made WITHIN 14 DAYS of the day of sentence.

If you apply for an extension of the time allowed for payment you will be required to attend personally at a Court office and be examined as to your means.

3. Consequences of non-payment.

This paragraph does not apply if you are a child.

If you do not pay the total sum owing on or before the day noted for payment in the order or within such further time as may be allowed by the Court or the Registrar you will receive a summons requiring you to attend personally before the Court for examination as to your means. You will then be obliged to attend and will be arrested if you do not. As a result of the examination any of the following steps may be taken, namely—

- (a) the sum unpaid may be obtained by seizing and selling your goods;
- (b) an order may be made requiring your employer to pay part of your salary or wages to the Court;
- (c) you may be disqualified from driving a motor vehicle;
- (d) any motor vehicle in your possession may be impounded;
- (e) a prohibition order may be made against you;
- (f) you may be subject to an order for periodic detention;
- (g) you may be released on probation with a direction to undertake community work.

4. Advice

If you are in doubt as to your rights or obligations or if you require further information, you should get in touch with your solicitor or the Registrar immediately. If for any reason you do not wish to do this but your doubt remains then you should discuss the matter with a Department of Social Welfare Social Worker.

STATEMENT OF SERVICE PERSONALLY

This document was served by me delivering a copy of the same to

on the day of 19.....

Officer of the Court
Constable at

STATEMENT OF SERVICE BY REGISTERED POST

This document was served by sending a copy of the same to

..... by registered letter and attached is a receipt for such registered letter purporting to be signed by the said

on the day of 19.....

Officer of the Court

ORDER OF POSTPONEMENT

(Section 31 (3), 36 (6), Children and Young Persons Act 1974)

C. & Y.P.C. No. /19.....

To: Every Constable, and Social Worker
and to: The Director, Department of Social Welfare at

(1) Name of child ⁽¹⁾
or young person

..... has this day been
brought before the Children and Young Persons Court at

(2) Delete the ⁽²⁾ charged with the offence of
statement which
is not applicable

⁽²⁾ on a complaint that he is in need of care, protection or control within the meaning of

(3) Insert (a)-(f) as ⁽³⁾ Subsection 2, Section 27, Children and Young Persons
appropriate paragraph

(4) Specific ⁽⁴⁾
paragraph(s) Act 1974 in that

Final consideration of the matter has been postponed and I order that ⁽¹⁾

.....
shall be in the custody of the Director-General of Social Welfare for the period of the
postponement I direct you, the said Constable (Social Worker), to deliver ⁽¹⁾

.....
to the Director of the Department of Social Welfare at

and you the said Director to receive ⁽¹⁾

..... into your custody and detain him in a residence

until day, the day of 19.....

when you are required to bring him to the Children and Young Persons Court at

..... at a.m./p.m.

Given under my hand at the Children and Young Persons Court at

this day of 19.....

.....
Judge of the Children and Young Persons Court

No.

ORDER REQUIRING PERSON (TO WHOM COMPLAINT ADDRESSED, OR CHILD OR YOUNG PERSON TO WHOM IT RELATES) TO COME BEFORE COURT, IF CALLED UPON WITHIN TWO YEARS

The Children and Young Persons Act 1974, S. 31 (1) (c)

Name of person to whom complaint has been addressed

..... of

Address

.....

Occupation

.....

has been brought before this Court on a complaint that

Name of child or young person

.....

*(1) Insert (a) - (f) as appropriate

is in need of care, protection or control within the meaning of subsection 2 paragraph* (1)

section 27 of the Children and Young Persons Act 1974, in that* (3)

*(3) Type paragraph

.....
.....
.....
.....
.....
.....
.....
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.....
.....
.....
.....

I have heard and determined the complaint and such complaint has been proved to my satisfaction.

A Social Worker's report has been made available to the Court.

*(2) Name of person to whom complaint has been addressed or child or young person named above

I DO HEREBY ORDER THAT* (2)

..... come before the Children and Young Persons Court if called upon within two years from today's date so that the Court may take further action under the provisions of section 31 of the Children and Young Persons Act 1974.

Given under my hand at the Children and Young Persons Court at

....., this day of 19

.....
Magistrate authorised to exercise jurisdiction of a Children and Young Persons Court

STATEMENT OF SERVICE PERSONALLY

(FIG 11 REVERSE)

This document was served by me by delivering a copy of the same to

*

on the day of 19

.....
Officer of the Court

Constable at

STATEMENT OF SERVICE BY REGISTERED POST

This document was served by sending a copy of the same to

*

by registered letter and attached is a receipt for such registered letter purporting to be signed by
or on behalf of the said

on the day of 19

.....
Officer of the Court

*Person, child or young person named (2) in order.

No.

S.W. 659

ORDER REQUIRING YOUNG PERSON (CHARGED WITH AN OFFENCE) TO COME BEFORE COURT IF CALLED UPON WITHIN 12 MONTHS

The Children and Young Persons Act - 1974
S. 36 (1) (h)

(1) Name of Young Person (1) of

(2) Address (2)

has this day been brought before the Children and Young Persons Court at charged with the offence of

I have heard and determined the charge and the charge has been proved to my satisfaction.

A Social Worker's report has been considered by the Court.

I ORDER that (1) come before the Children and Young Persons Court if called upon within twelve (12) months from today's date so that the Court may take further action under Section 36 of the Children and Young Persons Act 1974.

Given under my hand at the Children and Young Persons Court at this day of 19.....

Magistrate authorised to exercise jurisdiction in a Children and Young Persons Court.

N.B.—A certified copy of this order must be forthwith forwarded by the Registrar, to the nearest Director of Social Welfare.

(Fig 12)
REVERSE

STATEMENT OF SERVICE PERSONALITY

This document was served by me by delivering a copy of the same to

.....

on the day of 19.....

.....
Officer of the Court

Constable at

STATEMENT OF SERVICE BY REGISTERED POST

This document was served by sending a copy of the same to

.....

.....

by registered-letter and attached is a receipt for such registered letter purporting to be signed by

the said

on the day of 19.....

.....
Officer of the Court

No.

DEPARTMENT OF SOCIAL WELFARE

ORDER PLACING CHILD OR YOUNG PERSON UNDER SUPERVISION OF A SOCIAL WORKER

The Children and Young Persons Act 1974 S31 (1) (d) (ii) or S36 (1) (i) (ii)

(1) Name of child or young person (1) of Address

has this day been brought before the Children and Young Persons Court at:

(2) charged with the offence of (2) Delete the statement which is not applicable

(2) on a complaint that he is in need of care, protection or control within the meaning of Subsection

(3) Enter (a) - (i) as appropriate 2 paragraph(3) Section 27 of the Children and Young Persons Act 1974.

(4) Delete the words not required I have heard and determined the(4) charge (complaint) and the(4) charge (complaint) has been proved to my satisfaction.

A Social Worker's report has been considered by the Court.

I ORDER that(1) a child

(young person) (4) is placed under the supervision of a Social Worker,

Department of Social Welfare at for the period from

the day of 19

to the day of 19

For statutory conditions of supervision see overleaf.

(5) Enter additional conditions of supervision (if any) (5)

Given under my hand at the Children and Young Persons Court at

..... this day of 19.....

District Court Judge authorised to exercise jurisdiction in a Children and Young Persons Court.

A certified copy of this order must be forthwith forwarded by the Registrar to the nearest Director, Department of Social Welfare.

(FIG 13 REVERSE)

STATEMENT OF SERVICE ON PARENTS OR GUARDIAN PERSONALLY

This document was served by me by delivering a copy of the same to

(1) Father or mother or parents or guardian

the (1) of the within-mentioned child or young person personally

at

on the day of 19

.....
Officer of the Court

Constable at

STATEMENT OF SERVICE BY REGISTERED POST

This document was served by sending a copy of the same to

(1) Father or mother or parents or guardian

..... the (1)

of the within-mentioned child or young person by registered letter and attached is a receipt for such registered letter purporting to be signed by the said

on the day of 19

.....
Officer of the Court

CONDITIONS OF SUPERVISION

The following extract (Section 46) of the Children and Young Persons Act 1974 sets out the statutory conditions which apply to this Supervision Order.

46. Conditions of supervisions order – (1) Where any young person is placed under the supervision of a Social Worker, the following conditions shall apply:

- (a) Any Social Worker may, at all reasonable times, visit and enter the building or place in which the young person is living;
- (b) The young person shall report to the Social Worker under whose supervision he is, as and when he is required to do so by the Social Worker;
- (c) He shall not reside at an address that is not approved by the Social Worker;
- (d) He shall not continue in any employment or continue to engage in any occupation, that is not approved by the Social Worker;
- (e) The young person shall ensure that the officer in charge of the local office of the Department knows at all times of the address at which the young person is residing for the time being;
- (f) He shall not associate with any specified person, or with persons of any specified class, with whom the Social Worker has, in writing, warned him not to associate.

(2) Where any child is placed under the supervision of a Social Worker the following conditions shall apply:

- (a) Any Social Worker may at all reasonable times, visit and enter the building or place in which the child is living;
- (b) The child shall report to the Social Worker under whose supervision he is, as and when he is required to do so by the Social Worker;
- (c) He shall not reside at an address that is not approved by the Social Worker;
- (d) The parents or guardian or person having the care of the child shall ensure that the officer in charge of the local office of the Department knows at all times of the address at which the child is residing for the time being.

No.

**ORDER PROVIDING FOR COUNSELLING FOR PARENT OR PERSON
HAVING CARE OF CHILD OR YOUNG PERSON**

Children and Young Persons Act – 1974, S. 31 (1) (h)

Name of Parent or guardian or person caring for child or young person of

Address

Occupation

is the parent or guardian or person having care of

(1) Name of child or young person (1)

I have heard and determined the complaint that (1) is in need of care, protection or control and that complaint has been proved to my satisfaction.

I have found that the parent having care of (1) is in need of assistance in his/her upbringing.

I ORDER that the Director-General of Social Welfare arrange through his Director at for a Social Worker, or other suitable

*Name of parent or person person to see * for the purpose of providing assistance by means of counsel or advice.

Given under my hand at the Children and Young Persons Court at

..... this day of 19.....

.....
Magistrate authorised to exercise jurisdiction in a Children and Young Persons Court.

N.B.— A certified copy of this order must be forthwith forwarded by the Registrar to the Director of Social Welfare at the location specified above.

(Page 14)
REVERSE

STATEMENT OF SERVICE PERSONALLY
Children and Young Persons Act 1974 S. 32 (6)

This document was served by me by delivering a copy of the same to

.....
.....

on the day of 19.....

.....
Officer of the Court
Constable at

No.

Order Placing Child or Young Person under the Guardianship of the Director-General

Children and Young Persons Act 1974

(1) Name of child or young person of
Address

has this day been brought before the Children and Young Persons Court at

(2) Delete the statement which is inapplicable
(2) charged with the offence of

(2) on a complaint that he

(3) Delete the words not required
(4) Enter (a) to (i) as appropriate
(3) is in need of care, protection or control within the meaning of subsection 2, paragraph (4) of section 27
(3) has failed to observe the conditions of a Supervision Order within the meaning of subsection 2, section 48 of the Children and Young Persons Act 1974.

I have heard and determined (3) the charge (complaint) and such (3) charge (complaint) has been proved to my satisfaction:

A Social Worker's report has been considered by the Court.

I ORDER that (1)

a child (young person) (3) aged years be placed under the

(5) Enter as appropriate Section 31 (1) (d) (i) or Section 36 (1) (i) (i)
guardianship of the Director-General of Social Welfare under the provisions of section (5) of the Children and Young Persons Act 1974.

(3) I fix the age of (1) as years.

Given under my hand at the Children and Young Persons Court at

this day of 19

.....
District Court Judge authorised to exercise jurisdiction in a
Children and Young Persons Court

N.B.—A certified copy of this order must be forthwith forwarded by the Registrar to the Director-General and to the nearest Director, Department of Social Welfare.

(FIG 15
REVERSE)

Statement of Service on Parents or Guardian Personally

This document was served by me by delivering a copy of the same to

(1) Father or
mother or
parent or
guardian

..... the (1)
of the within-mentioned child or young person personally at

.....
on the day of 198.....

.....
Officer of the Court

Constable at

Statement of Service by Registered Post

This document was served by sending a copy of the same to

(1) Father or
mother or
parent or
guardian

..... the (1)
of the within mentioned child or young person by registered letter and attached is a receipt for such

registered letter purporting to be signed by the said

..... on the

..... day of 198.....

.....
Officer of the Court



CHILDREN AND YOUNG PERSON'S COURT,

.....
..... 19

Name of Child:..... Birth date:.....

The above-named child appeared before this Court on
the subject of your complaint under section 27 of the Children and Young Persons Act 1974. The
Magistrate on finding the complaint proved, directed that you report the details of the complaint to the
Childrens Board in order that the Board may deal with the matter.

Registrar.

CASE RECORD

(Fig 17)

SW512

CHILD OR YOUNG PERSON

Surname:
Also known as:
Address:

Given Names:
Sex:
Place of Birth:
Ethnic Group:

Age at Incident: yrs. mths.
Date of Birth: / /
Telephone No:
Nuptial/Ex-nuptial/Legally Adopted

With whom living and relationship:

Name of School:
School progress:
Name of Employer:
Work Progress:
Previous Notice: Nil/See over page.

Attending/Left
Current or Last School Class:
Occupation:
Weekly Wages:

FAMILY

MOTHER FIGURE

Name:
Address:
Relationship to Child:
Employer:

Age:
Telephone No.:
Ethnic Group:
Occupation:

FATHER FIGURE

Name:
Address:
Relationship to Child:
Employer:

Age:
Telephone No.:
Ethnic Group:
Occupation:

Name and Address of natural adoptive parents if different from above:

<u>Brothers/Sisters</u>	Age	Sex	Occupation	Living at Home	Previous Notice
-------------------------	-----	-----	------------	----------------	-----------------

Reason for any break in family unit:

PRESENT INCIDENT

Brief Summary of Offence/Incident:

Date of (first) Incident: / /
List Offence/Incident Number

Companions:

Action initiated by Police/Social Welfare/Traffic:

Status at Incident:

Legal method of coming to notice: Information/Arrest/Warrant/Complaint/Section 11

OUTCOME (Summary only: See reverse for details)

Board Consultation CYP Court Dist/High Court
 Sec. 11 Supp. Serv. Other: specify

S.W. District:

Year:

Serial No.:

Details of final outcome:

Date finalised: / / Social Welfare status after outcome:

(Fig 17)
REVERSE

PREVIOUS NOTICE

Date	Place	Reason	Final Outcome Agency	Final Outcome
------	-------	--------	----------------------	---------------

OUTCOME OF CASE

CHILDREN'S BOARD

Board's Decision:

Section	Para	Decision Details
---------	------	------------------

Board Name:

Location:

Date first meeting: / /

Date last meeting: / /

Parents present? Yes / No

Child present? Yes / No

S.W. report requested? Yes / No

HEAD

SECTION 26 YAS CONSULTATION

Consultation recommendation (and Senior Police Officer decision):

Date of consultation: / /

OFFICE

CHILDREN AND YOUNG PERSONS COURT

COMPLAINT:	Section	Subsection	para
------------	---------	------------	------

Name of Final Court

Date first hearing / /

Date last hearing / /

No. adjournments/postponements

S.W. custody over period? Yes / No

Rem. in Police custody? Yes / No

Plea of guilty? Yes / No

Legal representation? Yes / No

Legal aid? Yes / No

USE

ONLY

CHARGED OFFENCES:

Act	Section	Type of Offence	No. of Charges
-----	---------	-----------------	----------------

Social Welfare Recommendation:
Court's final decision (give details):

Decision made under section	Subsection	of	Act
-----------------------------	------------	----	-----

DISTRICT OR HIGH COURT

Reason for referral:

Court's final decision (give full details):

Name of Court:

Date final hearing / /

SECTION II AGREEMENT

Date of agreement / /

Length of agreement:

SUPPORTIVE SERVICE

Supp. Serv. category (as in 6 monthly statistical return):

Volunteer Assigned: Yes / No

Number of children in the family placed under Supp. Serv.:

No. of Adults:

Period of Supportive Service

Recommended by:

Approved by:

Date: / /



CHILDREN AND YOUNG PERSON'S COURT,

.....
..... 19.....

Today your child was placed under the supervision of a Social Worker for year(s) and this information in the form of a legal order will be sent to you later.

During the period of supervision, any instructions of the Social Worker, or any conditions imposed by that officer, must be complied with. If the Social Worker is not satisfied with your child's conduct, or with living conditions, your child may again be brought before the Court.

If this should happen, the child could possibly be taken away from home, a step best avoided by your co-operation with the Social Worker in the interests of the child.

Legislation provides for a right of appeal against the Order, and should you wish to exercise this right, I suggest you consult a solicitor immediately.

Deputy Registrar.

(Fig. 19)

Form S.W. 619



CHILDREN AND YOUNG PERSON'S COURT,

.....

..... 19

Today your child was placed under the guardianship of the Director-General of Social Welfare and this information in the form of an official order will be sent to you later. This means that your child is now a State ward, and that the Director-General has become the sole guardian, to the exclusion of all others.

The Director-General's guardianship can legally continue until your child is 20 years of age, but in practice discharge from the Director-General's care usually takes place when behaviour and home conditions seem to justify this step, or when the young person concerned seems financially and otherwise responsible. The Department of Social Welfare will welcome your co-operation to this end.

Legislation provides for a right of appeal against this decision now, and for a right of review of the Order after 12 months from the making of it. Should you wish to exercise the right of appeal, I suggest you consult a solicitor immediately.

Deputy Registrar.

COMPLAINT THAT THERE HAS BEEN FAILURE TO OBSERVE CONDITIONS OF A SUPERVISION ORDER

Section 48, Children and Young Persons Act 1974

(1) Full name I, (1)

(2) Address of (2)
a Social Worker, say on oath that I reasonably believe that

(3) Full name of child (3)
or young person to whom the complaint relates is a child (or young person) who was placed under the supervision of a Social Worker by order of
the Children and Young Persons Court at on the day

(4) Enter name of child, young person, parent, guardian or person having care of the child or young person as the case may be of 19..... and that (4)
..... has failed to comply with the conditions of that order in that (5)

(5) Enter specific allegations being one or more specific breaches of any one or more of the conditions of the Supervision Order

*And that the person to whom this complaint should be addressed is (1)
..... a parent (or a guardian or a person having the care) of that child (or young person).

*And that I do not know the whereabouts of any parent or guardian or person having the care of the child (or young person).

*And that the person caring for the child cannot reasonably be regarded as having continuing responsibility for the upbringing, care, and control of the child (or young person) because

(6) Give reasons (6)

*Delete if inapplicable

Complainant

Sworn at this day of
..... 19..... before me

Judge (or Justice of the Peace, or Registrar (not being a constable)).

SUMMONS TO APPEAR BEFORE A CHILDREN AND YOUNG PERSONS COURT ON FAILURE TO OBSERVE CONDITIONS OF A SUPERVISION ORDER

Section 48, Children and Young Persons Act 1974

(1) Full name To⁽¹⁾

(2) Address and occupation of⁽²⁾

By order of the Children and Young Persons Court at

made on the day of 19

(3) Enter full name of child or young person if applicable *You⁽³⁾ were/was placed under the supervision of a Social Worker on the conditions set out in that order.

A Social Worker has stated on oath that he (or she) reasonably believes that *you

(4) Enter the specific allegations set out in the complaint (3) have/has failed to comply with the conditions of that order in that⁽⁴⁾

*Delete if inapplicable

*And that you are the parent (or a guardian or a person having the care) of that child (or young person).

You are summoned to appear on day, the day of 19 at a.m. at the Children and Young Persons Court at

*(together with⁽³⁾).

The Court will then inquire into the circumstances of the case, and any reasonable excuse why the conditions of the order have not been complied with, for the purpose of ascertaining whether it should exercise any of its powers.

Dated at, this day of 19.....

.....
Judge (or Justice of the Peace or Registrar)
(not being a constable).

Notice to person summoned:

- (1) If you wish to have a solicitor act for you in this matter, you should employ one immediately.
- (2) Lack of money should not stop you approaching a solicitor as he will be able to tell you, among other things, whether you can have all or part of your costs paid by the Government.
- (3) If you are in any doubt consult a solicitor or the Registrar immediately.

Fig 21
(Reverse)

STATEMENT OF SERVICE

Where served on
Defendant personally

This document was served by me by delivering a copy of the same to the defendant personally at

(show full address if it differs from that in summons)

on the day of 19.....

.....
Officer of the Court.

Constable at

Where served by
delivering to a member
of family

This document was served by me by delivering a copy of the same for the defendant

on the day of 19.....

at

(show full address if it differs from that in summons)

his usual place of residence with

the* of the said
defendant, residing with the defendant and appearing to be over the age of 18 years.

.....
Officer of the Court

Constable at

*Father, mother, wife, husband, child, brother, sister, half-brother or half-sister.

AFFIDAVIT OF SERVICE

I, of (Occupation),

do swear that I served with a

summons a true copy of which is within written by delivering the same to him personally at

on the day of 19

Signature of Deponent:

Sworn at this day of 19 before me

.....
Registrar
Justice of the Peace
Solicitor of the High Court

SUMMONS BY WAY OF RECALL, TO APPEAR BEFORE A CHILDREN AND YOUNG PERSONS COURT

Section 31 (2), Children and Young Persons Act 1974

(1) Full name. To (1)
(2) Address. of (2), occupation:.....

By order of the Children and Young Persons Court at
made on the day of
19....., you were ordered to come before that Court, if called upon within two years
after the making of that order.

(3) Specify. That Court has now directed, on the application of a Social Worker (or a member of the
Police), that this summons recalling you before that Court be issued. That application was
made on the grounds (3)

You are summoned to appear onday, the day of
..... 19....., at a.m. at the Children and
Young Persons Court at
(*together with (4)

(4) Insert the name
of the child or young
person to whom the
complaint related.
*Delete if applicable
inapplicable.

The Court will then inquire into the circumstances of the case and your conduct since
the order was made for the purpose of ascertaining whether it should exercise any of its
other powers.

Dated at, this day of
..... 19.....

Magistrate (or Justice of the Peace or
Registrar (not being a constable)).

Notice to person summoned:

- (1) If you wish to have a solicitor act for you in this matter, you should employ one
immediately.
(2) Lack of money should not stop you approaching a solicitor as he will be able to tell you,
among other things, whether you can have all or part of your costs paid by the Government.
(3) If you are in any doubt consult a solicitor or the Registrar immediately.



DEPARTMENT OF SOCIAL WELFARE

DISTRICT OFFICE

Telephone:

Telegrams: Distwet

If telephoning or calling about this letter, please ask for

.....

Reference:

The Principal

.....

.....

..... born

When the abovenamed appeared before the Children and Young Persons Court on

(a) he was placed under the guardianship of the Director-General of Social Welfare. He has therefore been removed from home and plans are now being made for future placement and school attendance. You will no doubt receive a request for the progress card in due course.

(b) he was placed under the supervision of a Social Worker of the Department of Social Welfare for a period of

During this period a Social Worker from this office will be visiting the home and keeping in touch with both child or young person and parents to advise and assist in any way possible.

If at any time you have cause for concern regarding this child's or young person's behaviour please do not hesitate to get in touch with this office.

(c) the matter was adjourned/postponed to
with living at

(d) he was admonished by the District Court Judge but was not made the subject of any further penalty or Court Order.

(e) he was discharged.

Your assistance in our enquiries has been greatly appreciated.

for Director

PART D

PART D: CUSTODY, GUARDIANSHIP AND ACCESS

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PART D: CUSTODY, GUARDIANSHIP AND ACCESS

D1 INTRODUCTION

D1.1 The Department's Policy

The department's policy in custody, guardianship and access disputes is to remain scrupulously neutral, whilst providing professional assistance, to enable optimum decisions concerning the care and welfare of children to be made.

D1.2 Definitions

Guardianship Act 1968, Section 3 reads:-

- "3. Definition of custody and guardianship - For the purposes of this Act -
"Custody" means the right to possession and care of a child:
"Guardianship" means the custody of a child (except in the case of a testamentary guardian and subject to any custody order made by the Court) and the right of control over the upbringing of a child, and includes all rights, powers, and duties in respect of the person and upbringing of a child that were at the commencement of this Act vested by an enactment or rule of law in the sole guardian of a child; and "guardian" has a corresponding meaning."

Thus 'custody' is the day to day care of the child and 'guardianship' is having legal right of control over the upbringing of a child.

D2 FAMILY COURTSD2.1 Jurisdiction of Family Courts

The Family Court is a division of the District Court and has primary jurisdiction covering a host of matters affecting the family. In October 1980, the Family Courts Act was passed. The Family Courts Act 1980, Section 11 reads:-

"11. Jurisdiction of Family Courts - (1) A Family Court shall hear and determine all such proceedings as are to be heard and determined by such a Court under or by virtue of any of the provisions of -

- (a) The Marriage Act 1955:
- (b) The Adoption Act 1955:
- (c) The Guardianship Act 1968:
- (d) The Domestic Actions Act 1975:
- (e) The Matrimonial Property Act 1976:
- (f) The Family Proceedings Act 1980:
- (g) Sections 21I to 27ZI of the Social Security Act 1964:
- (h) Any other enactment for the time being in force.

(2) Subject to subsection (3) of this section, any jurisdiction or power conferred on a Family Court under or by virtue of any enactment shall be exercised by a Family Court Judge.

(3) Nothing in this section shall prevent a District Court, or a District Court Judge who is not a Family Court Judge, from exercising any jurisdiction or power that is vested in it or him under or by virtue of any enactment to the extent and in the manner specified in that enactment."

D2.2 Selection of Family Court Judges

Family Courts Act 1980, Section 5 reads:

"A person shall not be appointed to be a Family Court Judge unless

- (a) He is, or is eligible to be, a District Court Judge; and
- (b) He is, by reason of his training, experience, and personality, a suitable person to deal with matters of Family Law."

D2.3 Principles Guiding the Family Court

Section 23 of the Guardianship Act, 1968 reads:

"23. Welfare of child paramount - (1) In any proceedings where any matter relating to the custody or guardianship of or access to a child, or the administration of any property belonging to or held in trust for a child, or the application of the income thereof, is in question, the Court shall regard the welfare of the child as the first and paramount consideration. The Court shall have regard to the conduct of any parent to the extent only that such conduct is relevant to the welfare of the child.

(Welfare of the child is paramount)

(No bias towards either parent) (1A) For the purposes of this section, and regardless of the age of a child, there shall be no presumption that the placing of a child in the custody of a particular person will, because of the sex of that person, best serve the welfare of the child.

(Ascertain wishes of child) (2) In any proceedings under subsection (1) of this section the Court shall ascertain the wishes of the child, if the child is able to express them, and shall, subject to subsection (9) of Section 19 of this Act, take account of them to such extent as the Court thinks fit, having regard to the age and maturity of the child."

(Avoidance of unnecessary formality) Section 10 of the Family Courts Act 1980 specifically states the need to avoid unnecessary formality in conducting proceedings within Family Courts.

(Twofold function of Family Court) The Family Court Act also recognises the twofold function of the Family Court, firstly as a social agency, equipped to find social solutions to the problems that come before it, through the use of reconciliation, conciliation or mediation; and secondly where necessary, able to resolve issues by impartial judgment, applying acceptable legal procedures. The Judge is in charge of both therapeutic and judicial functions.

D2.4 Social Worker May be Required to be Witness

Under Section 29 of the Guardianship Act, and Section 46 of the Family Proceedings Act, the Social Worker writing the report may be requested to appear as a witness in respect of any aspect of his/her report.

D2.5 Evidence

Section 28 of the Guardianship Act and Section 164 of the Family Proceedings Act provide that in any proceedings under these Acts, (other than criminal proceedings, and contempt charges under Section 130 of the Family Proceedings Act) and whether by way of a first hearing or appeal, the Court may receive any evidence it thinks fit, whether it is otherwise admissible in a Court of law or not.

D3 REFERRAL TO DEPARTMENT

D3.1 Introduction

The department's involvement in custody, guardianship or access matters may come through a formal referral from the Courts (under both the Family Proceedings Act and the Guardianship Act) or informally.

D3.2 Informal Referrals

In some cases, the department's advice and/or assistance may be sought overtly or covertly, by a party applying for, or considering applying for, custody etc.

For example:

- (a) a straightforward request for information concerning how to apply for custody or access may be received and it may be appropriate to refer the client to other agencies for legal or other advice.
- (b) An aggrieved party wishing to obtain custody may claim (perhaps on the advice of a solicitor) that a child's care is inadequate or detrimental and warrants investigation by this department.

It would be quite contrary to the policy of this department, for a Social Worker to undertake enquiries in order either to assist a party to decide whether to pursue an action for custody or to assist a party in a Court action already undertaken.

However, if it appears that there are reasonable grounds for enquiring into the living conditions of the children, we can take such action as may be necessary to satisfy ourselves as to whether grounds exist for a complaint under Section 27 of the Children and Young Persons Act 1974. A Social Worker should not be discouraged from undertaking such investigations on the grounds that civil action is contemplated or already proceeding.

We must not in any way seek to strengthen or weaken the claims of either parent but merely to establish to our satisfaction (as we must always do when we receive a complaint we believe to be of substance) that a child is not being subject to negligent or inadequate care.

D3.3 Formal Referrals

It is useful for Social Workers to have some awareness of the various ways issues concerning children may come before the Court, and may involve the department. Although excerpts from legislation are quoted, it is important for Social Workers to read each quotation in the context of the relevant act.

(a) Family Proceedings Act

A Social Worker may become involved following an application to the Family Court in its jurisdiction in family and matrimonial cases under the Family Proceedings Act 1980 Section 46 of which reads:

"(1) In any proceedings under this Act relating to a child the Court may request a Social Worker to submit to the Court a written report on the arrangements that are proposed by the parties to the proceedings, or either of them, for the custody, maintenance, and welfare of the child, and on any other matter that is relevant to the child in the proceedings.

"(2) The Social Worker shall report accordingly.

"(3) The Registrar of the Court shall give a copy of the report -

(a) To every barrister or solicitor appearing for a party to the proceedings; and

(b) To any barrister or solicitor representing a child who is involved in the proceedings; and

(c) Where a party to the proceedings is not represented by a barrister or solicitor, to that party.

"(4) Any party may tender evidence on any matter referred to in the report.

"(5) At the request of the Court, the Social Worker shall appear as a witness in respect of any matter referred to in or arising out of the report."

(b) Guardianship Act

A Social Worker may become involved following an application for guardianship, custody or access (other than interim custody or access) under the Guardianship Act 1968. Section 29 of which reads:

"(1) In any case where the Court so directs in respect of any application for guardianship or custody (other than interim custody) or access, a copy of the application shall be served on the Director-General in such manner as may be prescribed.

"(2) The Director-General or a Social Worker shall report on the application, and may appear on the application personally or by a barrister or solicitor.

"(3) A copy of the report shall be given by the Registrar of the Court -

(a) To the barrister or solicitor appearing for each party to the proceedings or, if any party is not represented by a barrister or solicitor, to that party; and

(b) To any barrister or solicitor appointed to represent a child who is the subject of the proceedings.

"(4) A report given to a barrister or solicitor under subsection (3)(a) of this section shall not be given or shown to the person for whom the barrister or solicitor is acting if the Courts so orders.

"(5) A report given to a barrister or solicitor under subsection (3)(b) of this section shall be given or shown to the child for whom the barrister or solicitor is acting only if the Court so orders.

"(6) Any party to the proceedings or any barrister or solicitor appointed to represent a child who is the subject of the proceedings may tender evidence on any matter referred to in any such report.

"(7) The Court may if it thinks fit call the person making the report as a witness."

D4 SOCIAL WORK INVOLVEMENT UNDER THE FAMILY PROCEEDINGS ACT

D4.1 Counselling and Conciliation

The purpose in counselling and conciliation is to facilitate and ascertain in what areas - if any - agreement can be reached by the parties involved in the dispute and to convey that outcome to the Court.

D4.2 Request for Social Worker to Act as Counsellor or Conciliator

In most cases a Marriage Guidance Counsellor will be requested by the Court to act as counsellor or conciliator, however in exceptional cases the Court may decide it is appropriate to ask a Social Worker to act as counsellor. If this does occur the Director must decide whether the Social Worker can be made available and Head Office must be notified of the circumstances by brief memo so that a check is maintained on this practice. In the event that a Social Worker from the department did provide counselling services under Sections 9, 10 or 19 of the Family Proceedings Act that same Social Worker could not later report on the same case under Section 46 of the Family Proceedings Act.

It is possible in exceptional circumstances that a Social Worker, having reported under Section 46, may be asked by the Family Court Judge to assume a counselling role in respect of some unresolved matter because of the Judge's awareness that the Social Worker is known to and accepted by the family concerned. If such a request occurs then this can be taken as being consistent with our role of assisting the Court under the legislation.

In no circumstances should Departmental social workers receive payment for counselling functions carried out on behalf of the Family Court. Officers are released by the Department to undertake such a task whether this occurs in office hours or during time normally covered by E.D.A. payments.

D4.3 Counselling Role

A Social Worker may be nominated to act as counsellor under Section 9 of the Family Proceedings Act which makes provision for voluntary counselling to individuals requesting it or under Section 10 - which, with some specific exceptions, makes provision for compulsory counselling on application for separation or maintenance. Section 10(4) reads:

"(4) On an application under Section 67 of this Act for a maintenance order or on an application by a party to a marriage for an order under the Guardianship Act 1968 with respect to the custody of a child of the marriage, a Family Court Judge may, if he thinks it expedient to do so, and without limiting his power to make an interim maintenance order, direct the Registrar to arrange for the matter to be referred to a counsellor and, on receipt of a direction under this subsection, the Registrar shall refer the matter accordingly."

D4.4 Conciliation Role

A Departmental social worker may be requested to act in reconciliation and conciliation under Section 19(2) which reads:-

(2) In all proceedings under this Act between a husband and wife for the dissolution of their marriage, where it appears to the Court from the nature of the case, the evidence, or the attitude of the husband and wife, that there is a reasonable possibility of a reconciliation between them on any matter in issue, the Court may -

- (a) Adjourn the proceedings to afford the husband and wife an opportunity for reconciliation, or for conciliation; and
- (b) Nominate a counsellor or, in special circumstances, any other suitable person, to explore the possibility of reconciliation or, if reconciliation does not appear to be possible, to attempt to promote conciliation."

D4.5 Privilege

Section 18 of the Family Proceedings Act specifies that any information obtained by a counsellor while counselling or from a mediation conference is privileged, and states a maximum penalty for disclosing such information. Because the information gained is privileged and could conflict with the department's statutory obligation to act in the best interests of the child, the department prefers its Social Workers not to be involved in this role.

D4.6 Reporting Back to the Court

In conveying to the Court, the outcome of conciliation or counselling, under Section 9 or 10 of the Family Proceedings Act the following format must be used:

REPORT OF COUNSELLOR
Section 11(1) Family Proceedings Act 1980

To: The Registrar,
Family Court,
.....

I, _____ report that _____ and
were referred to me for counselling on _____

I met the husband on _____
I met the wife on _____
I met both of them on _____

The husband or the wife or both the husband and the wife did not attend counselling.

The husband and wife (wish or do not wish) to resume or continue the marriage.

In respect of matters in issue -

The husband and wife reached the following understandings.

- (1)
- (2)
- (3)

OR

The husband and wife reached no understandings.

Signature of counsellor:
Date:

D4.7 Maintenance

Provision is made under Section 91 of the Family Proceedings Act for a report to be requested from the Department of Social Welfare, in any proceedings relating to maintenance, and reads:-

"91. Reports as to maintenance - (1) In any proceedings under this Act relating to maintenance, the Court may request any officer of the Department of Social Welfare to submit to the Court a report in writing on the means, earning capacity, and economic circumstances of a party to the proceedings, and on any matter relevant thereto.

(2) The officer shall report accordingly.

(3) The Registrar of the Court shall give a copy of the report to every barrister or solicitor appearing for a party in the proceedings or, in the case of a party in the proceedings or, in the case of a party who is not represented by a barrister or solicitor, to the party.

(4) Any party may tender evidence on any matter referred to in the report.

(5) At the request of the Court, the officer making the report shall appear as a witness in respect of any matter referred to in or arising out of the report."

In general, reports on maintenance are undertaken by clerical staff. However, the Court may request that a Social Worker undertake this task in circumstances where there may be underlying issues in respect of custody, access etc.

D4.8 Mediation

The provision for mediation under Section 13 of the Family Proceedings Act is a key factor in the Family Court system. It allows parties in dispute to discuss their differences in a non-adversary setting.

D4.9 Referrals for Mediation

There are two types of referrals:

- (a) Where an application has been made to the Family Court by one spouse against the other for separation, maintenance (for self or child) or by one parent against the other for custody or access.
- (b) Where an application has been made to the Family Court for a change to an existing order of custody, access or maintenance.

D4.10 Request for a Mediation Conference

Either party to the proceedings, or a Family Court Judge may ask the Registrar of the Court to arrange for a mediation conference.

D4.11 Mediation Conference

The mediation conference is chaired by the Family Court Judge. The parties to the proceedings, their solicitors (if desired by the party) and counsel for the child/ren attend. The objectives of the conference are to identify and resolve matters in issue between the parties. The conference takes place in the Judge's chambers, is usually of an hour's duration and more than one conference may be held. Any matters which cannot be resolved will go to a hearing, at which the Judge will make an order.

D4.12 Orders

Separation, custody, maintenance or access orders may be made following the agreement of the parties concerned and when registered at the Court are referred to as "Consent Orders".

In situations where no agreement has been reached, and the matter is referred to a hearing, the Judge will make an order.

D4.13 Non-Molestation Orders

Section 176 of the Family Proceedings Act makes provision for a non-molestation order to be applied for where the court makes a separation order or makes orders in respect of matrimonial homes and tenancies.

Section 177 makes provision for an interim non-molestation order to be made.

D4.14 Arrangements for children on Dissolution of Marriage

To ensure that satisfactory arrangements are made on the dissolution of a marriage, Section 45 provides:

(1) A Family Court shall not make an order dissolving a marriage unless it is satisfied that -

- (a) Arrangements have been made for the custody, maintenance, and other aspects of the welfare of every child of the marriage who is under the age of 16 years (or, in special circumstances, of or over that age) and those arrangements are satisfactory or are the best that can be devised in the circumstances; or
- (b) It is impracticable for the party or parties appearing before the Court to make any such arrangements; or
- (c) There are special circumstances justifying the making of an order dissolving the marriage, notwithstanding that the Court is not satisfied that any such arrangements have been made.

(2) A Family Court shall not make an order dissolving a marriage, in reliance on any special circumstances referred to in subsection (1)(c) of this section, unless it has obtained a satisfactory undertaking from either or both of the parties to the proceedings to bring before the Court within a specified time the question of the arrangements for every child of the marriage.

D5 SOCIAL WORK INVOLVEMENT UNDER THE GUARDIANSHIP ACT

D5.1 Warrant to Enforce a Custody Order or Access Order

Section 19 of the Guardianship Act 1968 provides that:

"(1) Where any person is entitled to the custody of a child, whether pursuant to this Act or to the order of a Court (including an order that is registered under Section 22A of this Act), a Family Court or a District Court may at any time, on the application of the person so entitled to custody, issue a warrant authorising any constable or Social Worker or any other person named in the warrant to take possession of the child and to deliver him to the person entitled to custody or to some other person or authority (including a person in or from a prescribed overseas country) named in the warrant on behalf of the person entitled to custody.

(1A) Where more than one person is entitled to the custody of a child, no warrant issued under subsection (1) of this section shall authorise the removal of the child from the possession of one of those persons and the delivery of him to another of them.

(2) The Court may at any time, on the application of the person entitled to access to a child under an order of a Court being an order made under Section 15 or Section 16 of this Act or an order that is registered under Section 22A of this Act) issue a warrant authorising any constable or Social Worker or any other person named in the warrant to take possession of the child and deliver him to the person entitled to access in accordance with the order."

This section also specifies powers of search and entry, and states a maximum penalty for resistance or obstruction. See Fig. 1 for an example of the warrant.

D5.2 Execution of Warrant Not Considered in Best Interests of the Child

Where a Social Worker is called upon to execute a warrant to enforce custody or access (other than in cases of physical danger to the child or to frustrate a possible abduction) and considers that it would be contrary to the interests of the child to coercively execute the warrant literally in accordance with the instructions contained in it, s/he should after discussion with his/her Supervisor inform the Registrar or counselling co-ordinator by telephone or in person immediately and follow this up the same day with a written report explaining the situation and asking for an urgent fixture to be arranged so that the matter can be fully considered. Provided reasonable tact and common sense are used, the Judge is unlikely to criticise the officer for failure to follow the strict letter of the warrant.

D5.3 Warrant to Prevent Child Being Removed from New Zealand

Section 20 of the Guardianship Act makes provision for a High Court or District Court Judge, or in their absence, a Registrar of the High Court or District Court to issue a warrant to prevent the removal of a child who is central to a custody or access dispute. This section also states the penalty for hindering or preventing the execution of the warrant (see Fig. 2 for an example of the warrant).

D5.4 Action Following Execution of a Warrant

Social Workers should note that a child removed on warrant under Section 19 of this Act, must be placed with the person named in the warrant, whereas when a child is removed on warrant under Section 20 of the Act, provision is made to place the child "with a suitable person" pending further action.

Warrants, once executed are to be returned to the Court accompanied by a brief letter, stating: "This warrant was executed on ____ day, date by _____ (Social Worker) and _____ (child) was returned to _____." (Name and address of person with whom child was placed.)

D5.5 Wards of the Court (see D10 & D11)

D5.6 Reserved

D5.7 Reserved

D5.8 Reserved

D5.9 Reserved

D5.10 Natural Guardians (Section 6 and 6A Guardianship Act 1968)

This is a complex area of family law and requires careful consideration. Social Workers should not undertake to advise clients seeking clarification of their legal standing in relation to guardianship, but refer them to a legal adviser.

Subject to the provisions of this act, the father and the mother of a child shall each be a guardian of the child.

The mother can be sole guardian of a child if she has never been married to the father of the child; if her marriage to the father of the child was dissolved before the child was conceived, or if she and the father of the child were not living together as husband and wife at the time the child was born.

In all these instances [of sole guardianship] the father would need to apply to the Court if he wished to be appointed as guardian.

D5.11 Testamentary Guardian

Section 7 of the Guardianship Act makes provision for a parent or guardian to appoint a person to be a guardian by deed or by will following their death.

Social Workers should advise clients wishing to make such a provision to consult a legal advisor.

D5.12 Supervision of Access Orders

The Court may request or instruct that a Social Worker supervise an access order. Ideally such requests should follow negotiation between the department and the Court, to avoid unreasonable demands being made on social work resources. If a request or instruction is considered unreasonable, it should be drawn to the attention of the Assistant Director Social Work, who may enter into discussion with the Court, with a view to negotiating an alternative arrangement, or seek legal advice through the Social Work Division, Head Office, from Head Office or district solicitors.

D5.13 Director-General Not Generally Involved

The Director-General is not generally involved in a custody inquiry. If written to by the Court or by solicitors for the parties the Director-General refers the request to the appropriate Director for action. It is important that Directors should only refer any correspondence from a solicitor relating to custody proceedings to the Director-General where other than a routine matter is involved. In such cases the Director should acknowledge the solicitor's letter and should inform him/her that it has been sent to the Director-General for reply.

D5.14 Special Conditions Relating to Custody Orders

On rare occasions a child has been placed under our supervision for a specified period where the Court has felt that we should maintain some oversight of the living conditions of the child. The child may be placed in the custody of the Court for a brief period during which a Social Worker may be directed to take an interest in the child (during such a period the child might be living, with the approval of the Court, with a relative or friend of one of the disputants).

D5.15 Custody Order Does Not Supersede a Guardianship Order

The granting of a custody order in favour of a parent or other person in respect of a child in the care of the Director-General does not mean that the guardianship order will be superseded and that the child will be placed with the successful applicant. The person in whose favour the custody order is made will assume the residual right of guardianship to become fully effective at the time the Director-General discharges the child. In all cases where Wards are involved the decision made by the Court should be reported to the Director-General so that he knows who will be the Ward's legal guardian when s/he is discharged from control.

D6 FAMILY COURT LIAISON OFFICER

D6.1 Responsibilities

The Liaison Officer has the special responsibility within the office to establish and maintain, on both a formal and an informal basis, a productive and co-operative working relationship with the Family Court staff. Liaison will be with the Court co-ordinator or with the Registrar or Deputy Registrar depending upon the organisation of individual Courts. Good lines of communication can enable the early identification and resolution of areas of potential difficulty and prevent unnecessary delays. If the volume of referrals warrants it, the Liaison Officer and Court Officer may decide to schedule meetings and/or phone calls at regular intervals.

D6.2 Roles

- (a) Serving as spokesman and initial link for the department in all day-to-day dealings with the Family Court and with lawyers and others, holding and maintaining resource and reference material, serving as a resource person for the office.
- (b) Negotiating (and within delegated authority, deciding) the allocation of cases within his or her office. Where more than one office is involved, it is helpful if the case is allocated to a Social Worker situated in the same district as the Court making the request. This will generally lessen travelling by Social Workers being requested to attend court hearings. Any allocation needs to be negotiated and ratified between districts. It is policy for one Social Worker to report on both parties where possible (see also D7.6).
- (c) Maintaining or supervising the maintenance of the office register of disputes referred for investigation and report, and supervising completion of standard office procedures.
- (d) Personal briefing of reporting officer(s) concerning the background of cases allocated to them, as discussed with Court conciliator or Registrar, with particular reference to the keeping deadlines. This will normally include responsibility for referring correspondence, or communicating background material, to other districts involved.
- (e) Personally investigating and reporting on some cases referred (within limits determined by senior officers), in order to develop personal experience and confidence.
- (f) Supervising the casework elements of the investigation/reporting function, by agreement with, and in consultation with the reporting officer's immediate senior, whether the reporting officer is attached to the Liaison Officer's own office or a different office. This latter situation will involve consultation by telephone or correspondence, as well as perusal of draft reports.

- (g) Supervising compliance with procedures, style, deadlines and the general expectations of the Court and of individual Judges involved.
- (h) Supervising or initiating continuing consultation with counsel for the child and other resource persons involved in individual cases.
- (i) Serving as the normal channel of communication between reporting officers and Court staff on all issues arising during investigations.
- (j) Alerting senior staff to potential or actual difficulties, policy issues or practices which might need attention.
- (k) Informing social work staff of matters of interest and contributing to staff development programmes.
- (l) Delivering or despatching completed reports, after checking for enclosures and attachments, accuracy and style, and conformity of standard of content to the Court's expectations. This may also involve the preparation of memoranda accompanying reports, drawing attention to specific matters or providing supplementary information. (See also D7.12.)
- (m) Ascertaining the outcome of the case if this information is not conveyed by the Family Court.
- (n) Completing, or supervising the completion of SW 483 (see Fig.4) for return to the Statistics Unit, Head Office. (See Circular Memorandum no. 1982/89 dated 26.2.1982.)

D7 SOCIAL WORKER'S REPORTD7.1 Requests Under the Family Proceedings Act 1980

There are two sections of this Act under which a Family Court Judge may request a Social Worker to submit a report.

- (i) Under Section 46(1) in any proceedings relating to a child: special attention should be given to arrangements proposed by the parties for:
 - custody
 - maintenance
 - welfare of any child
 - on any other matter relevant to the child in the proceedings.
- (ii) Under Section 91, in any proceedings relating to maintenance, any officer of the Department of Social Welfare, (the appropriate person in some circumstances may be a Social Worker) may be requested to report on
 - the means
 - earning capacity and
 - economic circumstances of a party to the proceedings.

D7.2 Requests Under the Guardianship Act 1968

- (i) A Family Court Judge may request a report under Section 29 of the Guardianship Act in respect of any application for guardianship, custody (other than interim custody) or access.
- (ii) A request may be made for a progress report on a Ward of the Court. There is no specific legal provision laid down for such a request. However, the same procedures should be followed as for any Social Worker's report, and the report will be filed at the Court requesting it. A note should be made on the statistics form SW 483 (see Fig. 4) to the effect that the report was requested for a ward of the Court.

D7.3 Requests for Reports from Court

Our actions are confined to reporting to the Court, when requested to do so. Under the Family Proceedings Act, the report may be requested prior to, during or following a mediation conference. The Court's request is sometimes addressed to the Director-General who minutes it to the district(s) concerned, or may be addressed to the local Director, who sends a copy to any other districts concerned. Copies of completed reports are not normally sent to the Director-General. The request usually takes the form of a memorandum from the Registrar or Court Co-ordinator of the Family Court conveying the wishes of the Judge. (The Justice Department are currently designing a standardised form for all Family Courts to use in making requests for reports - see Fig.3.)

Most requests for reports will be accompanied by an Information Sheet FP 7 (see Fig.5).

D7.4 Request for Report Conveyed by Solicitor

On occasions solicitors convey the Court's request for a report to the Director-General or a Director. Provided it is clear that the Court has made the request the report may be prepared but must be filed in the Court.

D7.5 Reports to be Filed in the Court in All Cases

The report should be forwarded to the Court together with a covering note addressed to the Registrar signed by the Director. The covering note should stress that the report is confidential. A suggested formula is "I enclose for the confidential information of the Court, the report requested in your memo of".

D7.6 More Than One District Furnishing a Report (see also D6.2(b)) (ref H7.4 re delegation)

Where more than one district is involved the final responsibility for reporting lies with the Director to whom the Court addressed the request for a report. Whenever possible the same social worker should report on both parties. Normally this will be a social worker from the initiating district but special circumstances may require that this be decided by negotiation and agreement between districts. The completed reports should be sent to the Liaison Officer in the district responsible for reporting to the Court (see D.6.2(b)).

D7.7 Enquiries Made by Social Worker for Report

There are several important factors to be considered by Social Workers making enquiries in the course of gaining information for a Court report.

- (a) Introduce yourself, the purpose of the interview and the authorisation from the Court under which the interview is taking place clearly.
- (b) Clarify that your role is that of a reporter for the Court - not counsellor, advisor, consultant etc.
- (c) Enquiries should be made with sensitivity and discretion. Nevertheless, you are an investigating officer in this instance and must seek details of any allegations or incidents raised during your enquiry.
- (d) If in the course of your interview matters arise which the client indicates (or you feel) are needing a therapeutic intervention, offer to make a referral to another Social Worker, or appropriate agency.
- (e) If in the course of your interview it seems that a negotiated agreement is possible, the client should be advised to consult their solicitor, and the Social Worker should discuss with the Court Liaison Officer, who will seek the Court's advice.

- (f) Do not undertake to hold information as 'confidential'. Information gained in the course of your enquiries can, and may have to be revealed if you are called as a witness.
- (g) For children attending school - please refer to D8.3 for procedures for obtaining school reports.

D7.8 Content of the Written Report

Our report is addressed to the Registrar of the Court, and is headed with adequate reference to the case before the Court. It should be independent, and reasonably factual. The following is suggested only as a broad guideline and lists some of the aspects which should be considered.

A Social Worker's report will typically be based on:-

- (a) visits to the child's residence, and the applicant's residence.
- (b) joint interview with both parties - if deemed desirable and possible.
- (c) home interviews - individually and with the child(ren)
- children alone
- (d) interviews with other significant persons.

The report may then include:

- (a) a brief history of the marriage.
- (b) the present circumstances of the child(ren).
- (c) the motivation of each party in making/defending the application.
- (d) observations on the character, personality and parenting capabilities of each party.
- (e) relationship between parties and the child(ren), and siblings.
- (f) observations of the child(ren) and their physical and emotional needs and their wishes.

If the Social Worker forms an opinion during the process of preparing the report that a person, other than an applicant would be a more appropriate custodian or guardian they should include this in their report.

Social Workers should remember that their reports will be read by both parties to the dispute and that they may be cross-examined in Court on their reports. Any expression of opinion about the disputants' adequacy as parents or the merits of any arrangements must be supported by factual evidence. This may be in the form of remarks made during interviews or the relevant past behaviour of the disputants. THE ESSENTIAL THING IS THAT A SOCIAL WORKER MUST BE ABLE TO STATE QUITE CLEARLY THE OBSERVABLE OR VERIFIABLE REASONS OR THE CONVINCING CONCLUSIONS FROM THEM WHICH JUSTIFY ANY ASSESSMENT MADE.

Any 'hearsay' evidence included in the report, should clearly be identified as such.

D7.9 Conclusions/Recommendations (ref H7.4 re delegation)

Unless it has been clarified through the Registrar that the Judge wishes a recommendation to be made, Social Workers should not offer a recommendation in their reports.

A Social Worker reporting at the request of the Court is in a somewhat similar position to a witness. A witness is not permitted to draw conclusions or make recommendations. S/he is testifying to the facts known to him/her which form, of course, only part of the whole case. We are endeavouring to supply the Court with information about those aspects of the custody issue which an unprejudiced Social Worker should be able to supply.

Social Workers can draw together the information they have gained, and offer their impressions, without usurping the decision-making authority of the Judge.

D7.10 The Style of the Report

There is no specific form which the report must take. Often paragraph headings are used to make reference easier for the court and to highlight the various aspects of the inquiry.

Avoid the use of 'jargon' or terminology which is confusing or liable to have more than one interpretation. For example, one Judge notes that a Social Welfare report on a Polynesian family received by him stated in part:

"Mrs E tells me that R is quite biddable at home although the rationale for directions need to be fully explained in order to gain R's co-operation. Mrs E remarked that R is very impressionable so much so that he is almost chameleon-like in his social behaviour adapting totally to the ambience." Comments the Judge: "I do not believe that Mrs E told or was capable of telling the Social Worker anything of the sort. Probably what she said was that R is a bit thick but does as he is told at home provided he is first kicked in the backside, but out with his mates he just gets into trouble."

The report should be signed personally by the Social Worker who has prepared it, the designation shown should be "Social Worker", and a woman Social Worker should place "Miss", "Mrs" or "Ms" in brackets before her name.

D7.11 Access to Reports

Section 29 of the Guardianship Act and Section 46 of the Family Proceedings Act make provisions for who has access to Social Workers' reports. Both Acts make provision for the Registrar to give a copy of the report to a solicitor acting for a child, and to solicitors or appearing for parties to the proceedings, or if not represented by a solicitor or barrister to the parties themselves. Social Workers should be aware of the provisions under Section 29(4)(5), of the Guardianship Act which read:

"(4) A report given to a barrister or solicitor under subsection (3)(a) of this section shall not be given or shown to the person for whom the barrister or solicitor is acting if the Court so orders.

(5) A report given to a barrister or solicitor under subsection (3)(b) of this section shall be given or shown to the child for whom the barrister or solicitor is acting only if the Court so orders."

It is sincerely hoped that reports distributed by the Court will be handled with wisdom and care. It should however be appreciated that no provision exists to prevent them from being photocopied, quoted, discussed or otherwise used by parties to the proceedings, authorised by Court to have access to them.

D7.12 Number of Copies of Report

- Four copies of the report should be filed at the Court in all cases.
- If only one district is involved additional copies will be needed for the district general file and for any personal or family files.
- If more than one district is involved a copy will be needed for each district's general file.

D7.13 Distribution of Report

Distribution of the copies of the report is undertaken by the Court.

D8 REPORTS FROM OTHER SPECIALISTS

D8.1 Medical, Psychiatric and Psychological Reports

Section 29A of the Guardianship Act makes provision on any application for guardianship, custody (other than interim custody) or access, for the Court to request a medical, psychiatric or psychological report.

If Social Workers, in the course of their enquiries believes that such a report is desirable, and has not been requested by the Court they may make a recommendation to the Court via the child's solicitor, or in the event of there being no such appointment, discuss their concern that such a report be requested with the Registrar, via the Liaison Officer or if considered appropriate, include their concern that such a report be available in their report to the Court.

Social Workers should not quote from psychologists' reports, as they will not have been written for this purpose. In no case should a Social Worker quote from a psychologist's or any other report, without the written consent of the author of that report.

D8.2 Information from Family Doctor

Where it is considered appropriate for information to be sought from a general practitioner, for inclusion in a Social Worker's report, written consent from the party concerned should first be obtained. Such information can then be disclosed to the Court, and a copy of the written consent should be attached to the report.

D8.3 Requests for School Reports

Currently there is no provision in the legislation for the Family Court to call for a school report.

The Department of Education and the teachers' organisations have agreed that social workers who need to report to the Family Court in respect of a school age child use a standardised form and covering letter (SW575 see fig. 6) in requesting a report from the Principal. The completed 'pupil profile' may then be attached to the Social Worker's report when submitted to the Court. In addition the school report will serve to provide valuable background information which will deepen the social worker's own understanding of the child.

As pointed out in the covering letter (SW575) the Principal is not legally required to submit a report, though there is provision for any teacher or Principal to be called as a witness under Section 28A of the Guardianship Act, or Section 164 of the Family Proceedings Act.

Teachers need to be aware of the possibility that their report may be shown to the parents (or other adult parties) by their respective solicitors. If they feel that any matter in the report should not be made available to the parents they could draw this to the attention of the Social Worker who may pass this on to the Court for its consideration and decision.

In the covering letter the principal is also invited to make a direct approach to the social worker and/or the counsel for the child should he/she consider this appropriate.

As a matter of courtesy the counsel for the child should be advised that a report from the Principal is being requested and will be made available. Council may of course decide to proceed with his/her own independent enquiries from the school as well.

D9 APPOINTMENT OF SOLICITOR FOR THE CHILD

D9.1 Legal Provision

There is provision for such appointments to be made, to assist the Court, or to represent a child(ren) under the Family Proceedings Act 1980 and under the Guardianship Act 1968.

(A) Under the Family Proceedings Act, Section 162 of which reads:

"(1) In any proceedings under this Act (not being criminal proceedings) a Court -

(a) May appoint a barrister or solicitor to assist the Court; and

(b) Shall consider whether it should appoint a barrister or solicitor to represent a child who is involved in the proceedings.

(2) Where the Court considers that it should appoint a barrister or solicitor to represent a child involved in the proceedings, it shall appoint a barrister or solicitor accordingly."

(B) Under the Guardianship Act, such an appointment becomes virtually mandatory where proceedings are likely to proceed to a hearing, Section 30 of which reads:

"(1) In any proceedings under this Act (not being criminal proceedings), a Court may appoint a barrister or solicitor -

(a) To assist the Court; or

(b) To represent any child who is the subject of or who is otherwise a party to the proceedings.

(2) Notwithstanding subsection (1)(b) of this section, in any proceedings under this Act which relate to custody of a child or to access to a child, a Court shall, if those proceedings appear likely to proceed to a hearing, appoint a barrister or solicitor to represent any child who is the subject of or who is otherwise a party to the proceedings, unless the Court is satisfied that the appointment would serve no useful purpose."

D9.2 Role of Solicitor Representing the Child

"The role of the child's representative is -

(i) to interview the parties and those people who are to assist in the parenting and to ensure that all relevant facts are investigated, collected and presented to the Court so that it is able to properly consider and decide what is in the welfare of that child. This function will normally be promoted but not necessarily completed by working in close conjunction with any Social Worker called upon to provide a report pursuant to Section 29(2) of the Guardianship Act.

- (ii) to ascertain the wishes of the child in the most appropriate way, and to ensure that evidence of those wishes and how they were ascertained is placed before the Court.
- (iii) to negotiate or mediate in the most appropriate way the welfare of the child at the earliest possible opportunity. In most cases the negotiation of a workable compromise or settlement which minimises the destructive effect of litigation, dispute or uncertainty will achieve this result.
- (iv) to advocate by submission (or if necessary by the calling of evidence and the cross-examination of other evidence) the welfare of the child in the most appropriate way.
- (v) to protect the child from unnecessary or undesirable examinations, tests and evaluations.

"The engaging of experts by a barrister or solicitor appointed by the Court should always be the subject of the prior approval of that Court. An estimate by the expert proposed of the cost of his/her evaluation should accompany all applications for approval. The incurring of other unusual disbursements should also be the subject of the prior approval of the Court" (excerpt from Family Court Practice Note - Principal Family Court Judge).

D9.3 Liaison Between Social Worker and Counsel for the Child

Good liaison and communication will be more easily achieved if early discussions are held between the Social Worker and the solicitor, to clarify their objectives. The Social Worker does not work "through" the solicitor. Each has their own area of speciality, and can be a resource to the other.

D9.4 Joint Interviewing

It may be decided that for reasons of convenience, to lessen distress upon a child or party, or for casework reasons, that a joint interview is desirable. Before embarking on a joint interview, the Social Worker and solicitor should plan what form the interview will take, to enable each to obtain their objectives.

D9.5 Difference of Viewpoint/Opinion - Between Social Worker and Solicitor

From time to time, differences of opinion will occur between experts from different disciplines. If the Social Workers have concerns about a legal aspect, they can seek advice from the department's legal advisors, through their supervisor. Where the viewpoint differs in casework assessment areas, this can be noted in the Social Worker's report, e.g. "after observing Margaret's distressed behaviour when her mother left the room, I formed the opinion that However, Mr Kelly counsel for Margaret does not share that opinion".

Consensus is helpful, but not essential. What is important is that an honest, unbiased report be available to the Court.

D10 HIGH COURT GUARDIANSHIP (Wards of Court)

D10.1 Powers of the Court (for further details see section 9 Guardianship Act 1968)

- (a) The High Court may, on application, order that any unmarried child under the age of 20 be placed under the guardianship of the Court, and may appoint any person to be the agent of the Court either generally or for any particular purpose. Those who may apply for such an order may be the parent, guardian, 'near relative' (See Section 2), the Director-General, a child or young person, or any other person with leave of the Court.
- (b) Wardship terminates automatically when the Ward is 20 years of age, or marries under that age.
- (c) The Court may make Wardship orders which include directions relating to custody of and access to the Ward and these have the same effect as similar orders made in the Family Court.

D10.2 Legal and social effects

D10.2.1 General

- (a) The person who is the subject of the application may at the time be in the permanent or temporary care of the Director-General, may be the subject of some legal activity in which the department is involved (e.g. baby being placed for adoption) or may have no status but be the subject of social work concern. On some occasions applications arise quite independently of any departmental involvement.
- (b) From the moment of application the subject's current living arrangement is 'frozen' and all plans and other legal activities are halted from the moment of application.
- (c) If the subject is already under the Director-General's guardianship, this guardianship is suspended at the moment of application. While this precludes the department from any intervention as guardian, board payments and other financial aspects are continued. If the application is successful then the Director-General's guardianship is automatically discharged (i.e. he does not retain residual status).
- (d) From the moment of application the parents who are guardians become residual guardians and this continues until the Court has declined to make an order or until an order if made is discharged.

- (e) In practice, the power of the High Court in respect of Wardship is influenced by the fact that the Children and Young Persons Act 1974 confers wide powers on the Director-General and Social Workers to make decisions as to the welfare of children and young people in care. That is to say the High Court will not allow its jurisdiction to be used simply in order to intervene in the Director-General's exercise of his day to day guardianship responsibilities. (However, High Court jurisdiction can be used to challenge the department's performance when it is believed that it has breached its statutory duties, or when the Court is asked to terminate the Director-General's involvement altogether).
- (f) High Court litigation is, generally speaking, more expensive than that in a lower Court. Legal aid is available to those eligible.
- (g) While parents, agents, custodians, the child or young person or any other person with leave can seek a variation or discharge once an order is made, such High Court orders are not open to the range of challenges available within lower Court jurisdictions. (Appeals can be made to the Court of Appeal.)

D10.2.2 Guardianship Responsibilities

While persons are appointed to carry out various roles and responsibilities in relation to a Ward of Court, major decisions are the prerogative of the High Court itself. These sorts of decisions concern for example:

- travel outside NZ or change of residence from one town to another
- change of placement or caregiver
- proposed adoption
- proposed marriage
- change of school, (other than routine progression)
- leaving school, starting work
- disputes between parties involved
- any other matter which the Court orders to be referred.

In those situations where decisions are immediately required e.g. illness, hospitalisation, breakdown of placement, the custodian, in consultation with the agent (if applicable and if possible) would be expected to obtain the help required and the agent would advise the High Court with the degree of urgency appropriate to the severity of the problem.

D10.2.3 General Agency Responsibility

The relationship between the general agent and the High Court has similarities to that between a Social Worker and the Director-General but without delegation of certain authorities. As will be discussed later, the general agent can be a parent, relative or some other person or Agency apart from the department. Specific directions may be attached to the general agency role.

D10.2.4 Particular Agency Responsibility

This usually takes the form of particular directions which can be variable in their focus. They are frequently allocated to the Director-General. Some examples are:

- a Social Worker is to observe and monitor access
- a Social Worker is to monitor the child's schooling
- a child may leave NZ but is to have an annual holiday in NZ (facilitated by the Director-General)
- the Director-General as general agent is to ensure that the Social Worker gives a written report to both parents every 3 months.

Sometimes the Court makes a request e.g. asking the Director-General to consider making board payments available to a custodian.

D10.2.5 Custodial Responsibility

When the Director-General is custodian, this responsibility is usually linked with that of general agency. The usual range of placement options are available. In other situations, the custodian provides the direct care and attends to all the day to day aspects of the child life.

D10.3 Uses of High Court Guardianship applications and orders

D10.3.1 The Director-General as applicant (general)

- a) It is a rare occurrence for the department to initiate such action. For most of the situations in which the department finds it necessary to intervene to protect children and young people it is adequately empowered under the Children and Young Persons Act 1974. Generally speaking the department strictly confines its applications for Wardship to those situations where it considers that High Court protection is absolutely necessary.

Several examples of situations where the department may initiate High Court action are as follows:

- (1) Where immediate and absolute control of a child or young person is required in order to protect him/her. There are situations where warrant action under the Children and Young Persons Act 1974, which only gives the Director-General a custodial role pending a Court hearing, is inappropriate and insufficient. For example, a Medical Superintendent may ask the Director-General to apply to the High Court in relation to a need of a child for a life saving blood transfusion when the parents refuse their permission. (This is a complex medical/legal matter and while protection from civil and criminal liability is available in some circumstances (see SWM A4.11), some medical practitioners choose to seek High Court protection before proceeding.
- (11) Where it is considered that the Director-General's guardianship is not sufficiently empowering to allow the pursuit of a particular course of action. For example, it may seek a guardianship substitution in relation to a child whose foster parents wish to reside outside New Zealand for a lengthy period (eg overseas posting) and the parents object (and are seeking return of the child to their care). The High Court would provide a forum for competing claims to be heard. If the High Court permitted the foster parents to proceed, a Wardship Order in relation to the child would protect the arrangement from challenge by the parents. However, the High Court is likely to also make provisions for the parents e.g. annual return of child to holiday in New Zealand.
- b) The department only rarely initiates High Court Wardship action. Situations arise wherein the department, whilst considering it inappropriate for it to approach the High Court, nevertheless encourages others to test their claims in the High Court if this is what they consider their best course of action or means of gaining an impartial review.

Several examples of this facilitatory function are as

follows:

- (1) From time to time, disputes arise in relation to children and young people under the Director-General's guardianship. The Director-General's guardianship responsibility and performance is being challenged (e.g. by foster parents). (See D10.3.3.) In the face of such "threat" it would be unlikely that the Director-General would seek the support of the High Court. Rather he would be supportive of the challengers proceeding in that way if they wished.

This support may in due course take the form of assistance with costs, if need be, regardless of whether the applicants are successful in, for example, having the Director-General's guardianship discharged.

- (ii) From time to time, Social Workers are involved in case situations where a parent, a young person, or some other person considers that High Court guardianship would for some reason, be more appropriate to a particular need than the Director-General's guardianship. For example, a person may prefer the processes involved in High Court Wardship to those associated with the Children and Young Persons Court.

The department may consider that the children and young persons legislation provides an adequate remedy and so would encourage the person to make independent application to the High Court in order to test their claim. The department may assist the person to do this and subsequently help, for example, with costs if appropriate.

- c) Having stressed that High Court guardianship application is currently regarded as an act of 'last resort' (i.e. no adequate remedy in lower Courts) it is also important to note that the department recognises the High Court's particular characteristic and potential to provide a flexible and innovative response to a range of situations. The High Court is able to address changing life/social situations, values and philosophies in a manner not necessarily available to lower Courts. Over time, these once innovative responses can be embodied in legislation and precedent which empowers lower Courts. For these reasons, an application for High Court guardianship is always an option that may be considered as a way to address and meet a need in a wide range of human situations.

In a situation of crisis, the same procedures will be followed in principle i.e. the speed of the process may increase, preparatory documentation may be postponed, but a consultative process involving District, Regional and Head Office will be required.

D10.3.2 Other applicants (general)

As well as the Director-General, a parent, guardian, 'near relative', child or young person (up to age 20) or any other person with leave of Court, may apply. Such applications seldom arise in the absence of a dispute of some kind. The application may be made because of dissatisfaction with proceedings in a lower Court, in order to halt other legal proceedings which may or may not have reached a Court, or to address a situation for which the applicant is not able to establish a claim in a lower Court (particularly not able with sufficient speed).

For example, the father of an ex-nuptial child who does not have guardianship status may wish to halt proceedings by the mother to place the child for adoption; a member of a Maori child's extended family may seek to interrupt a plan to place the child in a situation e.g. adoption, foster care, which is considered to be unsatisfactory in terms of Maori values.

D10.3.3 Challenge to the Director General's guardianship

- (a) This is the type of usage with which social work staff are quite likely to have involvement. Such challenges most commonly come from foster parents and parents. Sometimes the concern being addressed has a remedy in a lower Court (e.g. Section 64 Review) and in such cases a High Court Judge in hearing the matter would seek to resolve the issues within other jurisdictions if this would appropriately serve the best interests of the child or young person. As earlier stated, the High Court would make a distinction between an actual breach of statutory duty, and a party's discontent with what can be shown to be an adequate performance. For example, frequent changes of foster home could comprise a failure in performance. The Director-General's refusal to discharge to the parents a young person in institutional care at a particular point could be shown to be in the youth's best interests.
- (b) When faced with such an application by a person with whom one is working it is important to remember that the current situation is 'frozen'. (See D10.2.1 (a) and (b).)
- (c) Such applications that challenge the department do represent a form of accountability that we must recognise. Such challenges, whether successful for the applicant or not, draw acutely to our attention other people's perceptions and the High Court's perceptions of our performance and so shape our philosophies, policies and practices.

D10.4 Procedures

D10.4.1 Applications by the Director-General

(a) Joint Decision-making

Decisions regarding an application by the Director-General are the outcome of a consultative process between social work and departmental legal staff. This consultative process gives recognition to the two components of a decision;

- (1) identification and clarification of the desired social work goal, i.e. the social work perspective;

- (ii) identification of the most appropriate legal process to achieve it, i.e., the legal perspective.

A decision is made on the basis of both perspectives. The approval of the Office Solicitor (sometimes in consultation with the Solicitor-General) is then required for the Department to actually commence High Court proceedings.

(b) Current Procedures

These are stated here because it will be easier to understand future procedures if the present ones are made explicit. Currently, decisions regarding applications by the Director-General for Wardship are made in Head Office. Sometimes, District social work staff present to Head Office a case situation for which they are seeking advice particularly regarding an appropriate legal remedy. On other occasions reports and recommendations come from a District to Head Office. A decision (in consultation with District social work staff and the District Solicitor) is made by Head Office social work staff and the Office Solicitor.

(c) Future Procedures

(1) District Office Role

When considering the relevance of High Court action, a full consultative process should occur to ensure that in a given case situation both the strengths and weaknesses of such action are considered in relation to alternative options. The consultative process will involve senior social work staff, including the Assistant Director (Social Work), and the District Solicitor. On some occasions the REO (SW) may also be consulted. In the absence of a District Solicitor, Head Office solicitors are available for consultation.

From the consultative process should emerge some documentation that addresses in particular:

- the exact nature of the case problems (content and process)
- the changes that need to be effected/secured and by what process
- the nature of attempts so far to solve the problem/s and what has been the outcome/s
- the range of options available now and in what priority order

- the time frame in which the High Court option is to provide a solution e.g., short-term, long-term

This case material, appropriately endorsed by the Assistant Director (Social Work) and the District Solicitor (i.e., the social work and legal perspectives) will be referred to the Regional Director. If a District Solicitor is not available and a Head Office Solicitor is consulted then the Assistant Director should make note of this in the report.

(11) Regional and Head Office Roles (See H.7.4 re delegations)

The Director-General has delegated his authority to approve Wardship applications in principle, to the Regional Director (who may delegate to specific Regional social work staff). This delegated authority includes both the legal and social work components. However, the authority to commence High Court proceedings is retained by the Office Solicitor. Therefore the Regional Director will consult with the Office Solicitor in all cases regarding a decision to actually commence High Court proceedings.

(d) Response to Crisis Situation

In a situation of crisis, the same procedures will be followed in principle. The speed of the process may increase, preparatory documentation may be postponed, but a consultative and decision-making process involving District and Regional staff and the Office Solicitor will be required.

D10.4.2 Challenge to the Director-General's Guardianship

(a) Service of Documents on Director-General

When applications are made to the High Court for Wardship in respect of a child or young person under the Director-General's guardianship, he as party to the action is served with documents pertaining to the application. When these are served on the District Director it is important that the papers are immediately sent to the Office Solicitor (Head Office). This dispatch can be arranged by the District Solicitor, if available. The District Director advises the Regional Director of the situation. Arrangements will be made by the Office Solicitor for the Director-General to be legally represented at any hearing of the application.

(b) District Response

The Director will arrange with the Assistant Director (Social Work) for a recommendation to be prepared, based on the social work perception of the child or young person's needs and the desired goal. This will be conveyed to the Regional Director. A joint consultative and decision making process (social work and legal) will occur as outlined in D10.4.1(a).

D10.4.3 Appointment of Director-General to a Role

When the High Court is making a particular Wardship Order it is not necessary for the Court or any party's solicitor to seek the Director-General's attitude to the department being ordered a role and responsibilities. Sometimes, as a courtesy, solicitors seek the Director-General's views concerning a certain submission that is to be made to the Judge and sometimes solicitors consult with social work staff when they are closely involved with a case situation. On some occasions, the Judge directs that the Director-General be represented by Counsel when it is proposed that a role be allocated to the Director-General. The High Court will advise the District Solicitor or Office Solicitor of this directive.

D10.5 The Maori perspective

This section has been deliberately placed at the end of Part A in order to highlight for social workers how Western the concepts and processes are when considered in relation to those described in Puao-Te-Ata-Tu, Appendix II. Legal Perspective.

Care, protection and control issues certainly existed in traditional Maori life but the framework for addressing concerns and conflicts was an inherent part of the family and tribal structure itself. (This is not to deny that some Pakeha families also, even today, address and resolve problems within the extended family with minimal State participation). Earlier mention was made of current use of the High Court by Maori people to seek redress from planned or actual interventions by State and Court to determine the future of a child or young person of their whanau, hapu or iwi. While the High Court is not to Maori people the venue or jurisdiction of first choice, it is sometimes seen as the only choice available.

People, in endeavouring to incorporate into their thinking a bicultural approach to problem solving often conjure up in their minds instances which they suspect will defy resolution with the new approach. For example, how will the whanau approach to problem solving work if in fact there is more than one whanau involved in a dispute over possession of a child? Suffice it to say, in this context, that Maori custom also provided a very clear framework in which to address and resolve

competing claims to a child. It was usually the role of an Ariki (Chief) to 'arbitrate'. The methods of arbitration were clearly prescribed (as in Western law) but the criteria applied to decision making were also minutely prescribed.

It was not a matter of the Ariki making any 'order' he saw fit. Geneology and the hierarchical ranking of tribes was the basis of the decision. The issues did not concern the weighting of maternal versus paternal line nor the 'amount' of one tribal blood as against the other. The determining factor was the actual possession of any of a particular tribal blood of high rank as opposed perhaps to a greater amount of blood of a tribe of lower rank. This sort of arbitration highlights the fact that in terms of Maori tradition, any particular Maori person can be as inappropriate as a Pakeha to be involved in conflict resolution. The person to arbitrate is the one with appropriate status within a tribal structure and bearing the knowledge and skill to apply the geneological and status criteria.

How far back Maori people wish to go in seeking to restore traditional ways and values is not clear. However it is helpful at this point for the Social Worker to be able to understand what Maori people are saying when seeking an opportunity to address and resolve concerns and conflicts within their own value framework and this at an early point before a Court, or the High Court, becomes their only option.

D11 WORKING WITH WARDS OF COURTS AND THEIR FAMILIES (See also N1.3)

D11.1 Permanency rights and needs

This section deals with procedural matters in relation to working with Wards of Court and their families. It is important to recognise that Wardship, like the Director-General's guardianship, is not a status that should be allowed to continue beyond the point where it is necessary to ensure the well-being of a child or young person. That is to say, absorption of the child or young person into a family/whanau and the community, without statutory or Court involvement is the general goal that the High Court envisages for its Wards. The High Court has the same commitment as the department to secure the permanency rights and needs of children in particular. It will not, without good cause, allow a child or young person to be separated from natural family/whanau, and if separation does occur it will wish to ensure that return to family/whanau/iwi within a time frame appropriate to the child's needs is properly explored as an option.

D11.2 Clarification of order and planning for implementation

D11.2.1 Importance of early planning

When the High Court makes an order involving the Director-General, it is essential that at a very early point, clarification and planning occurs. The Social Worker seeks clarification of the allocated roles and responsibilities, clarifies mutual expectations with the parties involved and with them plans a course of action that will meet the requirements of the order and include provision for the department's accountability to the High Court. While the planning process is applicable to all Court orders (and is a part of all casework contracts) it is of particular importance when the order is not a routine one but has emerged from a Court's jurisdiction to give any directions it sees fit. (This type of personalised order also often emerges from Family Court proceedings).

D11.2.2 The Social Worker's Role

The steps for the Social Worker in this clarification and planning process are as follows:

(a) Interim measures

Ideally, one has a copy of the Order and Judgement before working on a detailed plan but often they are not available until some weeks after the hearing. Preliminary information about the Order often comes in writing to the Director-General from one of the solicitors involved. The speed with which one proceeds depends on the nature of the role and responsibilities. If for example, a child has been placed in the custody of the Director-General then immediate action is required. Even if one lacks detailed knowledge about the Court's intentions and expectations it is usually appropriate to make contact with the parties and proceed on an interim basis pending a planning meeting of some sort. Departmental solicitors are available to assist in determining the nature of interim measures.

(b) Preparation

As soon as the Order and Judgement are available, (whether interim or final) in consultation with the Senior Social Worker the expectations of the Court and the practice implications are clarified. They are then referred to a departmental solicitor for advice on the correctness of the social work interpretation.

(c) Planning meeting

The nature and extent of the meeting should be determined by the nature of the departmental role, the time frame in which it is to be carried out and the cultural values of the main parties. The frequency of subsequent meetings will also be determined by the nature of the role and its purposes.

(d) The Plan

The type of plan that is drawn up depends on the area and extent of departmental responsibility. For example, when the Director-General is both agent and custodian, or the agent to oversee custodial and access conflict between parents then strict attention to the formal planning process is very appropriate. A very minor role may require only a plan in the form of a brief letter at 6 monthly intervals.

Attention to all these steps will assist and support the Social Worker who is required to carry out what is often a difficult role. It will also provide a practice framework in which to monitor accountability to the High Court.

D11.3 Accountability to the High Court

D11.3.1 Paths of Accountability

There are two paths:

- a) Bringing matters back before the Court.
- b) Reporting - routine and extraordinary.

Sometimes the Court is very specific about its expectations of referral back of matters and on occasions it specifies or implies referral back only if any party becomes dissatisfied or concerned or a decision is required on a major guardianship aspect. However, as a general rule, whenever the Director-General has any role (except very minor) a report is prepared for the High Court annually as a routine and in addition to any referral back for hearing or reporting on a proposed major change.

D.11.3.2 Bringing matters back before the Court

- (a) When the Director-General is agent and custodian it is most likely that from time to time it will be necessary to seek direction from the Court regarding a major proposed change. This does not necessarily involve a hearing. In most instances it is sufficient to report to the High Court and make a recommendation. Associated with the recommendation one can state an intention to

proceed with the proposed change in for example a period of two weeks, if the Court does not advise to the contrary. If a major change is proposed that involves, for example, placing the child in the custody of a parent then one might recommend that one proceeds on a trial basis with the intention of duly seeking a hearing to allow the Court to consider varying the existing direction. If conflict exists which is hindering the department in its responsibilities then it is often appropriate to arrange a hearing. In all situations regarding proposed change, change that has been made in an emergency, or conflict between parties, a Departmental Solicitor should be consulted regarding the most appropriate approach to the High Court. Hearings are arranged by a Departmental Solicitor.

- (b) When the Director-General is agent and the parents have, in effect, custody and access orders which are creating upset and conflict, it tends to be a parent who arranges for a hearing rather than the Director-General.
- (c) In summary, bringing matters back before the Court can be in direct or indirect form. A hearing can be sought in the first instance or a recommendation can be made about a proposed major change that gives the Court the opportunity to arrange a hearing if it wishes. Very minor changes (e.g. routine change of school from Intermediate to Secondary School) are most appropriately covered in the routine annual report.

D11.3.3 Reporting: routine and extraordinary

The length and detail of the report will depend on the range of responsibilities involved and the extent and complexity of changes, concerns, or proposals that are being reported on.

Briefly stated a report should:

- be directed to the Registrar, High Court
- show Court's reference number
- name, date of birth of child/ren, young person/s
- the present care situation and address of child/ren, young person/s
- the name, address and relationship to the child/ren young person/s of the parties involved
- headings should be used and paragraphs numbered
- initial paragraph states the nature of the Order and directions being reported on

- the body of a routine report will be in the nature of a progress report covering the areas of responsibility in relation to the child/ren or young person/s
- the body of an extraordinary report will focus on aspects of concern, emergency change, or proposed change. This will include comment about the attitudes of significant parties including the child/ren, young person/s
- a general summary with a recommendation in a form that allows one to proceed with change, or maintain the situation that exists at the present time
- a report prepared by a social worker is countersigned by a Senior Social Worker.

D11.4 Emergency Action to Remove Child from Custodian

D11.4.1 Response when Director-General is General Agent

From time to time situations do arise where a Social Worker has grave concerns about the well being of a Ward of Court in the care of a particular custodian.

Concerns about a child's wellbeing can of course be addressed quite adequately when the Director-General is both general agent and custodian. When the Director-General is only the general agent then concerns can be addressed in several ways depending on the degree of imminent danger. An application for a warrant can be made to the High Court (on the same day) and if this is granted, the child can be uplifted from the situation of danger. If it is not practicable to first obtain a warrant from the High Court the Director-General as general agent has sufficient authority to take the necessary steps to remove the child from danger. In the latter case the matter should be brought to the High Court's attention at the first subsequent opportunity.

D11.4.2 Response when Director-General has no General Agency Role

If serious concern arises regarding the well-being of a Ward of Court when the Director-General is not the general agent then Complaint and Warrant action under the Children and Young Persons Act 1974 would be required, if it was considered necessary to remove the child forthwith. In view of the fact that matters can be brought back before the High Court very quickly it would have to be a great and imminent danger that would require the department's statutory intervention. However, given that there is a great and imminent danger then the High Court would expect appropriate protective action regardless of what arrangements it had authorised.

D11.4.3 Support to Social Worker

It is not easy for a Social Worker involved in all the facets of a given situation, and carrying responsibility at the workplace, to assess with objectivity the degree of imminent danger to a child or young person. Hence the importance of ready availability of supportive and consultative resources at all times.

D11.5 Social Workers role in relation to Wardship order

The section below is a brief summary, bringing together some of the main points which have already been touched on in general context.

D11.15.1 Director General as agent and custodian (See also N1.3)

In these Wardship orders the Social Worker's role on a day to day basis is very like that which he/she has in relation to a child or young person in care (with either the Director-General as guardian or with Section 11 agreements with the parent/s as guardian/s).

Potentially the range of placement options is the same. The major difference is that the High Court holds guardianship rights and responsibilities and this restricts the Social Worker's freedom to implement changes. On appointment of the Director-General, the High Court usually gives a clear direction as to its expectations e.g. short term conflict resolution, long term oversight with the application of permanency planning. However should adoption, for example, emerge as a planning goal, specific authority to pursue such an outcome must first be obtained from the High Court.

If the child or young person is Maori, the Court will take into account cultural needs and rights and the Director-General will follow through within this framework or, if necessary, ensure that this aspect is addressed as soon as the general agency and custodial role is adopted.

Any conflicts that arise and cannot be readily resolved with, for example, the parent, would be referred to the High Court.

The Director-General can seek a discharge order at any time (see D11.6) if some satisfactory guardianship alternative is available to the child e.g. parents, relatives, foster parents.

D11.5.2 Director General as agent but not custodian

The person/s appointed as custodian/s could be a parent, relative, foster parent or some other person. Generally, the custodian appointed is the one the Court intends to provide stability and permanence of care. (This may have emerged after an interim resolution phase). When the Director-General is appointed agent it is usually because conflict, for example

between parents, has given rise to the Wardship Order and the conflict is likely to continue. That is to say, if a situation had become quite satisfactory the child or young person would not need to be a Ward of Court and likewise if the custodian could maintain care and control with a minimal input from the Director-General then the custodian would also be the agent.

Situations where one parent is appointed custodian and the other parent has access are the most difficult and time consuming ones for a Social Worker to oversee. Conflict seemingly escapes resolution and the task of the Social Worker in constantly maintaining the focus on the needs and rights of the child/ren is a difficult one.

D11.5.3 Director-General with particular agency

Sometimes particular directions are attached to other roles i.e. custodian and/or agent but the comment here applies to the Director-General's role with a specific task only. Even though the role is minimal it remains important to clarify early what is required. For example, if the Director-General is requested to pay board, then the Social Worker is expected to set up some minimal oversight to ensure not only that it is paid (and adjusted) but also that this expenditure of public funds is appropriately applied. A visit to the child six months may be an appropriate low key monitoring. Sometimes, where for example the Director-General's guardianship has been successfully challenged by foster parents and the department is asked to continue board payments, there may be some discomfort to all parties in monitoring this aspect.

These directions may cover a range of small duties but are intended to be supportive of a situation already satisfactorily established for a child or young person.

D11.6 Discharge

This is most likely to be an issue for the department only when the Director-General has agency and a custodial role. As with any child or young person in care, the aim of facilitating permanency and State and Court withdrawal is a valid one. Clearly the High Court will not discharge its guardianship unless there is someone in place to take up this function effectively. When discharge is sought the normal criteria (and local delegation) do not apply because the Director-General can not discharge the Wardship. A report is prepared, referred through the AD(SW) to a Departmental Solicitor who will consider the situation with a view to approaching the High Court for a discharge order.

If the Ward approaches the age of 20, it is appropriate to advise the Court that discharge will automatically occur, and give some brief account of the present circumstances that prevail.

In an agency only role, it may be appropriate to raise the issue of discharge with the custodian particularly if that person/s already has a residual guardianship role or can obtain one.

D11.7 Status and Administration:

a) DG as Agent and Custodian

Status terms as for C&YP under guardianship with the suffix (Wd of Ct)

b) DG as general agent. Wd of Ct (G.A)

c) DG with particular agency. Wd of Ct (P.A.)

d) When board payments are to be made in (b) and (c), as the child will not be on Board status, it will be necessary to make special arrangements to ensure that payments are made and rates adjusted.

D11.8 Monitoring Responsibilities

D11.8.1 District

The central responsibility for the management of individual cases will lie with the Assistant Director (Social Work) who is to establish monitoring and review procedures to ensure that:

- a) current Judgements and Orders are correctly interpreted and implemented effectively;
- b) new Orders are clarified early and a relevant planning process set in place;
- c) accountability procedures are in place (referral and reporting to High Court);
- d) permanency achievement is pursued or maintained as relevant (including timely application for discharge);
- e) social work staff are sensitive and responsive to requests from Maori families to set up mechanisms to address concerns and resolve conflicts in terms of Tikanga Maori, and as a diversion from Court processes. It will usually be necessary for the Assistant Director (Social Work) and the Director to become involved in such issues so that innovative responses, if required, can be pursued through the Regional Director.

D11.8.2 Region

The Regional responsibility has two main aspects:

- (a) creating a knowledge resource for the Region;

(b) creating a knowledge resource for Head Office.

Regarding (a) it is envisaged that from time to time ADs (SW) will wish to consult at Regional level regarding a proposed application or some other issue associated with High Court Wardship. As Wards of Court are relatively few in number (most Districts have between 1 and 4) and as applications in which the department is involved are not an everyday occurrence, it will be helpful to Regional social work operations if the REO (SW) has the opportunity to build up a measure of expertise in respect of High Court Wardship. This will also assist the Regional Director in the decision making responsibility.

Regarding (b) this practice paper incorporates the current perspective on High Court Wardship which has emerged from the national experience of Head Office in issues regarding Wardship. Like other practice papers of this sort, it will tend to become out-dated and cease to reflect changing values and practices. Therefore it will be essential that REO's (SW) keep Head Office informed of significant comments from the Bench and other significant case information and be able to provide from time to time an evaluation of the guidelines and suggestions for change.

In order to accomplish both (a) and (b) the following procedure should be established:

REO to receive from Districts;

- copies of any current Orders and Judgements
- copies of all future Orders and Judgements
- copies of all future reports by social work staff to the High Court.

There will be elements of monitoring of District practices by REOs' (SW) in this overview function but the main focus will be on the pooling of knowledge that will serve Districts, Region and Head Office.

PART D: CUSTODY, GUARDIANSHIP AND ACCESS

APPENDIX

<u>Form</u>	<u>No.</u>	<u>Reference</u>
Fig.1 Warrant to Enforce Custody or Access	-	D5.1
Fig.2 Warrant to Take Child (to prevent removal from New Zealand)	-	D5.3
Fig.3 Approximate Format for Referral from the Court	-	D7.3
Fig.4 Family Court Statistics	SW 483	D6.2, D7.2
Fig. 5 Information Sheet	FP 7	D7.3
Fig. 6 School report and Covering Letter to Principal	SW 575	D8.3

(Figure 1)

WARRANT TO ENFORCE CUSTODY OR ACCESS

Section 19, Guardianship Act 1968

To: Every Constable or Social Worker

I am satisfied on the application of _____, of
that he/she is entitled to the custody of
a child aged _____ years.

I direct you to take possession of the child and deliver the child to
and to report to this Court when you have
done so.

For the purpose of executing this warrant, you are authorised by section
19(4) of the Guardianship Act 1968 to enter and search any building,
aircraft, ship, vehicle, premises, or place, with or without assistance,
and by force if necessary.

You are required to have this warrant with you when executing it and to
produce it if required to do so.

Judge

Date

(Figure 2)

WARRANT TO TAKE CHILD

Section 20, Guardianship Act 1968

To: Every Constable (or Social Worker)

I have reason to believe that
a child aged years, is about to be taken out of New Zealand.

With intent to defeat the claim of , of
who has applied for custody of the child.

To prevent an order for custody of the child made in the District Court
at on from being complied with.

This is said to be in the care of , of

I DIRECT YOU to take the child and place the child in the care of some
suitable person pending the order or further order of the Court having
jurisdiction in the case.

When you have executed this warrant in accordance with the direction you
are to advise this Court immediately of the name and address of the
person with whom you have placed the child.

Judge

Date

Formal Referrals from the Family Court will approximate this format.

M _____
Family Court Liaison Officer
Social Work Division
Department Social Welfare
Private Bag P.O. Box

RE: _____ & _____

(Applicant)

(Respondent)

Address

an application for _____
in respect of _____

Judge _____ has directed that a Social Welfare report be obtained in this application:

- (a) Section 46/91 Family Proceedings Act or
- (b) Section 29 Guardianship Act.

Counselling has/has not been undertaken.

Mediation conference has/has not been held.
will be held on _____

Orders/interim orders presently in force.

Other reports being requested _____
Counsel for the applicant is _____
OF _____
Counsel for the defendant is _____
OF _____
Counsel for the child(ren) is _____
OF _____

OR No Counsel has been appointed to assist the Court.

The child(ren) is/are residing with _____
OF _____

Copies of the Information Sheet and relevant Court papers are attached.
Please return them with your report, which should be presented to the Court by _____.

Thank you for your assistance.

Registrar
Family Court

FAMILY COURT STATISTICS

CHILDREN:

	First Name	D.O.B.	Sex	Living With:			At Outcome		
				At Application			M	F	Other
				M	F	Other			
1.									
2.									
3.									
4.									
5.									
6.									

PARTIES:

Applicant(s)

Name:

Relationship to child (ren):

Age:

Occupation:

Respondent(s)

Name:

Relationship to child(ren):

Age:

Occupation:

D	D	M	M	Y	Y	S	W	I	T

REL AGE OCC

Appl.

Resp.

Referral from

Report under

Report used in

Counselling

Warrant

Back-up

Outcome

Time SWkr

Other

Finalised

Court

Report

Sltr Chn

District

Year

Dist Reg No

HEAD OFFICE USE ONLY

REFERRAL:

From High Court

Other S.W. District

Family Court

Overseas Agency

For Report called under:

S29 Guardianship Act

For Counselling

S9 Voluntary

S46 Family Proceedings Act

S10 Compulsory

S91 Family Proceedings Act

S19 Conciliation/Implementation

used in:

Mediation

For Execution of Order/Warrant

Court hearing

Custody

For "Back-up" support only

Access

OUTCOME:

Proceedings } before DSW contact
 discontinued } after DSW contact

Consent Order

Imposed Order

Warrant executed

Warrant action withdrawn

Concluded elsewhere

TIME REQUIRED

(Manhours)

Social Worker

Other DSW Staff

Date Finalised: / /

Court at:

Report Supplied?

Solicitor for Chn?

S.W. District:

Year:

Dist. Reg. No.

(Figure 4 - reverse)

NOTES FOR GUIDANCE

Refer to Social Work Manual for detailed instructions.

When completed:

The return is completed for each Family Court case referred to the Department. Four general types of referral will occur:

- (i) custody report
- (ii) use of D.S.W. staff for counselling
- (iii) execution of custody/access warrant
- (iv) "back-up" work for another district

The form is forwarded to Statistics Unit, Head Office immediately final outcome is known.

Children:

This covers only those children subject of the dispute. Most of the requested information should be available from the custody report and from the papers supplied by the Court. Date of birth and sex should be completed for each child. Parent with whom living should be completed by ticking (✓) the appropriate box both for "at application" and "at outcome". "At outcome" means as ordered by the Court or at finalisation of the case if no court hearing eventuated. If child is living with someone else please specify (e.g. Uncle, maternal grandparents etc.).

Outcome details should be obtained from the Court if these have not automatically been supplied.

Parties:

Complete as indicated for "Relationship to Children" noting accurately (e.g. Mother, paternal grandparents etc.). "Occupation" includes such terms as "Invalids Beneficiary", "unemployed" or "housewife".

Referral

Complete by placing a tick (✓) in the appropriate box in both the "referral from" and "referral for" sections. More than one box may be ticked.

Outcome:

Tick (✓) the appropriate box to note the outcome of the referral. "Concluded elsewhere" is used where the matter is finalised outside the district. "Action discontinued before/after D.S.W. contact" includes those situation where the matter is withdrawn either before or after the Social Worker has contacted the parties. Children's situation at outcome (top of form) should also be completed.

Time Required:

Note the man-hours expended in actioning the referral. These figures need only be a good estimate.

Other Districts Involved?

Where the writing of a custody report has been shared between two districts (i.e. a report completed separately for each party) the district in which the matter was heard should complete the full statistical return. The other district should complete details on Parties, Referral, Outcome ("concluded elsewhere"), Time Required and final sections of the report.

In other cases of shared work the district in which the referring court resides should complete the full return.

Queries?

Contact the Senior Section Clerk or Senior Research Officer, Statistics Unit, Head Office should you have any queries on completion of this form.

**Information Sheet to Accompany Certain Applications
[Including Certain Ex Parte Applications]**

In the District Court at

FP No.

This information sheet accompanies applications for the following order(s):

- | | |
|---|---|
| 1 | 4 |
| 2 | 5 |
| 3 | 6 |

By _____		_____ yrs
Applicant's full name		age at date of application

* Home address

* Work address

* Contact telephone number(s)	* Home _____	* Work _____	_____
			* country of residence

* The applicant may delete these items from the copies to be served

Full name of other party (or other applicant *[In the case of a joint application]*):

_____		_____ yrs
Relationship, if any, to applicant or other applicant		age at date of application

Home address

Work address

Contact telephone number(s)	Home _____	Work _____	_____
			country of residence

Complete this section if the applicant and respondent are married to each other or if the joint applicants are married to each other

_____ date of marriage

_____ place of marriage

Children affected by the application
— If none, write 'none' on line 1

full name of each child	age in yrs at date of application	date of birth	name of person with whom each child is living at the time of application, and the relationship (if any) of that person to the child

date stamp

The accompanying applications are filed by

whose address for service is at

Previous applications: *[Give the file numbers of any previous applications between the parties and the Courts where they were filed].*

The Principal,
.....,
.....

Dear

<u>Name</u>	<u>Birth Date</u>
.....
.....
.....

The family Court at has directed this Department to provide a report on the above child(ren) who attend(s) your school.

The Court needs to reach a decision on the matter of custody and/or access in the best interest of the child.

I am asking for your co-operation by supplying a report in the form of a 'pupil profile' which would be of considerable assistance in arriving at a better understanding of the child and his/her needs.

You are not legally required to submit a report, though there is provision empowering the Judge to 'call as a witness any person whose evidence may in its opinion be of assistance to the Court'.

If you do provide a report as requested you should be aware that your report may be shown to the parties to the proceedings (usually the parents) by their respective solicitors, who are statutorily entitled to receive such reports. The Court may, however, direct that any particular report be withheld from the parties.

If other persons (parents, relations or their solicitors) approach you asking you to furnish other reports or to provide affidavits or to attend as witness, you are of course free to do as they ask. By doing so, however, you could be considered as siding with one of the parties. You may therefore in the case of such an approach prefer to advise that you have been asked to submit an official report which will be made available to the solicitors by the Court. Completion of the report does not affect the entitlement of any of the parties to subpoena a teacher as witness.

A 'pupil profile' as presented to the Court will normally be open to challenge or rebuttal in Court and should therefore be as objective as possible. Carefully considered professional opinions and judgements, verifiable by a teacher's own experience and observation will be of particular value.

You may wish to discuss any such aspects with the social worker who has been assigned to report to the Court. Similarly you may wish to consult with the solicitor appointed by the Court as counsel for the child and who will receive a copy of the 'pupil profile'. The task of counsel for the child is to bring forward any aspects relevant to the welfare of the child which may be overlooked otherwise. He/she may also investigate further any matters brought to his/her notice.

Your co-operation and assistance will be greatly appreciated. Please do not feel obliged to limit your report to the attached 'pupil profile' report itself. If there is any matter in your report which you feel should not be made available to the parents please draw attention to this when returning the completed form to me so that this may be passed on to the Court for its consideration and decision.

In case you are unable to forward a report by
please let me know so that I may advise the Registrar who may, if
necessary, decide to change the hearing date.

Yours sincerely,

Social Worker
(Family Court Liaison Officer)

The reporting social worker is

The counsel for the child is

PUPIL PROFILE

EXPLANATORY NOTES

1. Principals and teachers are reminded that the information submitted in this 'pupil profile' may not necessarily remain confidential to the parties outlined in the introductory letter.
2. Comments need not be made on every section, but those made must be able to be verified.
3. All staff who have relevant knowledge of the child should be involved in the compilation of the 'profile'.
4. Where applicable positive and negative aspects should be included.

PUPIL PROFILE

(See Explanatory Notes)

This profile is to be completed after consultation with the staff concerned and after reading the explanatory notes.

School

Name of pupil

Date of Birth

Date of enrolment Date left Present (or last class)

Attendance: 1/2 days present this year 1/2 days school open last year

Absences: Comment on patterns of absences, persistent lateness as well as stating the reasons given.

.....
.....
.....
.....

Health (a) Include relevant data from any medical records.

.....
.....

(b) Note significant changes, if any, you have observed recently in

(i) the child's health:

.....
.....

(ii) hygiene, nutrition, clothing:

.....
.....

School Progress and Attainment

General comments on progress and attainment:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Interests (Both in and out of school)

Recreation and sport

.....

Cultural or hobby pursuits

Behaviour

General comments

Relationships with

- (i) Siblings
- (ii) Other pupils
- (iii) Teachers

Note significant changes, if any, to usual patterns of behaviour

Any other relevant information

.....

Date Principal

PART E

PART E: INDEX

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PART E: ADOPTIONE1 INTRODUCTION

New Zealand was the first country in the Commonwealth to make statutory provision for the legal adoption of children. The legislation was passed in 1881. The current Adoption Act 1955 embodied much of the best of overseas practice as well as entirely new provisions. It provided for more careful supervision over initial placements, greater security for applicants at an early stage in the trial period of placement through the provision for interim orders, the certainty that reports are available to the Court before decisions are made, and wider discretionary power to the Courts to dispense with the consent of parents.

Most adopted children are born out of wedlock, are under one year old and adopted by strangers who are usually, though not always, childless couples. Often a stepfather or stepmother will adopt his or her spouse's children. This may help parents and child to experience a greatly increased sense of belonging and thereby strengthen family relationships considerably, quite apart from any legal advantages involved such as giving the stepfather's name legally to the child. Not all children available for adoption are babies recently born to unmarried mothers. Parents unable through personal instability, disruption of their marriage, etc. to care for their children may, after placing them in a private home or children's home for some years, decide to agree to adoption. Parents of children committed to our care may ultimately agree to their adoption. In rare instances, parents of a family where there are already several children may decide to offer their new born baby for adoption.

The treatment in this section of the Manual will place most emphasis on the principles, procedures and problems involved in arranging adoption of the baby of an unmarried mother by a married couple who are unrelated to the child and who in most instances are unable to have children of their own.

E2 LEGAL PROVISIONSE2.1 The Adoption Act 1955:

The main provisions of this Act are set out below. It is intended that this summary should serve as an introduction only, and not as a substitute for careful study of the Act itself. Social Workers are, in addition, referred to the Adoption Amendment Act 1957, 1962 and 1965, along with the Adoption Regulations 1959 and Amendment No. 1 1962. Professor I.D. Campbell's book 'The Law of Adoption in New Zealand'(1) and 'A Guide to Adoption in New Zealand'(2) by Eileen Saunders are both readable, comprehensive references.

E2.2 Children Who May Be Adopted (Section 3)

An adoption order may be made "in respect of any child whether domiciled in New Zealand or not". A child for the purpose of this act means "any person who is under the age of twenty years". (Section 2 as amended by the Age of Majority Act 1970.)

E2.3 Persons Who May Adopt (Sections 3 and 4)

- a. A Court may, upon receiving application from any person, make an adoption order in respect of any child. However, only in special circumstances will an adoption order be made unless the applicant or, in the case of a joint application, one of the applicants:
 - has attained the age of 25 years and is at least * 20 years older than the child; or
 - is a relative of the child; or
 - has attained the age of 20 years and is a relative of the child; or
 - is the mother or father of the child.
- b. An adoption order will not be made in respect of a girl in favour of a sole applicant who is a male unless the Court is satisfied that the applicant is the father of the child, or that there are special circumstances which justify the making of an adoption order.
- c. Husband and wife may apply jointly to adopt a child but otherwise an adoption order will provide for the adoption of the child by one person only.
- d. An adoption order may be made in favour of the father or the mother of the child, either alone or jointly with his or her spouse.

E2.4 Placement For Adoption (Section 6)

It is an offence (Penalty clause, S.27 of Act) for any person to place or receive or keep "any child (under the age of 15) in the home of any person for the purpose of adoption", unless:

Footnotes:

1. Campbell I.D. 'The Law of Adoption in New Zealand'. Butterworth & Co Ltd, 1957.
 2. Saunders E. 'A Guide to Adoption in New Zealand' A.W. & A.H. Reed ltd, 1971.
- * Reduced to 20 years by the Age of Majority Act 1970.

- prior approval has been given by a Social Worker and the approval is for the time being in force; or
- an interim order in respect of the proposed adoption is for the time being in force.

E2.5 Approval Is Valid For One Month Only (Section 6(2)) (Ref H7.4 re Delegation)

Any approval given by a Social Worker with a view to adoption will remain in force for one month after it is granted, "Provided that, where application to the Court for an adoption order is made before the expiry of one month from the date of the grant of the approval, the approval shall remain in force until the application is abandoned or dismissed or an order is made by the Court on the application."

The Act makes no specific provision for extension or reissuing of approvals. There is no reason however why the solicitor should not file the application without supporting affidavits within the month that the approval remains in force.

E2.6 Applicants May Apply Direct To The Court (Section 6(3))

If a Social Worker feels unable to approve of applicants who wish to take a child into their home with a view to adoption, the applicants may apply direct to the Court which may, if it sees fit, grant an interim order in respect of the child even though our approval is withheld. (Refer E2.15.)

E2.7 Consents Must Be Filed Before Order Made (Section 7(1))

"Before the Court makes any interim order, or makes any adoption order without first making an interim order", all the consents required must be filed in the Court.

E2.8 Consents Required (S.7)

Unless dispensed with by the Court (see S.8 of Act), the following consents are required:

- A child born of a marriage - the surviving parents or parent and the surviving guardians or guardian appointed by any deceased parent;
- A child born out of wedlock - the mother or, if deceased, the surviving guardian or guardians appointed by her. "If in the opinion of the Court it is expedient to do so", the consent of the father may be required. (For example, the father's consent may be required if he has lived with the mother or maintained and had regular contact with the child.) If the father of the child has had a guardianship order made in his favour (as under S.6(3) of the Guardianship Act 1968) his consent is required;
- A child who is already the subject of an adoption order - the surviving adoptive parents, or if deceased, the guardians they have appointed will be required to consent.

E2.9 Director-General May Accept Appointment As Guardian For The Purpose of Giving Consent (Section 7(4)) (ref H7.4 re Delegation)

In this provision the Director-General may agree to being appointed guardian by a parent (in writing) until such time as the child is adopted. If the Director-General agrees and is subsequently appointed as guardian under this provision he may then give the required consent. At least ten full days must have lapsed following the day on which the baby was born at the date of appointment (refer E6.3).

E2.10 Form and Execution of Consents (Section 7)

- a. The consent of any parent or guardian may be given, either unconditionally or subject to conditions regarding the child's religious training "without the parent or guardian knowing the identity of the applicant for the order". Forms 2 and 3 of the schedule attached to the Adoption Regulations 1959 show the different types of consent, one being a general form giving names of the applicants, the other showing only the application number of the particular adoption. (Ref. Reg. 9 Adoption Regulations 1959.)
- b. At least ten full days must have lapsed following the day on which the baby was born before the mother can sign her consent to the adoption.
- c. Except where given by the Director-General, ¹ a consent must be witnessed in New Zealand² by a Judge, a Registrar or Deputy Registrar of the High Court or of a District Court, or a solicitor, or a Judge or Commissioner or Registrar of the Maori Land Court.
- d. Except where given by the Director-General, the document signifying the consent to an adoption must contain an explanation of the effect of the order, ³ followed by a statement signed by the witness that the effect of the adoption order has been explained to the person giving consent and he or she appears to understand it fully.
- e. A consent must not be witnessed by the solicitor acting for the applicants.⁴

Footnotes:

1. Refer to E2.9. This is the only instance in which the Director-General is required to execute a formal consent.
2. Refer to S.7(8) of Adoption Act and S.3 of Adoption Amendment Act 1962 when consent is given in other countries.
3. Refer to Forms 2 and 3 of Schedule to the Adoption Regulations 1959.
4. Refer to Adoption Regulations 1959 (Reg. 9).

E2.11 Consent May Be Dispensed With In Certain Circumstances (Section 8)

The consent of any parent or guardian may be dispensed with, even though they ... may have made initial suitable arrangements for the child" (S.8(2)), if the Court is satisfied that:

- a. "... the parent or guardian has abandoned, neglected, persistently failed to maintain, or persistently ill-treated the child, or failed to exercise the normal care and duty of parenthood in respect of the child"; or
- b. "... the parent or guardian is unfit by reason of any physical or mental incapacity to have the care and control of the child, (and) that the unfitness is likely to continue indefinitely"; or
- c. a licence has been granted in respect of the child under United Kingdom adoption law.

A further circumstance is covered by subsection 8(4) where "The Court may dispense with the consent of the spouse for an applicant for an adoption order if it is satisfied that the spouses are living apart and that their separation is likely to be permanent."

An order dispensing with consent is only valid for six months, and an adoption application order must be made within that period. (Section 8(3))

The above subsections of the Act also provide that a consent can only be dispensed with if, "... reasonable notice of the application for an adoption order has been given to the parent or guardian where (he) can be found". Subsection 8(5) states that the notice of application for an adoption order should be served on the "... committee or administrator of the estate of the parent or guardian" who is "... a mentally defective person". (Refer to Mental Health Act 1969 for a definition.)

E2.12 Withdrawal of Consents (Section 9)

Any consent to the adoption of a child may be withdrawn provided that:

- an application to adopt the child is not pending; and
- the adoptive applicants have had "reasonable opportunity to make an application to adopt the child".

E2.13 Social Workers To Report To The Court (Section 10)

Before the Court makes an interim order, or adoption order where no interim order is being made the Registrar of the Court must notify the local Social Welfare office of the date of the application and request a report. The Act requires that reasonable notice be given of the hearing and also requires the Court to consider any report furnished. Where the applicant, or one of the applicants, for an adoption order is a parent of the child (natural, or by previous adoption) the Act states that our report is not required. Nevertheless in these circumstances the Judge may ask us for a report which should be prepared in the usual way. A Social Worker is entitled to appear at the hearing of any application and to cross-examine, call evidence, and address the Court.

E2.14 Court To Be Satisfied On Suitability Of Proposed Adoption
(Section 11)

Before making any interim order or adoption order in respect of any child the Court shall be satisfied:

- a. "That (the applicants are) fit and proper person(s) to have the custody of the child and (are) of sufficient ability to bring up, maintain and educate the child";
- b. "That the welfare and interest of the child will be promoted by the adoption, due consideration being .. given to the wishes of the child, having regard to the age and understanding of the child";
- c. "That any condition imposed by any parent or guardian", relating to religion, "is being complied with."

E2.15 Interim Order To Be Made in First Instance (Section 5)

If the Court, on hearing an application for an adoption order "considers that the application should be granted", it must, "in the first instance, make an interim order in favour of the applicant(s)". In exceptional cases if, "All the conditions governing the making of an interim order have been complied with, and special circumstances" make "it desirable, an adoption order may be made in the first instance". An example would be where a stepfather adopts the child of his wife's earlier marriage. Adoption in such circumstances does not usually involve any outward change in the child's life and is primarily giving legal recognition to an existing situation.

E2.16 Effect of Interim Order (Section 15)

An interim order in respect of any child:

- does not change a child's name but may specify how it is to be changed by the adoption order;
- remains in force for one year or until it is sooner revoked or an adoption order is made. A further interim order can be made if necessary;
- may require that the adoption order shall not be issued without a further hearing;
- is not to be treated as an adoption order for any purpose.

While the interim order remains in force:

- the adoptive applicants are entitled to the custody of the child and must comply with any terms specified in the order;
- any Social Worker "may at all reasonable times visit and enter the residence in which the child lives";

- the child must not be taken out of New Zealand without the Court's permission;
- the adoptive applicants must give a Social Worker seven days notice before changing their residence or, in an emergency, they must notify the Social Worker within forty-eight hours of leaving their former residence.

E2.17 Application For Issue of an Adoption Order
(S13 of Act and S.5 of Amendment 1962)

The adoptive applicants may apply for issue of an adoption order after six months have elapsed from the granting of the interim order, or such shorter period as the Court, in special circumstances, may specify either in the interim order or subsequent to it, providing that:

- the interim order is in force on the date of application and has continued in force for not less than the period mentioned above;
- and the child, if under 15 years, has been 'continuously' in the applicant's care for not less than the prescribed period which may be six months or such shorter period as the Court has specified.

An application for the issue of an adoption order will require a further Court hearing, except where:

- a Social Worker has filed a report recommending that an adoption order be issued;
- the interim order did not require the application to be dealt with by the Court;
- no proceedings for the revocation of the interim order are in progress; and
- a District Court has not in the immediately preceding month refused to revoke the interim order.

Where a hearing is required, the Social Worker must be given by the Registrar reasonable notice of the date of the hearing, to enable a report on the application to be furnished to the Court. In such cases a Social Worker may appear, cross-examine, call evidence and address the Court.

E2.18 Date On Which an Adoption Order Becomes Effective (Section 14)

An adoption order becomes effective on the date a formal order is signed¹ by the Registrar where there is no further hearing. In cases where the application is heard the adoption comes into force from the granting of the order by the Court, whether or not the formal order is signed.²

E2.19 Effect of an Adoption Order (Section 16)

An adoption order "confer(s) the surname of the adoptive parent on the adopted child" together with such Christian names as they select.

For all purposes and regarding all relationships the child is deemed to become the child of the adoptive parents who possess full rights of guardianship.

E2.20 Court To Which Application Should Be Made
(Adoption Amendment Act 1962)

All applications are made to the Family Court. Proceedings are heard in a "closed" court and no particulars may be published without leave of the Court.

E2.21 Evidence in Adoption Cases (Section 24)

The Court "... may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the application, whether or not the same would be otherwise admissible in a Court of Law."

E2.22 Adoption of a Maori or by a Maori (Section 18)

The Act expressly permits a Maori to adopt a European child or a European to adopt a Maori child.

E2.23 Payments in Respect of Adoption (Section 25)

The Act prohibits any payment in respect of an adoption "except with the consent of the Court". The Adoption Amendment Act 1957 exempts from this restriction any "... payment of hospital and medical expenses of the confinement of the mother of a child" made by an adoptive applicant direct to the controlling body of "... any licensed hospital, or separate institution" under the control of "... any society or body of persons caring for the welfare of children". Such payment must be in accordance with any limits imposed by the Director-General of Health.

E2.24 Restriction Upon Advertisements(Section 26)(ref H7.4 re Delegation)

The Act prohibits any person other than the Director-General, or a Social Worker, from publishing any advertisement indicating:

Footnotes:

1. Refer Form 7, Adoption Regulations 1959.
2. Refer Form 8, Adoption Regulations 1959.

- that a parent or guardian wishes his/her child to be adopted;
- that any person wishes to adopt a child; or
- that any person or group of people is willing to make arrangements for the adoption of a child.

Directors have delegated authority to approve advertisements for adoptive homes.

E2.25 Revocation of an Order Dispensing With Consent
(Section 8(6) and (7))

Where an order is made dispensing with the consent of a parent or guardian, the parent or guardian may, within one month after the order being made, and upon giving notice to the adoptive parents, apply to the High Court to have that order, or any consequential interim order revoked, or any consequential adoption order discharged.

E2.26 Revocation of Interim Order (Section 12(1))

"On the application of any person, the Court may in its discretion revoke an interim order in respect of any child on such terms as the Court thinks fit" (see also E6.34).

E2.27 Adoption Order May Be Varied or Discharged (Section 20)

This section of the Act relates to the provisions for the variation or discharge of an adoption order.

E2.28 Appeal Against Refusal to Dispense With Consent (S.3 Ad. Amd Act 1965)

Where a Family Court has refused to make an order dispensing with the consent of any parent or guardian, the applicants for the dispensation may appeal to the High Court within one month of the date of refusal.

E2.29 Appeal in Respect of Revocation of Interim Order
(S.4 Ad. Adm Act 1965)

Where the Family Court has refused to revoke an interim order the applicant for the refused order may appeal to the High Court within one month of the date of refusal.

Where an interim order is revoked the adoptive applicants may appeal within one month.

E2.30 Appeal Against Refusal to Make Interim Order or Adoption Order
(S5. Ad. Amd Act 1965)

Where the Family Court has refused to make an interim order or an adoption order, the applicant may appeal to the High Court within one month of the date of refusal, provided that:

- no proceedings for revocation of the interim order are pending; and
- the Family Court has not refused to receive the interim order within the preceding month.

E2.31 Adoption Files Not Available To Outside Persons (Section 23)

Adoption records are not available for inspection by anyone outside the department except where:

- a trustee needs to inspect records for the administration of an estate or trust;
- a Registrar of Marriages is to investigate the possibility of a forbidden marriage relationship;
- there is a Court order made for the purposes set down in the Act.

E2.32 Access To, and Supply of, Information from Records

Continuing problems are being encountered by staff because of the increasing demand by persons involved in adoptions for information from our records.

Departmental policy allows for as much non identifiable information as is available on the file to be made known to those adults who have been adopted, have placed a child for adoption or who are adoptive parents. It specifically excludes revealing Christian names either given to the child prior to the adoptive placement or Christian names of the birth parents.

Many of the people who are looking for information are quite desperate and will be most persistent in their enquiries. While their needs must be recognised and they as people treated with every consideration and respect it must be remembered that any adoption involves more than one person and that they too have rights which must be respected.

Social workers are in a position of special trust and responsibility in this respect, and they have a duty to consider and balance the interests and wishes of all parties to adoption, while also having regard to the law.

The following guidelines are set out to help Social Workers deal with these kind of situations. They are not new, but are an attempt to codify what has always been departmental practice and philosophy on the subject:

- (a) The fullest possible general information at the time of a proposed placement should be given to couples who are adopting a child not already known to them. This should not include the natural parents' names or identifying data unless the parties have agreed to an "open" adoption.
- (b) Adoptive parents should be encouraged, by every possible means, to pass on this information to their child at an appropriate (fairly early) stage, and to display an open, sensitive and accepting attitude to questions from the child about his/her origins. See E6.16. Research has shown that adopted persons who have been kept in the dark about their adoption and their origins are the most likely ones to make a desperate search for their birth parents.
- (c) The fullest possible information about the adopting parents should be given at the time of adoption to natural parents releasing a child for adoption. Again, this should not include their identity except in an "open" adoption. For comments on meetings between natural and adoptive parents see E10.3 and E6.15.
- (d) Where a Social Worker is involved in a "family" adoption the parties should be warned of the danger and difficulties which can arise in trying to keep family secrets hidden from the child concerned.
- (e) No staff member, Social Worker or non-Social Worker, is entitled to give identifying information from departmental records to an adopted person who wants to know his/her original name, or to an adoptive parent who wants this information; or to a natural parent who wants to know his/her child's new identity. No staff member may give identifying information about any adoption from departmental records in reports or verbally to other agencies or professional people. The giving of such information is a serious breach of confidentiality and could be an offence against the law.
- (f) Background information of a non-identifying nature may be given to adoptees, birth parents of children placed for adoption and adoptive parents but where the adoptee is under the age of 20 years information should not be given without ascertaining the attitude of the adoptive parents.

- (g) When an adopted adult or birth parent asks for information, some initial discussion should take place concerning -
 - (a) amount of information sought - some only want a little general background, while others may want as much detail as is able to be given within the law,
 - (b) Reasons for the request - this can help identify the stability and security of the enquirer.
 - (c) present relationships with adoptive family, and the family's attitude to the enquiry being made. This may not influence the giving of information but gives a background picture.
- (h) Having established a relationship and an appreciation of the applicant's request, the Social Worker should then obtain the file. If it is not held locally then it should be requested from the district in which the final order was granted - and as much non-identifying information as is appropriate, should be discussed with the enquirer.
- (i) Adoption is a highly personal and emotional issue. Every enquirer should be treated with consideration and concern, and efforts should be made to obtain the information and to, as far as possible within the limits of present legislation, meet their requests in a sensitive and understanding manner.

The possibility that little, if any, information may be available will need to be discussed with the enquirer at an early stage and the enquirer informed that under no circumstances, will names or addresses or identifying information be divulged.
- (j) Jigsaw, and its allied adoption support groups, are directly working in this field. It is accepted that departmental staff can, within the limits of these instructions, co-operate with members of that organisation or any other organisation working in this field.
- (k) There could be special cases where an exception to these guidelines seems to be justified. Such cases are to be referred to the Assistant Director, Social Work, for decision. Any especially complex or contentious cases should be referred, with full details surrounding the case to Head Office. A full record should be kept of all decisions made.
- (l) No information should be given to any enquirer without proof of his or her identity.

E3 ADOPTION APPLICATIONS

E3.1 Group Meetings for Prospective Adoptive Applicants

Recent literature on adoption emphasises the importance of our role in the preparation of applicants for adoptive parenthood. Attention is drawn to the value of group discussion and education for adoptive applicants, as well as for couples who have already had children placed with them. Some districts have introduced group meetings with the purpose of presenting general information on adoption to prospective applicants in a setting where they are able to ask questions informally and to exchange views. Such meetings should in no way be regarded as part of a departmental selection process to identify applicants suitable to adopt.

When first enquiring about adoption, prospective applicants should be given the opportunity to speak to the Adoption Officer or Senior Social Worker. In districts where group meetings are held, the Social Worker should explain the purpose and programme of the group and invite the couple to attend the next meeting or series of meetings. Such gatherings, preferably of up to six couples, provide an excellent forum in which applicants can learn basic facts about adoption to talk over at home. They can also discuss thoughts and feelings informally with other couples in a similar situation as well as with adoptions staff who participate. Couples may then take time to think further before deciding whether they truly wish to proceed with their enquiries.

Staff conducting group meetings should take care to ensure that their presentation of adoption material will not tend to discourage applicants who are, for example, less assertive but who may not be less desirable adoptive parents. If a person enquiring about adoption is obviously reluctant to attend such meetings, or if a couple are thought likely to feel at a disadvantage in such a situation, perhaps for cultural or language reasons, they should be offered an interview on their own. Some may afterwards decide to take advantage of the group meetings as well.

E3.2 Topics To Cover in Group Meetings

The Social Worker may outline the current national situation regarding availability of babies; waiting periods; current trends in mothers' arrangements for ex-nuptial babies; legal procedures, and the Social Worker's roles and responsibilities. Other topics include qualities that make for happy and successful placements; telling the child about adoption; and some of the problems of unmarried mothers and their concern for their infants. About an hour at each meeting may be devoted to the informal presentation of this material, followed by perhaps a further hour during which the members may be divided into smaller groups if necessary, with a Social Worker as a resource member in each. The groups would discuss the information given, along with their reactions and feelings generally. If several meetings are planned for each group, films can be useful as a basis for discussion. Speakers such as a psychologist who is equipped to discuss the influences of heredity and environment, or the mother of an adopted family, may be invited to

contribute their specialised experience. For advice and assistance in selecting and obtaining suitable films, staff should contact their departmental regional training officer.

However successful group meetings prove to be they should never replace individual interviews. All couples who indicate that they wish to proceed further should be given separate interviews.

As the leading of groups demands special skills, Social Workers intending to use the group method should take advantage of any group work courses available.

E3.3 Number of Office Interviews

Experience has shown that more than one office interview is necessary. This is not only because of the number of issues that need to be discussed, but also to give the applicants and Social Worker the opportunity to get to know one another and to allow the applicants time to think over the matters discussed. At least one interview should be arranged with husband and wife separately.

Applicants will start off more at ease if advised in advance how long the first interview is likely to last. Most people begin to tire after about an hour of intensive discussion.

E3.4 An Application Form Should Not Be Offered Until Applicants Feel Ready to Complete It

Unless the couple have already attended pre-application group meetings, they may well have given very little thought to the demands that will be made of them by adoptive parenthood; and it should not be taken for granted that they have thought the whole subject through before making an application. They should not, as a general rule, be offered an SW 545 (ref. Fig 2) application form until they have had at least one interview or until their commitment to adoption has been established. If from the beginning it appears unlikely that intending applicants will be acceptable for an adoption placement, or if for some specific reason they are unlikely to receive a baby in view of the long waiting list, it may be more realistic and humane to discourage the prospective applicants from submitting a formal application. The reasons for giving them such advice should be explained and alternatives to adoption discussed.

E3.5 Applicants' Attitude In The Office Interview

At the first interview it is to be expected that most couples will be experiencing anxiety and that they may show agitation and even some veiled or open aggressiveness. This is a normal reaction to facing the fact of being unable or unlikely to have natural children, and having to seek a baby through a government department which demands an investigation of one's circumstances and attitudes. The Social Worker should recognise and accept such feelings, and may in a friendly but matter-of-fact manner encourage discussion of the more 'low key' procedural matters at the beginning. The temptation to be over-reassuring or to start justifying our role to people who are

agitated or 'touchy' can be a real test of the Social Worker's ability to be both sensitive and objective. One of the benefits of several interviews is that later meetings provide an opportunity to observe whether the anxiety and defensiveness diminish as the couple become familiar with the Social Worker and the procedures and feel able to relax. It may also be observed whether the very self-assured and very controlled couples are gradually prepared to acknowledge fears and uncertainties about adoption which they may have been concealing, perhaps even from themselves. Continuing anxiety or agitation, where there is no accountable reason, may point to marital or personal difficulties for which the couple are perhaps seeking a solution through adoption. Such agitation may also be a symptom of a condition of depression requiring treatment. A continuing show of complete confidence may indicate that the couple are unable or unwilling to face the real implications of adoption.

E3.6 Guidelines to Adoption Interviewing

The aims of our adoption enquiry procedures should be to help prospective applicants come to a decision as to whether adoption is a wise course for them to pursue; to help them to learn about adoptive parenthood, and to enable Social Workers to assess whether the couple would provide a desirable homelife and upbringing for an adopted child. The applicants need to obtain from the Social Workers information on such matters as the availability of babies, and legal procedures in adoption. They need to be helped to gain some insight into their own motives for adopting and to be given encouragement to try to visualise situations which they are likely to meet as adoptive parents, and ways of dealing with them. This should also help them to imagine how they would feel about having an adopted child. Social Workers for their part must obtain detailed information about the applicants' circumstances and the extent to which they seem able to acknowledge and learn about the differences between natural and adoptive parenthood.

Discussion should at some stage cover such matters as the applicants' infertility (where applicable), motives for adopting, expectations of a child and proposed size of family. When encouraging them to visualise life with an adopted child the Social Worker may raise issues such as the reactions and questions of relatives, friends, neighbours, school officials etc.; the later questions from the growing child; the need to tell the child about adoption, and ways of doing so; and typical situations of unmarried mothers. At the outset the couple may have little perception of the predicament and concern of many unmarried mothers for their babies' future.

E3.7 Opening the Initial Interview

One way of beginning the discussion is to invite the couple to recall how they came to think of adopting. This will probably either raise practical questions about such matters as the waiting list and legal procedures, which should be answered as they arise, or will encourage them to talk about the circumstances of their childlessness. The latter may lead to a discussion of the course of their married life and activities, relationships with their family and friends, their employment, courtship, youth and early relationships and experiences. The ways by which the couple have coped with, used, or come to terms with life experiences will often be more significant than the circumstances and events themselves. The Social Worker's chief concern will be with the way the couple's present relationships and way of life are progressing.

E3.8 Infertility

If the applicants have been unable to have natural children, it is essential that this be discussed, since the reason for their infertility and their attitude towards it will have a bearing on any adoption. The medical report may be particularly helpful since during interviews it can be difficult to assess the cause, whether physical or psychological, and the resulting emotional effects.

Medical aspects: The medical check may indicate a condition which can be dealt with to restore fertility, or occasionally reveal some unsuspected disorder requiring treatment. In some cases the wife may have been advised against a pregnancy because of risks, such as hypertension or severe post-natal depression.

Psychological cause: Infertility may indicate unfulfilled or inadequate sexual relationships, or exaggerated fear of pregnancy. These may be associated with other psychological disturbances.

Psychological effects: Whatever the cause, inability to produce children may result in feelings of guilt, low self-esteem, deprivation, resentment and depression. Such feelings must be explored and worked through before adoption is contemplated. A psychiatric referral may occasionally be indicated. If they have not come to terms with their situation, the couple are likely to identify the child with their own feelings of disappointment about themselves, and they may later be secretive about the adoption. They may discourage the child from asking questions about it. If such a couple have their own child after previously adopting they may become rejecting towards the adopted child.

Applicants whose infertility has not been established should be given every encouragement to seek appropriate advice or treatment with a view to having their own children.

E3.9 Motives for Adopting

If a couple's main reasons for applying to adopt appear to be a natural longing to become parents and raise a family, and if they are warm, sensitive, mature people with a good marriage relationship, we can be satisfied that they are unlikely to exploit a child to resolve emotional problems of their own. A Social Worker should, however, tread warily if it is apparent that a couple are seeking to adopt a child for reasons such as the following:

- to keep a marriage together. Far from saving an ailing marriage, an adopted baby would be likely to impose further strains on the relationship. The marriage could well eventually break down, leaving the adopted child in a one parent home. Emotional instability or problems with 'nerves' are also unlikely to be helped by responsibility for the care of an adopted child.
- to replace a child who has died. If a couple's thoughts are fixed on a lost child, his/her characteristics, courage through illness etc., they may constantly strive to make an adopted child conform to an idealised image of this child. The odds are against the newcomer ever being able to fulfil the desired role. A placement should not be contemplated until - and unless - the couple have had plenty of time (at least several months) to recover from their loss, and unless they show clear signs of being able to make a fresh approach to parenthood. One hopeful sign would be a desire eventually to adopt more than one child.
- to fulfil the applicants' own unrealised ambitions, or need for a plaything to show off. High parental ambitions are likely to arouse anxiety, a fear of failure, and also hostility in natural children struggling to measure up to standards imposed by parents. An adopted child, who may well feel less secure about his/her place in the home, may suffer even more acutely in the face of expectations which s/he fears s/he cannot meet. Similarly, if applicants cannot show evidence of being able to accept a child as a person rather than a plaything, they should be discouraged from continuing their adoption plans.
- rigid requirements regarding sex, particular attributes or racial background of the child. Some couples make numerous emphatic stipulations about what sort of child they will accept. Whether this is through pride or anxiety, they will need to be helped if possible to realise that no child, natural or adopted, is likely to meet 'dream-child' standards. If the parents' expectations are too rigid, the child will probably eventually be rejected.

- the request for a child of a different race and colour. This may spring from a genuine interest in other cultures and concern for disadvantaged communities. However, such a couple's previous history of interest in and contact with such cultures should be explored carefully, since the popularity of such adoptions may be subject to fashion. The novelty value of these adoptions may soon wear off and the applicants should be aware that many social and personal problems will remain and will need to be dealt with as the child grows up.

E3.10 Parental and Family Attitudes

While in one sense motives for adopting, and the decision to adopt, are deeply personal to the couple concerned, their success with an adopted family is likely to depend at least in part on the attitudes and support of those around them. If, in discussing their desire to adopt, the applicants have been frank with parents and other close relatives and friends, we can assume that they will probably be able to accept the role of adoptive parenthood. Families who have been consulted at an early stage are more likely to accept an adopted child as part of the family; and also to be prepared to take responsibility for such children in the event of the death or incapacity of the adoptive parents. A marked reticence in the applicants about family reactions, or strong opposition by parents, will call for further investigation. Though the parents of a couple are sometimes reluctant to support the idea of adoption they do of course often turn into adoring adoptive grandparents.

E3.11 Adoption of Handicapped, Difficult and Older Children, and Children of Mixed Race (Special Needs Children)

Unless there are obvious reasons against such a placement, the possibility of adopting a disadvantaged child should as routine practice be raised with applicants for their consideration. If they have not actually requested a child with special needs, they should not come to feel that an expressed willingness to adopt such a child will either improve their chances of having their application accepted or will preclude them from being offered a normal baby. They may of course not have to wait so long for a placement. It should be noted that most people who successfully adopt a special needs child do not come from the usual group of applicants so that the reason for wanting a special needs child should be carefully explored.

While there may be only a small proportion of applicants who will be interested in adopting a child who is not a healthy white infant, the needs of our many "problem placement" children should be kept in mind.

E3.12 Give Special Consideration to Difficult Placements

Efforts should be made to place not only infants but older, handicapped children, those of mixed minority race, and the disturbed and difficult children who are under our notice and also available for adoption. Time and effort given to locating, counselling, and supporting couples willing to adopt such children are justified when it is remembered that these children have even greater need of new parents and a settled home. There are a small but significant and growing number of families who are deeply interested in and concerned for such children and such children should not be placed as poor prospects with less acceptable applicants. We may also decide to give an approval for a couple to adopt a particular child already known to them who would probably otherwise never be placed, even though we would not have taken the initiative in placing a child in that home. The individual needs of a child and their right to a family which is totally committed to them should be always kept in mind.

E3.13 Care in the Placement of Handicapped Children

Extra care has to be taken in assessing suitable placements for such children. The parents are likely to need particularly good resources of affection, health, energy and patience; and also financial means if prolonged specialist treatment is anticipated. The location and layout of their home may be important for a physically or intellectually handicapped child. The effect of such a placement on other children already in the family, or on the couple's plans for future children, must be discussed not only with the applicants but with other children in the family if they are of an age.

The motives of applicants who actually seek a handicapped child will need to be considered carefully. For instance a couple may at heart be seeking a perpetually dependent child on whom they can lavish their attention without fear that he/she will ultimately be able to establish his/her independence and leave them. On the other hand one or both partners may have had a rewarding experience of helping care for a handicapped brother or sister, or may have specialised nursing or social work experience which they are keen to utilise for the benefit of a disadvantaged child. Where the applicant's motives appear to be healthy and generous, and where they have understood and accepted the medical prognosis on the child, they should not be discouraged from embarking on the adoption of a child because of its special needs and the extra difficulties it will present. (See also E5.2 - E5.4.)

E3.14 Reserved.

E3.15 Possible Later Placement of a Sibling

It may be helpful in general discussion to raise the rather remote possibility of the couple being offered, at some time in the future, a second baby from the mother of their adopted child. Their general reaction should be noted on file as a guide to Social Workers who may at some time face this situation, and may need to judge whether it would be wise to make such an offer to the particular couple. (See also E6.35.)

E3.16 Applicants with Natural Children

If there are already natural children in the applicants' family it is of course easier through discussion and observation to assess the couple's strengths as parents, though not necessarily as adoptive parents. In these circumstances their motives in wanting to add to their family by adoption will need careful examination, as will their capacity to share their affection and resources with all the children. This assessment is particularly applicable in today's situation where there are many more applicants than babies available for adoption.

E3.17 Telling the Child of His/Her Adoption

Nowadays this difficult subject is of course routinely discussed while the applicants are learning about adoption. They should understand that attempting to conceal the adoption or 'forget all about it' may appear to make their social life less complicated in some ways; but that in the long run it will almost certainly prevent parents and children from developing a close, trusting and sympathetic relationship.

Authorities agree that the child should grow up with the knowledge that s/he is adopted. From the time s/he is first able to understand a simple explanation, s/he should learn how s/he was placed with the family. If the explanation is delayed, parents may later shrink from the prospect of telling the child. The time is then never right and the action may be postponed indefinitely, even until adolescence when s/he may be already making difficult adjustments. It is preferable that s/he should not first learn about his/her adoption from outsiders. This could be distressing and cause permanent damage.

Prospective parents should be helped to appreciate that telling the child about his/her adoption has to be a continuing process to which more detail can be added as the child's understanding grows and becomes more sophisticated. This does not mean that parents should be continually labouring the subject or telling people who are not directly concerned. Some renewed questioning during adolescence should be accepted as a natural part of establishing adult identity and not feared as a sign of parental failure. A warm, secure home atmosphere, and a sympathetic and positive attitude on the parents' part towards the child's natural mother and her situation at the time of the adoption, are thought to be in fact even more important to the child's acceptance of his/her adoptive status than the actual way in which the parents tell the child about the adoption. This is particularly true with the prospect of adoptee adults having access to their birth records.

E3.18 Recommended Books Which Include Telling the Child About Adoption

There are a number of books which cover this subject well. Examples are:

'The Adopted Family' Vols 1 and 2 by F. Rondell and R. Michael (Crown Publishers Inc. New York 1951); 'If You Adopt a Child' by Carl and Helen Doss (Henry Holt and Company, New York); 'Shared Fate' by David Kirk (Collier - MacMillan Limited, London 1964); 'In Search of Origins' by John Triseliotis (Routledge and Kegan Paul Ltd., London and Boston); 'A Guide to Adoption' by Eileen Saunders (A.H. and A.W. Reed 1971); and 'Yours by Choice' Jane Rowe (Mills and Boon Ltd 1980.)

E3.19 Attitudes Towards Unmarried Mothers

The applicants should be encouraged to discuss their feelings about 'today's teenagers' and unmarried parenthood. They should be helped where necessary to appreciate that ex-nuptial births occur among all social groupings, and that most mothers who choose adoption for their babies go through a stressful period and are generally concerned about the future of their child. The tone and manner in which the Social Worker talks about unmarried mothers will help shape the applicants' own attitude towards the baby's parent(s) and hence towards the growing child. If the couple feel sympathy and understanding for them, they will also be more likely to give the child a favourable impression of them later on. It is important for the child's self-esteem that he/she be told of acceptable qualities in his/her parent(s).

E3.20 Applicants' Sense of 'Entitlement' to be Parents of the Child

Our own attitudes as Social Workers towards the applicants as prospective adoptive parents, and towards the practice of adoption, will be quickly picked up by applicants and will influence the success of the placement. Miss Jane Rowe, an English authority on adoption, has stressed that the real key to a successful adoption appears to lie in the degree to which the couple feel what has been called 'entitlement' to be parents to the child, and the extent to which the child later feels a right to regard them as parents. Where the parents feel entitled to the child a strong bond of love can develop. If the sense of entitlement is weak the parents will be fearful that the child will eventually turn against them. In an attempt to hold his affection they are likely to spoil the child with material advantages. Although we must help people to realise that adoptive parenthood is not easy, we need to believe in adoption ourselves as an arrangement which has proved to be very happy and successful for many parents and children. If we have a positive approach this will help the applicants to accept a child with confidence when the time comes.

E3.21 Procedural Matters to be Explained to Applicants

Explanations of the following procedural matters should be included in office interviews:

- (a) the legal procedures in adoption.
- (b) referees nominated will be interviewed personally (if this is going to be practicable) and will be requested to give a written reference.
- (c) a check will be made with the Police.
- (d) the Police do not usually visit the home but occasionally need to do so to establish identity.
- (e) a medical report will be necessary.

- (f) we do not require a copy of applicants' marriage certificate; but a copy will need to be filed with their solicitor at the Court with the other papers in the event of an adoption placement. This can be obtained from the Registrar of Marriages in the district in which they were married. Many applicants will not wish their original copy of the marriage entry to be filed in the Court as it will then be lost to them and often has sentimental value.
- (g) while applicants will be advised if they appear to be able to provide a child an adoptive home they will not be formally approved until such time as a child is available that may be suitable for them. There will need to be a reassessment of their circumstances and situation at regular intervals so that their application is up to date.
- (h) they should not feel anxious if people known to them receive a baby after a shorter waiting period since we select applicants who appear most suitable for each child; that it is only when other considerations appear equal that precedence is given to the date of application.
- (i) family benefit is payable from the date of placement of the child. (See also E6.13.)

E3.22 Applicants to be Recommended to Attend Parent Education Courses

Applicants may also be encouraged to attend courses in parent education and mothercraft and should be told of courses available at the Parents Centres, ante-natal clinics, through the Plunket Society, etc.

E3.23 Reserved.

E3.24 Home Visiting

A home visit is essential not only for the Social Worker to see the home and its material provisions but also because interviews in the home situation, just as interviews in the office, have particular advantages. It is possible to make a more adequate assessment of the applicants' personalities by seeing their home and discussing matters with them in this setting. Areas of concern or issues that need to be aired again following the office interview should be recorded on file by the Social Worker interviewing in the office so that they can be followed through by the Social Worker doing the home visit. In some districts one Social Worker who supervises all adoption work handles office interviews, but passes home visits to the Social Worker for that area. This arrangement has much to commend it. The information gained by the Social Worker visiting the home is then combined with the information obtained by the Social Worker who has conducted the office interviews to complete the "Social Worker's Summary Report on Adoptive Applicants" (form SW 554 - refer Fig.3). This companion form to the application should be filled in fully by the time initial interviews and home visits are completed. A Social Worker carrying out a home interview should first become familiar with the information already recorded on the file and should not cover the same ground again (or fill in the blanks on the SW 545 and SW 554 just because they are there) unless, of course, there is some doubt about the particular points and it is necessary to clarify a situation or form an independent opinion.

E3.25 Full Notes for File to be Kept on Office Interviews and Home Visits

Full notes for file should be made on the adoption interviews and home visits, using appropriate headings from the SW 554. The information recorded on the SW 554 should be regarded as only a summary of the full background study.

E3.26 Assessment of the Applicants' Personal Qualities and Relationships

In recording office and home interviews, Social Workers should include conclusions drawn from the information and impressions gained. The following broad guidelines are intended to assist in the difficult task of assessing applicants' personal qualities and relating them to their capacity to be good adoptive parents.

(a) Personality:

Do the applicants show warmth in relating to the other partner; to children already in the family; to the Social Worker, and in talking about their family, friends and neighbours? Are they on good terms with parents and other family members; do they appear to have at least a few intimate friends; and good colleague relationships with work and community associates? Do they seem to enjoy contact with children and respond well to them? (E.g. younger siblings, nieces and nephews, pupils, neighbours etc.) What are their attitudes towards any adopted children of friends and relatives? Will they be able to provide adopted children with warm loving relationships which will enable the children in turn to develop close and enduring relationships but at the same time allow them to become independent people in their own right?

To what extent do the couple appear to have come to terms with their infertility (where this is relevant), and have they taken steps, if appropriate, to overcome it? Will they be able to accept and acknowledge that they have a family by adoption, or are they likely to try to conceal their adoptive parenthood?

Are they reasonably open and frank about their past and present lives and feelings? Will they be able to communicate sensitively and sensibly with their children about their adoption, their natural parents, sexuality etc.?

How effectively have the couple coped with any life crises experienced so far? Have they shown resilience after setbacks or changes in circumstances without indications of crippling resentment, bitterness or depression? Will they be able to meet unexpected difficulties or disappointments with adopted children, without making them feel rejected?

Do they show flexibility in adjusting to new situations; have they welcomed new experiences; are they receptive to new ideas? Do they have the capacity and openness of mind to learn how to be good adoptive parents?

Do they persevere with projects and responsibilities undertaken - such as community activities, hobbies, care of relatives? Will they maintain their initial enthusiasm for adoptive parenthood or would a child later be likely to take second place to some new interest?

(b) The marriage:

Does the marriage appear to be a reasonably equal and companionable partnership? Do the partners have a basically consistent core of beliefs, attitudes and interests? Are they likely to provide a secure and predictable environment for children and a good model of a family unit?

Do the couple have adequate mental and physical vitality to engage in the new activities which parenthood will involve, and to widen their social contacts? Will they offer children stimulating experiences in the family and community?

E3.27 Completion of Summary Report on Adoptive Applicants

At the top of form SW 554 the dates when office interviews and home visits take place should be recorded. "Descriptive" address refers mainly to rural areas - e.g. "second house on left after Parekarangi turn-off". "Reasons for wishing to adopt" need not be a literal rendering of the applicants' own statement, but should include whether medical advice has been sought about infertility, where relevant. If it is felt desirable to discuss medical aspects of the case with the applicants' doctor apart from the written medical report, their permission should be obtained and a note made that this has been done. "Accommodation" is intended as a brief description with any appropriate comments, e.g. "two bedroomed house - adequate at present but will need extra bedroom as child grows older". Where the applicants expect to have different accommodation within the foreseeable future, similar notes should be made about the proposed accommodation.

E3.28 Financial Circumstances

It is not a Social Worker's function to go into applicants' financial circumstances in detail. However the Social Worker should be satisfied that they budget responsibly and that their finances are sufficient to provide adequately for the child both at the time of the adoption and in the future. Financial circumstances are covered in the affidavit filed by the applicants (refer Adoption Regulations 1959 Clause 8(1)). Normally the applicants' statement of approximate income on form SW 545 and the Social Worker's observations at the home will make any direct questions unnecessary and will furnish sufficient details for our purposes.

E3.29 Personal Background

It is not intended that Social Workers should attempt one word comments on each of the items listed under "personal background" on form SW 554. The headings are intended to suggest points which might be commented upon and are not intended to be exhaustive. Nor is it necessary that comment be restricted to the space provided on the form.

E3.30 Medical Reports

When the applicants take form SW 545 (ref. Fig 2) it should be ensured that they sign the statement permitting their doctor to submit a report to the department. They should be given a copy of the medical report, form SW 627 or if the applicants or doctor prefer, the form can be sent direct to their doctor or doctors with an enclosed stamped letter addressed to the Director and clearly marked 'Confidential'. Unless a decision has to be made urgently as to whether to accept an application, it may be wise to await the receipt of medical reports on the applicants before approaching referees or the Police. An adverse medical report may then be discussed with the applicants and if necessary the application may be withdrawn or declined without the referees or the Police becoming involved.

In the case of applicants who wish to adopt a 'special needs' child the Department will meet the fee for the completion of SW 627 by a medical practitioner.

E3.31 Obtaining References

Form SW 545 asks the adoptive applicants to supply the names and addresses of at least two persons (preferably not relatives) who know them well as a married couple, and who would be willing to vouch for their character and suitability to adopt a child. If the two referees live in the area they should be interviewed personally, either at home or in the office, and detailed notes for file should be prepared. The referees should be asked at the interview to follow this up with a written reference. They should be given the standard letter SW 547 (refer Fig. 5) with a stamped addressed envelope for reply. If it is not possible to interview a referee, the standard letter should be sent over the name of the Director, with both the envelope in which the request is sent, and the stamped addressed envelope enclosed for reply, plainly marked "CONFIDENTIAL". Such references must come direct from the referee and not be transmitted through the applicants.

In subsequent adoptions the referees, preferably the same people, should again be interviewed if possible, to ascertain as far as possible how the adopted child is faring and how the couple have adjusted to the change in the family situation. Further written references should also be requested from them. (See also E6.34.)

E3.32 Checking Divorce Records

Where one of the adoptive applicants was previously a divorced person the divorce records at the High Court should not be checked automatically. However, it may be warranted in cases where it is felt that such action is likely to reveal circumstances which could jeopardise the adoption.

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E3.33 Police Reports

Clause 7 of the Adoption Regulations 1959 requires that:

"Before furnishing the report required under section 10(1) of the Adoption Act 1955" a Social Worker "shall make enquiries of the Police as to whether anything is known to them about the character of the applicants, and shall make known to the Court the result of his enquiries."

E3.34 Check with Police Headquarters

When new applicants first become known to a district office (i.e. when applying for inclusion on the waiting list or for approval of the proposed placement), the Social Worker should complete form SW 532 (refer Fig. 4) in duplicate sending both copies (each with the consent signed by the applicants) direct to the Commissioner of Police, Wellington. A triplicate copy should be taken on blank paper and placed on the personal file for the adoptive applicants. It should be noted that the Police require full and accurate details in order to identify the individuals concerned. Full dates of birth are needed. Police Headquarters will check to ascertain whether or not any information is recorded concerning the applicants which should be made known to a Court, should application be made for an adoption order. Normally this information will be restricted to advice as to convictions. Police Headquarters will complete the reply portion of the original form and send it direct to the office address which should have already been typed or stamped on it by the Social Welfare district office concerned. The duplicate copy will be retained by Police Headquarters for their own records. The triplicate copy held in the district office should be destroyed on receipt of the reply.

Form SW 532 includes a section to be signed by the applicants and witnessed. This consent is required by the Police before they may divulge any information and needs to be signed on both copies to be forwarded to the Police.

E3.35 Overseas Inquiries About Applicants Recently Arrived in New Zealand

The Police will make inquiries about applicants who have recently arrived in New Zealand from the United Kingdom and other countries if they are not able to provide applicants with their own police clearances. Where appropriate, applicants should be asked to obtain their own clearances from the Police authorities in the places where they previously lived. Such places include most States in the U.S.A., and Canada, most South American and African countries and the European continental countries.

The replies the applicants will receive are on special letterhead paper or special forms, and forgery would be most unlikely. Some Police authorities require a fee for this service. Any requests for checks with the United Kingdom Police and others not covered by this service, should be made by memorandum in duplicate to the Commissioner of Police, Wellington. The applicants' written consent for these inquiries to be undertaken in England should be enclosed. Where applicants from overseas have been in New Zealand for five years or more the normal internal Police check will suffice.

E3.36 Applicants Not To Be Entered on Waiting List Until Police Checks Completed

No applicants' names are to be placed on a waiting list until both these Police checks have been made. It would obviously be desirable to make a similar rule concerning the granting of approvals; but it is recognised that it would not be practicable to wait upon a Police Headquarters check when a new-born infant is to be placed almost immediately with applicants who are not known to us. Wherever such delay will not cause undue hardship, however, approvals should be withheld until the Police checks have been obtained. In cases of urgency local Police officers may be prepared to make a preliminary check as to convictions, as well as to state their own opinion; but even if this is done a written check should also be obtained from Police Headquarters in the normal way.

E3.37 Re-checks with Police After Waiting Period

Because the demand for adoptive children is much greater than the numbers available there may be a considerable time lapse between the making of an application and the stage at which a placement is actually in view. When considering a particular placement it would be dangerous to rely upon a "clear" Police report issued a considerable time previously. In view of this the Police Department have agreed to make second checks wherever this seems to be desirable. Whether or not such second checks will be necessary will depend on the circumstances of the individual case. Social Workers will need to exercise some discretion to obviate on the one hand unnecessary duplication of work by Police officers, and on the other hand unnecessary risks about the suitability of applicants. Where the applicants have continued to live in the same area throughout the period of waiting, it would probably suffice to ask the local constable whether they had come under his notice during that time. Where the applicants have moved while waiting, or the local Police officer is himself new to the district, it would be safer to obtain a second check from Police Headquarters. In the larger centres where officers could not be expected to know individual residents very well, it would probably be wise to seek second checks after a shorter waiting time than might apply in smaller towns.

E3.38 The Adoption Selection Panel

Once enquiries are completed (i.e. when the file contains notes for file on office interviews with the applicants, records of any preliminary group meetings attended, forms SW 545 and SW 554, the Police report, a medical report if available, notes on interviews with referees, written references and notes for file on the visit or visits to the home) the decision must be made as to whether the application is to be accepted.

This should be the responsibility of a panel made up of the Senior Social Worker, the Adoption Officer (where there is one), and the visiting Social Worker, who should together review the information. In cases where the guidance of a medical adviser or some other professional person is indicated, he or she may be invited to join the panel. It must be remembered, however, that it will still be the responsibility of a particular Social Worker or Senior Social Worker to sign an approval for placement when a child becomes available. The Social Worker must then act according to his or her own conscientious belief. (See also E6.12.) Two social workers should be involved in the assessment, one to do office interviews and one for the home visiting. Applicants' names should not be placed on the waiting list unless the Social Worker would, on the basis of current knowledge of the couple, be willing to approve the placement of a child in the home.

E3.39 Overall Assessment of Applicants

It would be neither possible nor desirable to lay down hard and fast rules to measure the acceptability of applicants since all have differing strengths and weaknesses and advantages to offer a child. One of the merits of the Adoption Act 1955 lies in its flexibility in allowing us to draw from a wide field of possible applicants. We are not prevented from accepting certain couples because of restrictive legal sanctions when they may have the personal qualities, such as warmth in relationships and frankness about adoption, which are nowadays regarded as among the most significant for successful adoption. Districts should therefore not devise their own criteria of specific requirements which applicants must meet to be accepted (e.g. number of children in family), but should consider all aspects of the application before making a decision. Some practical factors, such as applicants' age and length of time married, may well be judged to have a bearing on the child's future well-being. Others which are sometimes used for screening purposes, such as the requirement that there be no more than one child already in the family, or no natural children, may be associated more with meeting a supply and demand situation than with a child's needs. There can be considerable community pressure on Social Workers to allocate children on the basis of fairness in respect of family size.

Specific criteria of course also have the effect of keeping the waiting list smaller. However, when an application is received from a couple who appear to be highly suitable, it should not be declined because they do not meet arbitrary requirements.

E3.40 Age of Applicants

The Act places no upper age limit on adoptive applicants. Each case must be considered on its merits. The general principle which Social Workers should follow is that the age of applicants should accord with the age at which natural parents could reasonably be expected to have a child. Occasionally people in their fifties and older will apply to take a baby for adoption. It is necessary to consider that the child will grow up with very elderly parents and may be deprived of one or both of them by failing health or death before s/he has reached adulthood and becomes independent. Also, applicants of 50 years of age may seem young enough in spirit to look after an infant, but these same applicants, if living at the age of 65, may not be capable of looking after an adolescent.

As most young people placing babies for adoption are asking for them to be placed with youngish couples (twenties/early thirties) the likelihood of a baby being available for an older couple is limited. This fact should be made known to applicants as early as possible.

It is desirable in such cases where applicants are suitable in other respects, to suggest that they consider adopting an older child for whom they may be able to offer a great deal. It must be remembered, however, that if applicants are prepared to consider taking an older child they need to be able to accept a youngster who has memories of his/her own parents or past foster parents; whose personality is already moulded to a certain extent, and who may severely test their acceptance and affection in the initial stages. (See E2.3 for legal requirements as to lower age of adoptive applicants.)

E3.41 Action When an Application Has Been Accepted

Couples should be advised when enquiries and interviews are completed, and at the same time the outcome of these. Because the waiting time for a child is now very long applicants should also be advised that their application will be thoroughly updated every two years.

If the couple seem suitable to adopt a child their name should be placed on the waiting list and regular consideration given to their application.

Should the applicants wish to approach a private placement agency and require a letter from the Department confirming that enquiries made about them have proved satisfactory then such a letter should be provided. (Ref. Fig. 6.)

E3.42 Maintaining Contact With Adoptive Applicants

Contact should be maintained with applicants on the waiting list and there are number of ways in which this can be done. The visiting Social Worker can for instance, prepare a visiting slip for them and maintain regular contact; or six monthly group meetings can be held to update people with the current situation (such an occasion can provide a "training" opportunity); or the adoption worker can make him/herself available on a regular basis for couples to drop in to the office if they wish. Serious consideration should be given to the needs of "waiting" adoptive applicants many of whom may need to come to terms with the fact that despite being suitable applicants they may never get a child. The developments in the community of infertility groups, adoption support groups, and WEA courses on living without children etc. should be encouraged.

Although the waiting time is long it should not be regarded as something entirely negative and unfortunate. It allows people to consider and re-examine their reasons for wanting to adopt. This may make for greater readiness with some applicants; while with others it may lead to the withdrawal of an application which was made hastily and without sufficient consideration of the implications of adoption.

E3.43 Declining Applications(ref H7.4 re delegation)

If applicants are considered unsuitable they should be informed personally rather than by letter that we would not be prepared to grant an approval for a child to be placed with them for adoption. Consideration may be given to arranging a joint interview between the applicants and the adoption selection panel for the purpose of advising the applicants that their application has been declined and the reasons for this. They should also be told that if they have located a child to adopt they may if they wish apply direct to the Court for an interim order. When our decision is based on more straightforward considerations, such as a recent criminal record, deciding to decline the application is not so difficult as it is when the selection panel are concerned about the absence of some of the fundamental but more subtle qualities needed for a placement to succeed. When doubt is entertained about whether an application can be accepted, the case must be thoroughly discussed with the Assistant Director, Social Work.

Where a social worker opposes the making of an adoption order in favour of particular applicants, that social worker will not only present information in a report to the Court and give the reasons for any reservation and opposition, but is also likely to be present at court and give oral evidence. The substance of the information given by the social worker will more than likely be critical of and negative about the applicants and is likely to cover matters pertaining to their personalities, marriage, etc. It is quite proper for social workers to be forthright in such matters. It is, nevertheless, a stressful situation for all parties. However, should the court make an interim order of adoption in favour of the applicants, then the Department has a responsibility to provide a social work service to the adoptee and to the adopting parents and eventually to provide the Court with a report enabling a decision to be made on an Adoption Order. It is considered that the social worker who opposed the interim order should NOT, except in exceptional circumstances undertake the visiting of the family subsequent to the interim order. If the social worker who opposed the making of the order were to be the visiting social worker, the adopting parents may feel inhibited in revealing any anxieties about the adoptee and may feel that they must continue to prove to the social worker he/she was wrong and they were right. With such feelings and attitudes on the part of the adopting parents, it is considered that the best interests of the adoptee are served by a change of social worker. A different social worker therefore should establish rapport with the couple on the basis of the present role as adopting parents rather than their past role as applicants. It would be hoped that the adopting parents could share with a new social worker some their pleasures and anxieties about their new role. The purpose of the social worker's visits after the interim order is to be supportive, to assess the progress of the adoption, and to offer appropriate assistance.

E3.44 Information for the Director-General Regarding Declined Applications

There is no routine requirement that particulars regarding applications which have been declined are to be sent to the Director-General. In the event of the Director-General receiving any enquiry or criticism from a Minister or other source, he will ask the district for a special report. It is therefore essential that the reasons are fully, honestly and carefully recorded.

E3.45 Summary Record of Application to Adopt a Child

(SW 529: refer fig 7.) This card should be prepared for each application received. Those concerning "waiting list" applicants should be kept separate from those for whom placements have already been arranged, either by Social Workers or third parties. "Waiting list" cards should not be placed in the appropriate Kardex tray until all preliminary investigations have been concluded (referees consulted, Police checks made, home visits completed etc.) and the applicants have been classified as "apparently suitable". Signals can be used in larger districts to identify such items as religious denomination; whether applicants have adopted before; degree of priority, etc. Cards of applicants who have been classified as "unsuitable" should be filed separately or distinguished by a special signal. The card is not intended, and should not be used, as the main record of an application - it is merely a quick reference to the salient facts. There is no need to try to summarise the whole life-story of the applicants in the brief space provided. The place for fuller information is the personal file where completed forms SW 545 and SW 554 together with notes for file etc., will be found. The cards will be of greatest value in helping to identify the "short list" of likely applicants who can be considered for a particular child, but such an important decision as the final selection should not be based upon the sketchy information available from a card record.

E.4 WORKING WITH THE NATURAL PARENTS DURING THE PREGNANCY

E4.1 Discussing the Baby's Future with the Mother

One of the most difficult tasks facing the Social Worker concerned with adoption is that of assessing the single mother's personality and capabilities, and helping her towards a realistic decision about the child's future which she can act upon with conviction.

She should be given the opportunity of an early interview when referred to the Social Worker. This may be at the time when she applies for a benefit during the sixth month of pregnancy. It is important for her to develop a relationship of trust with her Social Worker, who must put to her the alternatives available for her baby; discussing the factual information objectively and trying to ensure that she has thought through all the facts and options. Now that ex-nuptial pregnancies and de facto unions are so much more widely accepted in the community than was previously the case, and with the availability of financial assistance by way of a benefit for unmarried mothers wishing to keep their babies, these mothers are frequently confronted by a tempting choice of alternatives to adoption. Unfortunately experience indicates that many of the young girls who decide to keep their babies are the very ones who are least ready to assume the responsibility - and constraints on their social life - of the care of a young child. The Social Worker should not too readily accept the mother's statement that she has already decided the baby's future, since her decision may well have been made under stress or through pressure from family or friends. She may need to be helped to distinguish between fantasy and reality in considering such matters as: the possibility of obtaining and maintaining a flat for herself and the baby; her chances of getting and carrying on employment while caring for the baby; the isolation she may feel in a flat if she is granted a benefit; whether both her parents will accept the child if she takes it home with her and whether they will do this without taking over control of the baby and treating her as if she were still a child; whether marriage to her boyfriend is likely to eventuate, and the attitude of her boyfriend if he is not the child's father. The legal procedures of adoption should be outlined along with the qualities which we seek in adoptive parents as well as the part she can play in making the final selection.

She may be warned that her time in hospital is likely to be distressing; but also should be reassured that the Social Worker will visit and support her. (See also E6.1.) Where the girl is very young it is usually wise to discuss the situation with her family if they are involved. The girl must, however, also be seen on her own. If the mother is married or separated, the possibility of legal complications with regard to parental consent should be investigated as these could take a considerable period to be resolved. (See also E6.2.)

Where the mother's decision is to keep her baby, and where her ability to cope is doubtful, continuing supportive help may be required. The mother may in fact need to be helped to reach a firm decision and to be discouraged from putting this off by a series of short term arrangements for an indefinite period which will permit neither mother nor child the chance to settle. While the mother should be given every opportunity to express her wishes in regard to the family she wants for the child, care should be taken to see that she does not include so many restrictions on the baby's placement that the true meaning of adoption is lost. Form SW 581 (see Fig. 1) should be completed from the interview or interviews with the unmarried mother, and also, where it proves possible, with the putative father. The mother should be encouraged to take advantage of ante-natal facilities available in the area.

E4.2 Mother Legally Entitled to Know Names of Adopting Parents

Section 7(6) of the Adoption Act 1955 provides that 'The consent of any parent or guardian of a child to an adoption may be given without the parent or guardian knowing the identity of the applicant for the order'. This means that solicitors and others are legally entitled, provided they have the concurrence of the parent or guardian, to obscure that part of the consent document containing the identity of the adopting parents at the time that the parent or guardian signs it, or else to use a form of consent that does not specifically name the applicants. Many mothers do not want to know the names of the adopting parents and this procedure is therefore widely practised. In some cases, however, the mother will ask to know the names of the adopting parents as she is legally entitled to do.

It is advisable therefore during early interviews, or at the hospital if the mother has not been known to the Social Worker earlier, to ascertain the mother's wishes in this respect. The Social Worker may need to point out to the mother that if she wishes to know the names of the adopting parents this could limit our choice of homes for her baby as many couples would be unwilling to adopt a child whose mother would later be able to identify them.

E4.3 The Role and Legal Rights of the Putative Father *

Every effort should be made to have the father of the child involved in discussion about the future of mother and child. Apart from any practical assistance or guidance he may be able to offer, this involvement may help him to work through feelings of guilt, and may contribute to the development of his awareness of the need of his child to know something about him as he/she grows up as well as his social responsibility. If he is living with the mother at the time of the child's birth he is a guardian under the Guardianship Act, Section 6(2), (see also E6.4).

E4.4 Voluntary Organisations Caring for Single Pregnant Women

In New Zealand, unlike some other countries, there are no private adoption agencies or 'societies' but there are several voluntary organisations which provide for the care of single pregnant women. Such organisations make tentative arrangements for adoption placements but they have no legal rights to make the actual placement. Before any placement for adoption can be made, there must be either an approval from a Social Worker, or an interim order from the Court.

E5 ASSESSMENT OF THE CHILD FOR PLACEMENT

E5.1 Every Baby for Adoption to Have Paediatric Examination

Every baby to be offered for adoption should be examined if possible by a paediatrician or failing this by a doctor with a special interest in this field. Treatment for any abnormality or disorder may then be commenced early if appropriate and the Adoptions Officer will then be able to take this information into consideration when selecting adoptive parents for the child. Some defects and diseases are of course not evident at this early stage, but normally the first assessment and placement plans are made on the basis of this first examination, before the infant's discharge from hospital. The mother should also if possible be interviewed by the paediatrician regarding her own and family health background and about her pregnancy.

E5.2 Temporary Placements Pending Adoption

An adoption placement may need to be delayed if the paediatrician recommends a period of observation because of doubts about the infant's health or development. Some adoptive applicants may be willing and may be thought suitable to accept some uncertainty about the baby's health, provided that they are fully informed about what is so far known. In other cases temporary placement in a foster home or institution is advisable for the period recommended by the paediatrician. It is not uncommon, however for foster parents to become so attached to such an infant over a period of weeks or months, despite its disabilities, that they eventually wish to adopt their foster child. For this reason it is preferable where possible to use foster parents who would not be clearly unacceptable as adoptive applicants should such a situation arise.

Where an adoption placement has to be delayed because of medical doubts or because an adoptive home is not immediately available, it is important for the child's development that it be placed in a private home, if possible, even though this may be temporary, in preference to allowing it to remain in a hospital or other institutional setting. In these circumstances it is important that the fact the child is available for adoption is not lost sight of.

E5.3 Most Children to be Regarded as Suitable for Adoption

Very few children should be regarded as unsuitable for adoption - perhaps only those with such gross defects that they would probably have to be placed in an institution if born into a normal family. There are a few diseases and conditions regarded as being hereditary, and in some cases the advice of a geneticist should be sought as to the level of risk involved. Officers should be wary of drawing conclusions about the child's potential simply on the basis of their knowledge that one or both parents are mentally, socially or physically inadequate. It is an established fact that there are families in the community who are willing and have the personal strengths needed to adopt a handicapped child. Such people do not usually come from the traditional model and an active recruitment programme for applicants should be geared to the individual needs of the child concerned. Every child needs someone who is prepared to make a total emotional commitment to him/her. (See also E3.13.)

E5.4 Adoptive Parents Must Take the Risks of Natural Parents

With all applicants it must be established that they are prepared to accept normal risks in respect of the child and the possibility (which every natural parent faces) that their child may prove unlike themselves in appearance and personality. He or she may be mentally or physically defective, exceptionally gifted, or just an average citizen. Having obtained the results of the paediatric examination, the Social Worker should tell the applicants frankly whatever relevant facts are known about the child's condition or background. If it is anticipated that the baby will present an extra challenge, the applicants should fully understand what demands this is likely to make on them, physically, emotionally and financially.

E6 ADOPTION PLACEMENT PROCEDURES (See Fig. 12 for Flow Chart)

E6.1 The Social Worker Should Visit the Mother in Hospital

When advised by the hospital that the baby has been born, and is to be placed for adoption, the Social Worker should visit the mother in hospital. She may by this time be less certain about any previous decision regarding her baby and may need to go through all the pros and cons of adoption again. If the Social Worker is satisfied that a decision has definitely been made in favour of adoption, and that there are not likely to be legal complications, adoptive applicants, or a short list of about three applicants, should be selected as quickly as possible (see E6.2 and E6.4). The birth mother (and if appropriate, father) should be given full details (excluding names) of the couples on the short list and the final choice as to the child's home should if at all possible be hers. The mother is normally expected to sign her consent soon after the minimum ten day period, and by the time the baby is due for discharge from the hospital.

E6.2 Adoption Consents

Before selecting adoptive parents for the baby, the Social Worker must first establish whether the necessary consent or consents to adoption are likely to be forthcoming when required. This is particularly important where the mother is married; is separated from her husband; or has been living in a de facto union with the baby's father. In the case of a separated woman, for example, it is usually necessary for her husband to be located, and if he was not the father of the baby (evidenced by the fact that he was not there at the probable time of conception), some formal evidence of the fact will be necessary from him. If his consent is not appropriate, it will be necessary to have a written statement from him explaining the fact. In cases where a claim of guardianship by him could be recognised under the Guardianship Act, a consent to adoption may be required from him. (See also E6.4.)

Where the mother has approached the department during her pregnancy, and circumstances likely to complicate an adoption are found to exist, every effort should be made to have the matter clarified before the child's birth. In some cases the facts will not be known in advance, or the situation will have altered since the most recent contact with the mother. In such cases it is advisable if possible to obtain legal advice on the matter before approaching prospective adoptive parents. Where the mother already has a lawyer acting for her she should be referred to him/her. The Social Worker, with her permission, should discuss the situation with him/her also. If she does not already have a lawyer, she should be advised to seek legal advice as to whether there is any action she should be taking. If for any reason she does not obtain the assistance of a lawyer, and if the Social Worker is concerned that there may be implications in law, the Social Worker should request the assistance of the department's solicitor. It should be noted that legal aid is not available for this sort of service.

If it is finally decided that a placement can safely be arranged, applicants being offered the baby may need to be made aware of the possibility of delays and extra legal expenses which they may have to meet. The Social Worker should discuss the case with the applicants' lawyer and advise him/her of earlier legal investigations. The applicants' lawyer will then be in a position to advise his/her clients whether or not to proceed with an adoption application.

Where the mother has earlier shown indecision about adoption and where the Social Worker suspects that she could still change her mind, this fact should be brought to the attention of the lawyer who is to take her consent. This is of particular concern to him/her: s/he must satisfy him/herself that the mother understands the effect of her consent and that she is giving it voluntarily. In the case of a very young mother it is usually wise to discuss the plans for her baby with her family if they are available. The right to give or withhold consent is, however, the girl's alone. If she should later wish to reclaim the child, any evidence of persuasion or coercion by anyone to make her give her consent to adoption could be used to upset the adoption and have the child returned to the mother.

E6.3 The Director-General May Accept Appointment as Guardian for the Purpose of Giving Consent to Adoption

By the provisions of Section 7(4) of the Adoption Act 1955 the Director-General may agree to being appointed guardian by a parent until such time as the child is adopted. If the Director-General agrees and is subsequently appointed guardian under this provision he may then give consent to adoption when it is required. At least ten full days must have lapsed following the day on which the baby was born at the date of the Director-General's appointment as guardian and the parent will continue to be liable for the child's current maintenance for as long as board payments are being made by this department. The effect of adoption must be fully explained to the parent who wishes to make the appointment.

Where an adoption placement is likely to present difficulties this provision may not be appropriate. It is not a substitute for an agreement for assumption of control under Section 11 of the Children and Young Persons Act 1974.

The procedure for the appointment of the Director-General as guardian under Section 7(4) of the Adoption Act is as follows:

1. A report is forwarded to Head Office with a recommendation that the Director-General accept appointment as guardian of the child for the purpose of giving consent to adoption. The report should set out the family circumstances and the reasons which are likely to prevent the parent from executing a consent in the usual manner. It should include any conditions as to religious denomination and practice which the parent may wish to impose, and should include details of placement plans for the child. Specific details should be given regarding the parent's marital status. If the parent is married or separated the question of the need for the

other partner's consent should be investigated. If the father of an ex-nuptial child is a guardian under the Guardianship Act 1968, both parents should sign the letter appointing the Director-General guardian of the child. Even if the putative father has not claimed any guardianship rights it should be established whether he has shown an interest in the child and whether he is likely to seek guardianship at some later date when the Director-General has already been appointed. (See also E6.2 and E6.4.)

2. If the Director-General is willing to accept appointment, a Deed of Appointment will be prepared in Head Office and forwarded to the District Office. The Social Worker will then arrange for the parent to sign the Deed of Appointment in the presence of a solicitor who has first explained the effect of an Adoption Order to the signatory. If the parent is adamant that he or she does not want to see a solicitor, it is possible for the explanation and witnessing of the Deed of Appointment to be done by a social worker. If the parent is absent from New Zealand, Head Office will forward the Deed either directly to the person concerned or else to a Social Welfare agency depending on the circumstances of the case.

It should be noted that the Act provides for the parent to withdraw the appointment of the Director-General as guardian of the child at any time before an interim order or adoption order has been made. This provision may give the natural mother a longer than normal period during which she is able to reclaim the child. Where this situation applies the adoptive parents should be advised that the mother could exercise this right. However it should also be made clear to the child's mother that if she should decide to withdraw her appointment of the Director-General as guardian after he has signed consent to an adoption and after the papers have been filed in the Court, the Judge could well require her to appear before him/her and submit reasons for desiring to take this action at such a late stage.

E6.4 Rights of the Father Regarding Consent to Adoption

If the father of an ex-nuptial child is the child's guardian then he must consent to the adoption (Section 7(3)(a) Adoption Act 1955, as amended by Section 12(2) Status of Children Act 1969).

The father will be a guardian if the mother and father were living together as husband and wife at the time the child was born. (Section 6(2)(b) Guardianship Act 1968.) Merely living in one house would not suffice: they must be associating in such a manner that a reasonable observer would consider them husband and wife.

The father of an ex-nuptial child may be appointed as the child's guardian by the Court. (Section 6(3) Guardianship Act 1968.) An application under this provision will normally only be granted by the Court where the child results from a long-standing relationship and the father maintains an interest in the mother and child, usually evidenced by his contributing to their financial support.

The Court also has the discretion to "require the consent of the father if in the opinion of the Court it is expedient to do so". (Section 7(3)(b) Adoption Act 1955.) The Court will usually require the father's consent if a paternity order or maintenance order has been made, or if the father has admitted paternity by signing the application to register the child's birth. (See also E4.2.)

E6.5 Use of the Waiting List

When an infant is to be placed for adoption, a short list (of about three couples) of likely applicants on the waiting list should be drawn up and considered in terms of the following: their readiness for a placement; their positive qualities as prospective adoptive parents; any special reasons favouring their being offered this particular child (including any wishes expressed by the natural mother as to her baby's placement) and the time since their approval.

E6.6 Reserved

E6.7 "Matching" Applicants and Child

Although some adoptive parents choose to adopt a child who is going to look obviously different from their own family (e.g. of another race), most applicants hope that the child selected for them will to some extent resemble them in appearance and characteristics. Such similarities, where they do appear, may well help the new family to develop into an integrated and congenial unit. Social Workers arranging placements should therefore try, for example, to avoid placing the child of exceptionally tall parents in a family of very short stature. They should also bear in mind the likely cultural expectations of the applicants and the desirability of parents and child - and siblings - being able to communicate at a reasonably similar intellectual level.

Authorities on adoption these days emphasise, however, that the characteristics of the natural parents, no matter how well these have been ascertained and recorded by the Social Worker, are by no means reliable indicators of the child's physical or mental endowment. It is wise not to stress to the new parents any efforts that have been made towards matching. Those with high expectations of the matching process may be reminded that several children born to one set of parents often differ widely from their parents and from one another. In the initial selection of applicants Social Workers will have been looking for couples who seemed able to accept a child as an individual and who would be prepared to encourage it to develop its own potential strengths and interests, even if these later proved to be different from those of the adoptive parents. It is therefore not appropriate to encourage applicants to expect the child to bear a close resemblance to themselves.

E6.8 The Applicants' Acceptance of the Child

Once offered a baby, the applicants are usually advised to visit the hospital, see the baby (more than once if they wish) and to talk to the ward sister or matron. They should be requested to call at the office to discuss their reactions to the baby, ask any questions about the child's health or background and, if they wish to proceed with adoption, to be reminded of the details of the legal procedures.

If the applicants find that they are not attracted to the child, their negative feelings should be accepted, and under normal circumstances they should be advised that another baby will be offered them in due course. They should however be allowed time, several weeks at least, to recover from the ambivalent feelings which will have been aroused. Should they decline a second infant the Social Worker will need to interview them both again and review their motives for wanting to adopt. Further counselling may be well indicated.

E6.9 Arrangements for the Applicants to Assume Care of the Child

If they have decided that the infant is for them, the couple may be encouraged to visit the hospital as frequently as practicable and to take advantage of whatever opportunities are provided to handle, bathe or feed the child. These may of course be limited if the mother is participating in the care of her child. Arrangements for the couple to collect the baby should be carefully organised in liaison with the hospital. It should be ensured that the new mother receives full instructions on such matters as the milk formula, feeding and sleeping habits, and any special treatment or equipment the baby may require. The new parents should be encouraged to accept the services of either the Plunket nurse or public health nurse, unless their family doctor or obstetrician wishes to have sole oversight of the infant's progress. The visiting Social Worker should be advised in good time of the date of placement, and if possible should make the first visit within a few days.

E6.10 Placements From Another District

If the baby to be placed is in another district, arrangements should be made, if at all possible, for the applicants to travel to that district to see the baby before making their decision. If a couple accept a baby on trust, "sight unseen", and then do not feel drawn to it when it arrives or when they go to collect it after the consent has been signed, they may not at that stage like to admit to their negative feelings. The adoption may then be doomed from the beginning.

E6.11 The Form of Approval

Authority for a Social Worker to issue approval for applicants to take a child into their home with a view to adoption is provided by Section 6 (1)(a) of the Adoption Act 1955 and is given in writing on form SW 602 "Social Worker's Approval for the Placement of a Child for Purpose of Adoption" (refer Fig. 8). Approval is given for a specific child to enter a specific home. An approval is given only once and no general approvals are provided for. The form is supplied direct to the applicants' solicitor. A copy on plain paper is filed on the personal file for the applicants, held in the district office.

E6.12 Signature of Approval

The approval should normally be signed by the Social Worker who visits the home, since that Social Worker would generally be the person expected to give evidence in Court if this should prove to be necessary. Inexperienced Social Workers should neither approve nor reject an application without discussion with a Senior Social Worker or the Assistant Director. (See also E3.38.)

E6.13 Family Benefit

The adoptive applicants should be advised that from the date of placement of the child they are entitled to family benefit. They should be given form F.B. 1 if this is their first application for family benefit; or form F.B. 1A, application for family increase, if they are already in receipt of a benefit for one or more other children.

Form SW 96 is to be filled in by the applicants to have their benefit payments credited to a Post Office Savings Bank account.

Social Workers may also make available to the applicants the family benefit leaflet SW 415. Care should be taken to ensure that notification to the family benefit section is not overlooked in the case of the adoption of a Ward or of any other child who has already been living in the home.

When a child over 12 months of age is being placed for adoption, a check should be made with the family benefits division to ascertain whether the benefit for the child (in the name of the natural mother) has been capitalised for housing purposes. Capitalisation itself will not affect the rate of benefit for this child to the adoptive parents but it will be necessary for the Family Benefit division to take some action on the capitalisation aspect. The Family Benefit division should be notified promptly by memorandum in the name of the natural mother that the child has been placed for adoption. Otherwise normal SW 569 (ref. Fig. 10) procedures will follow.

E6.14 Reserved.

E6.15 Meetings Between Natural and Adoptive Parents

A number of birth mothers are making a meeting with the adoptive parents a part of their placement requirements. While Social Workers must try to find adoptive parents who are able to meet this request they should also ensure that such a request does not jeopardise the placement of the child with a family who can best provide for him/her.

Social Workers should be satisfied that adoptive applicants are not feeling pressurised by a sense of obligation to the natural mother and that as far as possible their decision to meet the mother is made because they accept it will give them a better understanding of their child.

Correspondingly the birth mother may quite naturally have no real wish to meet the adoptive parents and the Social Worker should take care not to impose his/her values on her.

Meetings, which usually take place only once, often provide a positive sharing experience at a critical time. It may be of long-term benefit in reassuring the mother when she later wonders about her baby's progress and may help the adoptive parents in later years in talking about the adoption with the child.

When such a meeting is proposed, detailed planning of the arrangements are essential (e.g. arrival times, privacy, freedom from interruption etc.). First names only should be used without revealing identity. The meeting should be regarded as an opportunity for feelings about the baby to be shared and what placement means to each of them and for information about the parties to be personally exchanged.

Such meetings should take place prior to the consent being signed. There has been no evidence that such meetings have resulted in any of the parties changing their minds.

E6.16 Information To Be Given to Applicants About Child's Background

Applicants are usually given salient details (in writing) about the baby when it is first offered to them. If they decide to proceed with the adoption this information should be expanded. As much useful information as possible about the family background of the child should be made available to the new parents. They can then pass on to the child whatever is appropriate when discussing the adoption later on. The natural parents' names and addresses should not be divulged (if not already known to the applicants). When giving the information the wording should be carefully considered. For instance, obviously negative or disparaging comments (such as, 'mother of limited intelligence') could well have a damaging effect on the child's self-esteem and image in the family, and would serve no useful purpose.

When they are at the stage of establishing their own identity, adopted children may be interested in notes of characteristics of other members of their natural parents' families also. This should be borne in mind when the natural mother is being interviewed. However, if the families of the natural parents are presented in too detailed and realistic a fashion, the child may tend to over-identify with them and become confused in its relationships with its adoptive family. Adoptive parents will have to judge how much information to pass on, according to their child's personality and needs.

Where there is Maori ancestry, information about tribal connections should be obtained, even though the adoptive parents may be Pakeha.

As it will be intended that this information preserved by the new parents, it should be presented in an appropriate form (SW 550, "My Story"), normally after the child has been placed in the home. A report should be presented in a narrative form and should be prepared on an individual basis for insertion in the SW 550. (See also E6.7.)

E6.17 Full Records of the Child's Background to be Preserved on File

While background material to be passed on to the adoptive parents may well be an edited version of the information known to the Social Worker about the parentage of the child, all known details should be recorded and retained on the office file for possible later reference. A more open attitude regarding the adopted child's access to personal information is already apparent and more adopted children may in future approach the Department for further details about their background. The discovery at this stage of poor earlier recording would be a distressing disappointment to both the young person and the Social Worker dealing with the request.

E6.18 The Exchange of Gifts, Cards and Photographs Between Natural and Adoptive Parents

The exchange of gifts, cards and photographs between natural and adoptive parents is becoming more common with the more open attitude to adoption; and more birth mothers are requesting that such exchanges be made when offering their child for placement. This aspect of adoption should be fully discussed with adoptive parents in the early stages of their application and their ability to make such a commitment should be ascertained.

Social workers should however be fully aware of the implications of what the birth parent is requesting. Requests must be realistic and be in the best interest of the child as well as the birth parent. Unrealistic expectations such as regular ongoing contact may well indicate that the birth mother has not accepted that by adoption she is relinquishing her child permanently to another family.

Contact between the two parties should normally cease by the time of the making of the final adoption order. It is not unusual for a mother to enquire about her baby at the time of its first birthday; but once the adoption is finalised an approach should only be made to the adoptive parents if there has earlier been a clear indication from them that they would be willing to accept this.

E6.19 Assistance to Natural Mother after Placement of the Child

Some natural mothers regard the signing of consent as the end of an era in their life, and do not feel the need for further contact with our department. With others, the issue is not so clear-cut, and we would be failing in our duty as Social Workers if we did not offer subsequent contact to assist the mother to come to terms with her difficult decision. Such contact should be used to redirect her attention towards her future.

E6.20 Summary of Action to be Taken by Social Worker and Clerical Officer When Placing a Child With Adoptive Applicants

(a) Social Worker's action:

- Despatch approval and covering letter to adoptive applicants' solicitor immediately.
- Ensure that Benefits and Pensions Division, Head Office, is notified of placement of child. (Prepare form SW 569) (ref Fig. 10.) This form was originally designed to minimise the possibility of linking the natural and adopting mothers through district office records. Any subsequent queries about family benefit when it concerns an adoption placement should be directed to Head Office.
- Send letter to applicants giving background information on child if desired.
- Minute file to - a) Clerical officer for appropriate action. (See below.)
b) Social Worker who will be visiting until issue of final order.

(b) Clerical officer's action:

- Withdraw applicants' file from "awaiting placement" section and enter child's name and other details on file cover.
- Place all papers relating to natural mother and child (SW 581) on applicants' file, including copy of information to applicants giving background information on child.
- Place copy of approval (SW 602) on file, and copy of letter to adoptive applicants' solicitor.
- Alter master index and Kardex cards to show current situation.
- Return file to Social Worker supervising adoptions.

E6.21 Social Worker's Home Visits After Baby's Placement

Section 15(2)(b) of the Adoption Act states that a Social Worker 'may at all reasonable times visit and enter the residence in which the child lives'. Before preparing the interim report the Social Worker should have made at least two visits to the home. The new parents are usually so delighted and relieved to have their baby that they tend to minimise any difficulties they may be experiencing. However they should be helped to understand that we will not express great surprise or disappointment or automatically 'take the baby back' if they confess to problems, such as the mother's tiredness, or marital strain, as the couple adjust to the newcomer's sudden arrival in the home. The mother should be encouraged to talk about any worries or embarrassments, such as tactless comments made to her by relatives or neighbours, and the mixed feelings she may be having about the baby itself. The Social Worker should see the child at these visits and should enquire about sleeping and feeding habits etc..

The couple may be advised that though there is no legal barrier to having the baby christened, they may be wise to wait until the interim order has been made. They must appreciate that the permanence of the placement cannot be completely certain until the adoption is finalised. A point should be made of seeing the father at some stage. The mother should again be encouraged, if necessary, to accept the services of the Plunket or public health nurses where available and appropriate. The Social Worker should check that the parents are aware of their entitlement to apply for family benefit.

When the interim order has been made, visits should continue at about monthly intervals. Before the final order the couple should be seen together at least once more. At the final visit it should be stressed that the couple should feel free in later years to call at the office to discuss progress and seek guidance. If appropriate, the question of a further adoption could also be raised at this stage.

E6.22 Consent During the Interim Period for Medical, Surgical or Dental Treatment, or a Blood Transfusion for a Child Placed for Adoption

Section 25, subsections (3) and (4) of the Guardianship Act 1968 provide that where a child has lawfully been placed for adoption, the adoptive parents are deemed to be its guardians for the purpose of signing any necessary consent for medical, surgical or dental procedures, including a blood transfusion.

The adoptive parents should be advised of this provision, and also that they should advise the department as soon as they reasonably can of any illness or accident involving the child.

E6.23 Breakdown of Adoption During Interim Period

If it should become apparent during the interim period if the adoptive parents are not happy with the baby, or if there are signs of serious strain in the marriage, the Social Worker should make more frequent visits to help the new parents to identify the difficulties with a view to resolving them, or possibly to facing up to the wisdom of relinquishing the baby. If a bond does not develop between the applicants and the child during the first few weeks, or if the arrival of the baby is endangering the marriage, the prospects for a successful adoption are likely to be poor. It is probably better for the baby to undergo the stress of a change of home at this stage rather than to remain in an unhappy situation indefinitely. The Social Worker too may need to face up to the fact that the placement has proved unsuitable.

E6.24 Reporting to the Court

- (a) Form of the report: Our report is prepared on district office letterhead and is addressed to the Registrar, District Court. Suitable reference is made to the application, e.g.:

"Application to adopt - SMITH to adopt REGAN"

Paragraphs may be numbered and headings used if desired but there is no set form. The report should be signed personally by the Social Worker who prepares it and the designation "Social Worker" should be written in full. If an inexperienced Social Worker has completed the report it should be viewed by a supervisor before it is filed at the Court. A copy of the report should be placed on the applicants' file. A copy is not customarily sent to the Director-General.

- (b) Contents of the report (for the hearing of an application for an interim order): The report for the hearing of an application for an interim order will be chiefly concerned with the results of interviews with the applicants; visits to their home; interviews with the referees, and checks with the Police, together with background particulars of the child. The following form may be used as a guide:
- (i) The applicants - A factual paragraph including names, ages, address, date and place of marriage; number, sex and ages of children; education; religion; state of health; occupation and general financial position.
 - (ii) A second paragraph dealing with the character of the applicants, their interpersonal relationships and the personal qualities that should make them suitable adoptive parents is to be fully covered. Specific reference is made to the results of inquiries made of the Police, and of any other persons whose opinions can be regarded as of value. The reasons for the applicants wishing to adopt should be stated, and comment may be included on the Social Worker's view of the genuineness and soundness of these reasons. Should the Social Worker have any concerns these should be identified even if it is intended that a recommendation for the adoption to proceed is being made.
 - (iii) Home circumstances - A brief description of the home, externally and internally, including location, general care, accommodation with special reference to the child concerned, and the general atmosphere and emotional climate of the home.
 - (iv) The child - Full name; date and place of birth; age, nationality, occupation and marital status of the mother, and if known, of the father of the child. The father should not be named unless he has been adjudged. Comment may be made on the reason for the child being available for adoption. Where an older child is being adopted, comment should be made about its feelings towards the proposal. If conditions have been imposed by the parent or parents in respect of the child's religious upbringing these should be stated.

- (v) Granting of approval - This paragraph should contain the reporting Social Worker's opinion as to the suitability or otherwise of the placement and the date of approval if given. If not given, the reason for withholding approval should be stated in this section.
- (vi) Recommendation - A definite recommendation either for or against the making of the order should be made. Social Workers must not evade the issue by making such statements as, "I am unable to make a recommendation."

E6.25 No Report Required Where an Applicant is Already a Parent

Under Section 10 of the Act there is no requirement for a Social Worker to provide a report for the Court when one of the applicants is already a parent of the child, whether by birth or by previous adoption. However, if the Court should request a report in these circumstances, then the usual report should be furnished.

E6.26 Attendance at the Court

Clause 10 of the Adoption Regulations 1959 provides that:

"Unless the Court directs otherwise, the applicants and the child proposed to be adopted shall attend personally before the Court at any hearing of the application for adoption or at any hearing by the Court of the application for the issue of an adoption order."

The solicitor for the applicants usually arranges with the Registrar a suitable time for the hearing. The Social Worker must attend the Court if not recommending the adoption so as to be available to answer questions on the content of the report. This applies even if the Social Worker does not wish to exercise the right to cross-examine, call evidence, and address the Court. If the Social Worker wishes to be legally represented he/she should apply through the Social Work Division, Head Office. In cases where the Social Worker recommends the adoption there is normally no need to be present.

If a Ward is being adopted, the Social Worker should attend even though we are recommending the adoption. The Social Worker is representing the child's legal guardian and if the Director-General has prepared the papers, the Social Worker, (who will have arranged the hearing with the Registrar), will by attending be giving the applicants some measure of guidance and support throughout the proceedings.

E6.27 Notice of Making of Interim Order

As required by Clause 1 of the Adoption Regulations 1959, the Registrar, if an interim order is made, will send the applicants a notice (in form No. 4 of the Schedule to the Regulation), and is required to give written notification to the Social Worker of the particulars of the order.

E6.28 The Final Report

The report for the adoption order will be primarily concerned with the progress of the child since placement, and the information or otherwise of the soundness of the placement; not only as far as the child is concerned, but also the applicants - for example, whether strain has entered into the marriage relationship on account of the child's placement in the home; whether the satisfaction in having the child is shared by husband and wife and by their natural children (if any), etc. The general instructions included in paragraph E6.23(a) will apply in preparing the report.

E6.29 Content of Final Report

The following form may be used as a guide:

- (a) Progress of the child - under this heading any important facts concerning the child's physical progress will be mentioned with special reference in exceptional circumstances to any Plunket or medical reports. This paragraph will also refer to the normality or otherwise of the child's response, along with any impressions gained from the Social Worker's visits during the interim period of the child's general happiness and contentment from the care received.
- (b) The applicants - During several visits to the home the visiting Social Worker will have come to know the adoptive mother and her attitudes fairly well. It is important also for the Social Worker to see and know the adoptive father within his home setting and to try to assess his attitude to the child, to his wife's interest in the child, and to the proposed adoption. This assessment of the effect on husband and wife of the child's presence in the home and its continuing care is perhaps the most important part of the report, though it should not be detailed.
- (c) General observations - (if there are additional relevant comments to be made).
- (d) Recommendation - This paragraph is concerned with the recommendation or otherwise about the application for adoption. A definite recommendation either for or against the making of the order should be made.

E6.30 The Effect of an Adoption Order

The legal effects of an adoption order are made clear in the Act and the principal effects are set out in summarised form in the statement of consent (refer Form 2 and 3 in the Schedule to the Adoption Regulations 1959).

E6.31 Notice of an Adoption Order

As required by Clause 13(2) of the Adoption Regulations 1959 the Registrar will send notice of the making or issue of an adoption order to the local district Social Welfare office.

E6.32 Revocation of the Interim Order

Section 12 of the Adoption Act provides for the Court to revoke an interim order "on the application of any person". In practice such applications are usually made by:

- A Social Worker if it is considered that the placement should be terminated in the child's interest;
- the applicants if their circumstances alter materially or they discover the child to have some defect which they are unable to accept.

Applications for revocation are rare. There are no prescribed forms or set procedures. It is not surprising therefore that in practice there is little uniformity.

If circumstances leave a Social Worker feeling that a particular adoption placement is not meeting the best interests of the child the Social Worker should immediately discuss the case with his/her supervisor and the Assistant Director, Social Work. A decision to apply for revocation of an adoption order should only be made when the Social Worker, in consultation with his/her supervisor, Adoptions Officer and Assistant Director, Social Work, is reasonably certain that the child will be disadvantaged by the adoption proceeding. Head Office should be advised of this matter before any application is made to the Court. It is recognised that the decision is one that rests with the Social Worker in consultation with his/her supervisor, and the Assistant Director, Social Work. However, legal aspects can be complicated and the advice of the Head Office solicitor is a prudent measure.

The following is an outline of the general procedure to be followed in such cases:

A memorandum setting out the facts and reason for proposed action should be sent to Head Office for consideration by Social Work Division and as necessary by Legal Section. This action should precede any discussion with the adoptive family. Such action will ensure that a case can or cannot be made and legal assistance provided if required.

The Legal Section of Head Office willingly give advice and guidance as to the correct legal procedures to be followed. It is important that factual and professional evidence is gathered and presented in a logical sequence to support any proposed action.

The Head Office solicitor will, if necessary, advise on the steps to be taken and any further evidence needed for the presentation of the case. In appropriate cases Social Workers will be assisted by legal counsel.

After receipt of Head Office advice the adoptive family should be informed of the intended action with the reasons leading up to the decision fully explained. Even at this stage the Social Worker should approach the adoptive parents with an open mind. It may be that the family can offer explanation or plans which changed the circumstances. The timing of the Social Worker's action is most important; for instance to act precipitately following the loss of a spouse by death or separation would, unless requested by the adoptive applicant or, because the child was in danger, be insensitive. However, to unnecessarily delay informing the adoptive parents of the proposed action could be unfair and hurtful.

Where the case is a clear-cut one, such as involving death of an adoptive parent or the clear breakdown of their marriage, the Social Worker should advise the adoptive parent(s) that he/she has a responsibility (in appropriate cases) to inform the natural parents of the intended action and seek their feelings about the matter.

Where the natural parents are informed it is important that any information given is honest but does not infringe on confidential information in respect of the adoptive applicants. Any approach to the natural parents should be sensitive to both the adoptive and natural parents' need at that time.

There may be situations where a revocation is being sought on grounds which have to be proved in Court. To inform the natural parents before such a hearing may cause them ongoing distress. One can envisage this happening when in the Social Worker's professional judgement one of the adoptive parents has not bonded to the child or where ill-treatment is suspected and this is denied.

The role of the Court is to confirm or reject the Social Worker's judgement.

E6.33 Second and Subsequent Adoptions

It is probably especially helpful to adopted children to have the support of siblings, especially if these too are adopted; though it is of course not justified to place a second child for the sake of the first in a home where the success of the first placement is in doubt. Parents who are delighted with their first adopted child are occasionally hesitant to risk a second adoption fearing that such good fortune may not last. They may lack confidence in child-rearing or may have rather high aspirations for their adopted child. (See also E3.14.)

E6.34 Full Check to be Made Before a Second Adoption Placement

When a second or subsequent application is made, a further full assessment and evaluation should be undertaken since the family is now a changed unit. Further Police, medical and referee enquiries must be made. Social Workers interviewing the couple, while traversing the areas covered in the interviews for the first application, should be constantly aware of the ways in which the lifestyle of the couple have changed with the addition of the first child and what adjustments have been made to meet the needs of the new family member. (See E3.31.)

The timing of this placement is important. It should have been established that the applicants are physically and emotionally ready and keen to assume the care of another child, and that the first child is sufficiently stable to cope with sharing the parents' attention with a potential rival. This is particularly important if the first child is handicapped, has had a lot of illness, or was beyond infancy when originally placed. In such cases it may be wise to avoid placement of a second child who is older than the first. Note should be taken of how far the parents have progressed in explaining or preparing to explain adoption to the child.

If the couple intend to adopt only two children, the common request for the second child to be of the opposite sex to the first should be discussed carefully rather than being taken for granted. It should be ensured that the couple have given adequate thought to any possible advantages in both children being of the same sex, e.g. for companionship.

A scarcity of babies should never prevent a second placement in a suitable home simply in order that a greater number of applicants may receive a child.

E6.35 Later Placement of a Sibling

When a half or full sibling of an adopted child becomes available for placement, consideration is usually given to the possibility of offering it to the parents of the first child. It should be borne in mind, however, that while some couples will be accepting and enthusiastic, others may be deeply disillusioned to learn that the natural mother could 'make the same mistake twice'. The file should be checked to see if this possibility was discussed with the applicants when they first applied to adopt. (See E3.15.) If not placed with the parents of the sibling the baby should be placed in another area.

E7 RECORDING (See Fig. 12 for Flow Chart)E7.1 Filing

Most of the forms used have already been explained. This and the following paragraphs describe other forms which are used and the general filing procedure.

If a case involved no inquiry but perhaps referral to another district any notices or correspondence are to be placed on a general adoption file. Where an application is being investigated, applicants being interviewed, references being obtained, Police checks being made, etc., a personal file will be made in the name of the applicants. This will contain in approximate order:

- Completed form SW 545 (Application);
- Form SW 554 (Report);
- Notes for file on home visits (optional);
- Referees' written replies, or notes of interviews with them;
- Form SW 532 (report from Police Headquarters);
- Notes of discussion with local Police officers if space on form SW 554 is inadequate;
- Other correspondence;
- Form SW 614 (individual file cover).

E7.2 Three Categories of Files

The files are to be kept in three groups, the first two separate from the ordinary records system:

- Papers of unsatisfied applicants (i.e. "waiting list");
- Papers of applicants and children where a placement had been effected but a final adoption order has not been made;
- Papers of applicants and children where a final adoption order has been made, or the adoption has been permanently abandoned, or the case closed for any other reason.

Files for "unsatisfied applicants" should be put away in alphabetical or numerical order in a special set of pigeonholes or in "box" files. The files should be purged periodically and lapsed applications destroyed.

E7.3 Selection of Files for Suitable Applicants When Child Available

When a child becomes available for placement a preliminary selection of "short-listed" applicants would normally be made from the SW 529 cards which would identify the files which should be considered in detail for the final selection of the adoptive home.

E7.4 Action Where Placement is Made or Where Application is For Approval Only

When a placement is made the applicants' file should be withdrawn from the "awaiting placement" box or pigeonhole and the child's name and the other details entered on the file cover, SW 614. During this "live" period (i.e. while a child is actually placed but the final order has not been made) the file should be kept in a separate compartment, readily accessible to the records clerk and all Social Workers likely to be concerned. This will be the procedure followed at the outset in "approval only" applications where the child is placed as soon as approval is given. Office layout will usually determine whether they can best be kept in the main office or in a Social Worker's room. The master index must of course indicate the current "status" of the file and therefore its location.

Form SW 581 (report on the child) or equivalent papers concerning the child should then be added to the applicant's file, immediately below the cover, to be followed by the appropriate papers listed below:

- Copy on plain paper of SW 602 (approval);
- Copy on plain paper of SW 569 (advice to Benefits and Pensions Section) - refer Fig 10. This form should be completed by the adoptions officer and sent to Head Office at the time of placement of the child. (Refer also E6.22);
- Request for report for interim order;
- Copy of report for interim order;
- Notice of interim order;
- "Notes for file" regarding visits, and any correspondence;
- Request for report for final order;
- Copy of report for final order;
- Form R.G. 69 (advice of final order - this is a copy of the form sent by the Registrar of the Court to the Registrar-General asking him to amend the original birth certificate to show particulars of the adoptive parents and change of the child's surname to theirs and to amend the christian or first names to the ones they have chosen and which the Court has ordered. This has the effect that on any subsequent occasion on which the child or his adoptive parents request a birth certificate it will show his adopted name and show the names of his adoptive parents. The fact that he has been adopted will not be apparent to any person scrutinising the certificate).

E7.5 Filing Action When Adoption Order is Made or the Case is Otherwise Closed

On receipt of R.G. 69 (or on closing of the case for any other reason¹) the statistical summary on form SW 606 (refer Fig 9) must be completed, the appropriate "boxes" being ticked, and, if the final order has been made, a serial number for the year and district assigned from a register kept for the purpose.² When an interim order is not followed by a final order because the child has been placed a second time for adoption the original SW 606 should be closed off and a new card made out for the new placement. The closed off card should be forwarded without a serial number, to Head Office. The card SW 529 should be destroyed and a master index card in the child's new name prepared. As well as the child's new name this should contain its date of birth, the names of the adoptive parents, their address and the final order number and should be cross referenced with the child's original master index cards. The file should then be placed in the main "past records" storage space. The SW 606 should then be completed by adding the child's new name and the name of the district office. At the beginning of each month Forms SW 606 are sent to the Director-General (without a covering memo) for retention in Head Office for preparation of statistical information. (In cases where, for example, a husband jointly with his wife, adopts his wife's child of a former union, a Social Worker may not be asked to report to the Court (S. 10(1) Adoption Act 1955), and also the Judge may decide to exercise his discretion to make a final adoption order, in view of the special circumstances, when the case is initially heard (s.5(b) Adoption Act 1955). Receipt of the R.G. 69 (advice of final order) may be the first and only time the district office hears of the adoption. In order to make sure that our statistical information is complete, on receipt of the the R.G. 69 the relevant particulars on SW 606 should be completed and latter form forwarded to the Director-General. There is not enough information on the R.G. 69 to answer every question on the SW 606. Where the R.G. 69 is the only record held it is sufficient for Head Office to transcribe the information it gives only. There is no need to ask the Court for supplementary information).

Districts are not expected to compile any adoption statistics, with the exception of a count of applicants on the waiting list at the end of six months and possibly other information not available from any other source, of which advance notice will be given. Summaries may be obtained from Head Office, if requested, and may be sent out to districts from time to time if this is likely to be useful.

- Footnotes:
1. For example, because the placement has proved unsatisfactory, the applicants have changed their minds, or the adoptive mother has become pregnant, or has died, or the interim order has been revoked.
 2. This will be a simple index analogous to the Court Record index.

E7.6 Master Index Cards

Master index cards are prepared for all adoptive applicants. If the applicants are found to be unsatisfactory both the master index card (SW 529) and the personal file are to be stamped "unsatisfactory" in red. These records must be checked when a new adoption application is received.

E7.7 Adoption Files Not To Be Amalgamated With Other Files

Adoption files must not be amalgamated with personal files if the adopted child comes to notice at a later stage. A cross reference should be made, however, on both files and master index. This refers particularly to children who come into the care of the department. If such a child moves out of the district the adoption file should remain the area where the adoption took place unless a special request has been made for it.

E8 ADOPTION OF CHILDREN AND YOUNG PERSONS IN CARE WHEN CONSENT(S) ARE AVAILABLE

E8.1 Adoption as a Permanency Option

A child's need for permanence. The criteria to be applied in choosing adoption as opposed to some other permanency option are not addressed in this section, refer to Permanency Planning SWM Part M.

E8.2 IDENTIFICATION OF REQUIRED CONSENTERS (SWM E6.4, E6.2, E4.3)

- (a) No adoption order, or interim adoption order, can be made until all the required consents have been filed in the Court. The people whose consents are required are set out in Section 7 of the Adoption Act 1955, and include the "parents and guardians" of the child. It is important to realise that the word "parent" does not necessarily include all natural parents, and the word "guardian" does not include all the various types of guardian. These terms are defined by reference to Section 7 itself, and to the Guardianship Act 1968, and the Status of Children Act 1969.

Amongst those not included are step-parents, Court appointed guardians such as the Director-General, guardians appointed under Section 8 of the Guardianship Act, and in some cases the father of an ex-nuptial child.

As an added complication, the Court also has a discretion to require the consent of a natural father who does not come within the strict definitions of "parent" or "guardian", in any case where the Court decides it is "expedient" to do so.

- (b) The natural mother, if alive, is always a required consentor (as parent and guardian) unless the child has been adopted or her guardianship has been removed under Section 10 of the Guardianship Act 1968. If the mother is dead, testamentary guardian/s appointed by her are required to consent. (See Section 7(3) Adoption Act 1955.)
- (c) The father may or may not be required to consent depending on his guardianship status i.e. his consent is only necessary if he is a guardian or if the Court specifically requires his consent. It is essential that whenever adoption is being considered, full acknowledgment is given to the fact that every child has a father and that the father's status must be assessed. It is essential to obtain a copy of the child's Birth Certificate to assist in determining the status of the father. However this document in itself will not always be sufficient. There are a number of different sets of circumstances which may have to be addressed in order to determine required consentors. They are as follows:
- (1) Father and husband of mother. The father (if alive) is a guardian and is required to consent unless the child has been adopted or his guardianship has been removed under Section 10 of the Guardianship Act 1968. If he is dead, testamentary guardian/s appointed by him are required to consent. This applies even if the marriage was dissolved shortly after the child was conceived, and there has been no contact since then.

- (2) Husband of the mother but not necessarily the father of the child. The situation where a child is born to a married woman but the husband may or may not be the father is addressed in Section 5 of the Status of Children Act 1969. There is a rebuttable presumption that a child born within a marriage or within 10 months of its dissolution, is a child of the mother and her husband. (See also 3(1).)
- (3) Father of ex-nuptial child. The criteria that legally determine whether or not a father of an ex-nuptial child is a guardian are set out in section 6(1) and (2) of the Guardianship Act 1968.

Sometimes the criteria are clearly met but frequently they are either not met or the situation is uncertain.

There are two types of situation that may arise in relation to the guardianship status of the father of an ex-nuptial child.

- (1) The child has recently been born and the father, not automatically having the status of guardian wishes to establish his paternity and be appointed a guardian. He may wish to do this for several reasons, with the most likely one being that the mother, as sole guardian, or the mother with her husband who is not the child's father, intends to place the child for adoption. This is seldom a relevant issue in the case of a child already in care but the same principle applies in all cases ie a child is not available for adoption if there is conflict about whose consents are required. Any such father must be advised to seek immediate legal advice and all plans for adoption must be suspended while he does this. Sometimes in order to halt adoption proceedings, the father (or some other person) seeks Wardship of the High Court for the child in conjunction with or pending action to establish paternity/guardianship under the Guardianship Act 1968.
- (ii) The child or young person is already in care and the Department has received information which indicates that a particular person is the natural father. The issue arises as to whether he is a guardian whose consent is required.

In these situations the evidence will often be far from clear-cut. For example it may be based on information provided by the mother which is denied by the putative father. There may be disputes about whether the couple were living together at the time the child was born. It can be difficult to determine whether a natural father qualifies as a guardian, so where any uncertainty exists about the status of a particular person it is essential that legal advice is sought from the District Office solicitor or Head Office legal section. For obvious reasons, care has to be taken in identifying a man to be approached as a required consentor to adoption. Sometimes it will be necessary for a solicitor to seek the direction of the Court regarding the necessity for a particular man to consent.

The situation is further complicated by the proviso to Section 7(3) (b) of the Adoption Act 1955, which gives the Court the discretion to require the consent of any natural father, even if he does not qualify as a "guardian".

E8.3 Guardians who are not parents

Sometimes a child or young person has a legal guardian or guardians in addition to parents. These guardians may be required to consent or approve. Testamentary guardians are required to consent, as is the Director-General if he/she has accepted appointment for the purpose under Section 7(4) of the Adoption Act 1955 (but not on basis of being guardian under Children and Young Persons Act). When the High Court is guardian (i.e. the child is a Ward of Court under Section 9 of the Guardianship Act), any proposal to seek the adoption of a child or young person with this status would be referred to the High Court for approval to proceed.

E8.4 Clarification of Status of father at time a child or young person comes into care

One of the current difficulties in effecting an adoption of a child or young person in care is the lack of documentation regarding the father. In every adoption a father has to be legally accounted for. It is essential that social workers identify and document the father's status at the time a child or young person comes into care. If the father is a guardian, and indicates that he envisages no ongoing role in the life of a child placed in care, then the use of a Section 7(4) appointment (Adoption Act 1955) may be appropriate. The same sort of provision should be made in relation to a mother where appropriate.

E8.5 PREPARATION OF NATURAL PARENTS/GUARDIANS (where available)

(a) The parent(s) and or guardian(s) whose consent will be required and can be readily located must obviously be approached, and the potential adoption and its effects discussed with them. In the case of Maori children, it is increasingly likely that the decision making process will be shared by the extended family of the child and include the extended family of the prospective adoptive parents. In many cases, now that planning procedures are well established the parents and guardians will be involved in determining an adoption goal for a child, even if they do not wish to consent. Good preparation certainly increases the likelihood of obtaining consent but it seems clear that some parents, while content to have their child adopted, prefer that the Court dispenses with their consent so that the final act of separation is not committed by them. Where appropriate natural parents/guardians should be encouraged to seek legal advice.

(b) Non-availability of required consenters

If time consuming effort is needed to locate a required consenters this action may be delayed while approval in principle for the goal is obtained. (See also E8.11)

E8.6 Religious Conditions

As the parents have the right to specify a religious condition this should be clarified before placement, but if a placement already exists and there are differences between the natural and foster parent's religion this must be resolved prior to consent.

E8.7 Contact after adoption order

If the parties are planning to have ongoing contact after the adoption order, the nature and frequency of contact should be discussed and recorded. Natural parents should be made aware that any agreement made regarding contact with the child in his/her new family cannot be enforced by law and is entirely dependent on the goodwill of the adoptive parents. i.e. there is no difference in law between an "open" adoption, and any other adoption.

E8.8 PROPOSAL FOR ADOPTION

This has two aspects:

- A. approval to pursue the goal of adoption
- B. approval of specific applicants.

In some cases the proposal will be made jointly but in others, approval to pursue adoption will need to come first because either the child is not in an appropriate placement or the suitability of the current placement has not been fully explored in relation to adoption.

E8.8A1 Obtaining approval to pursue goal and timing of it

At the time when adoption is first mooted as a goal (this is likely to be associated with a planning meeting) it is necessary to refer a proposal to a SSW 105, for approval of the goal (see E8.9).

At this point the attitudes of the required consenters may not be known. This early referral to the SSW 105 will enable him/her to monitor the progress of all such plans and also ensure that potentially unsatisfactory placements (eg Maori children in Pakeha homes) do not become a fait accompli through the passage of time.

E8.8A2 It should be noted that when any case is later submitted to the SSW 105 for dispensation action the goal of adoption will require confirmation by the SSW 105.

E8.8B Obtaining approval for specific applicants

All adoptive placements of children and young people in care can be approved locally at the SSW 105 level except those proposed placements within staff (SWM E13.1). However, when any adoptive placement that falls outside the normal range is contemplated the SSW 105 must consult with the AD(SW) who will consult with the District Director and Regional staff if appropriate.

It is also important that where foster parents express an interest in adopting their foster child a careful assessment is carried out to ensure their suitability to assume what will be a changed role and responsibility in relation to the child.

E8.9 Information required in support of proposal

- A approval of adoption goal.
- B approval of specific applicants.

Combined proposal

When seeking only approval of the goal omit E8.9(g). When later seeking approval for applicants complete only E8.9(g) and attach to the earlier submission for approval of the adoption goal.

- a Basic data re child/parents/family. (Hereafter child also includes young person).
 - Child - name, date of birth, race/ethnicity, tribal affiliations if relevant, status.
 - Parents - name, age, race/ethnicity/marital status, occupation, address.
 - Siblings - name, age, race/ethnicity/status if relevant/address.
 - Extended family - name, age, race/ethnicity and address of significant members (if relevant).
- b Background history (pre-care)
 - Date of coming into care and reasons for it
 - History pre-care.
- c Goal History (post-care)
 - List goals established and dates (including present one of adoption)
 - Make brief comment on each earlier goal outcome.
 - If child was in care prior to Planning Scheme include general comment on goal orientation prior to formal planning.
- d Placement history of child
 - List briefly number and types of placements (caretakers) prior to and since coming into care.
- e Present Situation of Child
 - With whom is the child now and what is the nature of the arrangement (brief)
 - What is the state of the child's current well-being e.g. physical, emotional, social, educational.
 - Is the child aware of/involved in the plans for him/her and what is his/her attitude to adoption goal.

f Parental/family/sibling involvement and attitudes

- Detail of explorations of potential for placement of child at home/with family, and outcomes.
- In case of Maori child has the extended family been involved and if so what is the current attitude.
- What is attitude of mother to adoption.
- What is attitude of father to adoption.
- What is attitude of any other required consentor.
- What is nature of present/child/parents/family/sibling contact and attitudes to it.
- Is any ongoing contact wished for/desirable.
- Any religious conditions.

g Proposed adoptive family - if there is not one proceed to h.

If there are applicants - include

- Names, ages, race/ethnicity/tribal affiliations if relevant, address of prospective adoptive applicants.
- Names, ages, race/ethnicity of natural/adopted/foster children.
- Date placement made. (if relevant)
- Degree of attachment between child/proposed adoptive family and evidence of it.
- The likelihood of other additions to the family.
- What if any have been problems to date and how have they been coped with.
- Ability to support the child emotionally, educationally, and materially in terms of the child's needs and the family's life style.
- If child is Maori what is nature of blood/tribal affiliation with adoptive family.
- What is nature of involvement of extended families/whanau of parents and adoptive family if relevant.
- What is nature of attitudes to specific placement of extended families/whanau of parents and adoptive family if relevant.

- What is nature of ongoing contact planned for (if any).
- Has any specialist assessment of the placement taken place or regarded as necessary (e.g. Psychological report).
- If placement does not provide a match between the child and adoptive family in terms of race/ethnicity/tribal affiliations if relevant what are the plans to cater for this discrepancy.
- Can religious conditions be met and on what basis.
- A summary giving the social workers professional assessment of the permanency potential of the placement, with some projection about what sort of problems if any this placement could have in the future and how they are likely to be dealt with.

h Adoption Goal

- Summarise the reasons for the proposal for adoption
- List current barriers to achievement (if relevant).
 - e.g. - unresolved issues re identification of required consenters
 - availability/attitudes of required consenters.
 - unresolved disputes/counter claims.
 - lack of adoptive home.
- List briefly your plans to deal with barriers and indicate time frame for plans.

i Recommendation

- A re approval of goal
- B re approval of specific applicants.

E8.10 ACTION FOLLOWING APPROVALS

This will vary according to circumstance as follows:

- (a) Goal approved:
Required consenters agree to adoption and express willingness to consent:
Applicants approved:

In this situation, the adoptive applicants should be advised to approach their solicitors and ask him/her to proceed on their behalf. The required consenters will likewise be advised to approach their solicitor to have the consent documents prepared (with the department's assistance if necessary).

- (b) Goal approved:
Required consenters agree to adoption and express willingness to consent:
Applicants not yet identified and/or approved:

There is no provision under the Adoption Act 1955 for general consents. Consents can only be given to a specific adoption, so the applicants must be known, even if their identities are to be concealed from the consenters.

A parent or guardian who wishes to give a general consent must use the procedure under Section 7(4) for appointing the Director-General as guardian for the purpose of giving consent to the child's adoption.

If adoptive applicants are sought, without using the Section 7(4) procedure, it must be made absolutely clear to the applicants that the child is not yet legally free for adoption, and that there is no guarantee that the consents will be forthcoming.

When specific applicants are agreed upon, seek approval of them within the Department (see E8.9(g)) and from the required consenters. Then proceed as in E8.10(a).

- (c) Goal approved:
Required consenters not available to ask, or have expressed opposition to the adoption goal:
Current foster parents wish to adopt the child and the department approves of this:

In this situation the child is not legally available for adoption, so one has to proceed to explore the possibilities of obtaining consent or locating the required consenters (see E8.11). If this is unsuccessful then one has to reconsider the adoption goal in the light of:

- (i) possible dispensation of consent;
- (ii) guardianship and custody action (Sections 8 & 11 Guardianship Act 1968);
- (iii) continuing the placement without taking steps to secure legal permanency.

- (d) Goal approved:
Required consenters not available to ask or have expressed opposition to the adoption goal:
Child not in a placement which offers permanency:

In this situation, great care must be taken in planning a strategy to address the child's permanency needs. One may feel a sense of urgency to establish a permanent home for the child but one cannot seek adoptive parents because the child is not legally free for adoption.

If the child can remain in the temporary situation a little longer one can make intensive efforts to explore further the possibility of obtaining consents (see £8.11). If this is successful then one can proceed as in £8.10(b). If intensive efforts fail to obtain consent/s then dispensation action can be considered, and if successful the child can be offered for adoption.

Note: Dispensation of consent applications can be made under Section 8(3) of the Act, even if adoptive applicants have not yet been identified or approved. The Department then has 6 months in which to locate suitable adoptive applicants, and for them to file an adoption application.

If the current temporary situation cannot for some reason be sustained while steps are taken to free the child for adoption, and a move cannot be avoided there are two options to be considered:

1. Seek another short-term care arrangement where foster parents offer a specific commitment to assist the child while further work is done to free the child for adoption. Such care arrangements are specialised and purposeful.
2. Seek a potentially permanent long-term foster home, i.e. with the foster parents being selected on the basis of their ability and commitment to provide a permanent family for the child. One must fully acquaint any prospective foster parents with the facts concerning the child and their family and accept that although the permanency plan from the Department's perspective has as its goal adoption, such a goal is without any legal endorsement. The existence of various legal processes by which permanency issues may be addressed eg. Guardianship and Custody action by foster parents, adoption with consent or dispensation of consent can be raised with prospective foster parents and they can be advised to consult with their solicitors on such matters. Regarding future adoption, required consenters may be in agreement with this goal once they are satisfied that the child is in a family that offers permanency or if appropriate dispensation of consent can be pursued as in (c)(i) above.

£8.11 Full exploration of possibilities of obtaining consent or locating required consenters

The exploration will be regarded as complete when the social worker has:

- (a) identified who is required to consent (with legal advice if necessary);
- (b) asked for consent within last 2 months and the person has refused. Recorded the reason given for refusal and the current whereabouts of the person;

- (c) tried extensively to locate the required consenters(s). This exploration has included:
- approach (directly or indirectly) to all known relatives, friends, workmates;
 - checking Department's National Index under all known names;
 - search of electoral rolls under all known names.

Record in detail the actions taken, the dates and the outcomes. The Court may later require an affidavit from the social worker swearing to or affirming these efforts and outlining the details.

Many cases could be cited where efforts to locate a required consenters, explain and ask once again for consent, although arduous at the time, resulted in location and/or agreement to consent to the adoption. This avoids the lengthy and complicated task of seeking dispensation of the consent.

E8.12 Consideration of Dispensation of Consent/s

When the SSW 105 is satisfied that the approved adoption cannot be achieved without legal action to dispense with a consent that is not available, a referral is made to the District Solicitor or where there is no District Solicitor to Legal Section, Head Office, for consideration of the legal aspects of dispensation as set out in E8.14.

E8.13 Monitoring Responsibility

Assistant Directors (SW) are to ensure adequate monitoring procedures to follow through from the point that adoption is identified as the goal for a child or young person in care:

- (a) to local achievement of an Adoption Order.
- (b) to achievement of any other permanency option that becomes substituted for the adoption goal.
- (c) in the case of a Maori child with involvement (if appropriate) of the extended families and taking into account their views.
- (d) referral to departmental solicitors for consideration of the legal aspects of dispensation action.

DISPENSATION OF PARENTS/GUARDIANS CONSENT TO ADOPTION

E8.14 General - The Four Steps

Dispensation action is a legal process towards a desired social and legal goal. This section of the practice paper clarifies and links the legal and casework aspects of dispensation action so that those working in this area have a clear rationale of what is required and why.

When a plan has been established and approved to seek adoption of a child or young person in care and it has been clearly established that those required to give consent are not available or not willing then it is necessary to present a case to the SSW 105 for endorsement of the adoption goal and initiation of dispensation action.

The importance of early intensive work to establish whether or not the goal of adoption can be achieved locally cannot be over stressed. It also has to be accepted that on some occasions, adoption by dispensation of consent will not be possible either, and some other legal action (e.g. guardianship by foster parents) may be suggested.

The data required in such a submission is indeed lengthy and detailed (see E8.17). The reason for this is not that such exactness is required to determine whether adoption is or is not to be endorsed but that the data is used for a two fold legal purpose i.e.

1) it sets out the evidence which can be offered in support of an application to the Court and on this evidence legal advisers firstly give an opinion on the chance of success.

2) the data is then constructed into an affidavit by the legal advisers on behalf of the social worker who will duly swear or affirm its content and be available in Court to answer to it.

It will be helpful for social workers to consider four steps in this process of achieving adoption by dispensation of consent.

The four steps are:

- 1 Identification of required consenters (E8.2, E8.3, E8.4)
- 2 Exhaustion of possibilities of obtaining consents (E8.11).
- 3 Establishing the grounds (E8.173(c))
- 4 Presentation of case for dispensation action. (E8.19). This brings together in submission form the preparatory work of 1, 2 and 3.

E8.15 LEGAL BASIS - Section 8, Adoption Act 1955 (SWM E2.11), E2.25, E2.28)

The social worker is advised to study Section 8 in full because it addresses a range of specific situations as well as general ones. Set out below are 8 essential components that need to be taken account of in every case where dispensation of parent(s)/guardian(s) consent is sought.

- identification of those who are required to be consenters (see part E8.2, E8.3, E8.4)
- required consenters refuse to consent or are unable to be asked
- required consenters are given reasonable notice of intention to pursue adoption
- proof required to establish Section 8(1)(a), (b) or (c) Adoption Act 1955

- that anyone whose consent is dispensed with can, on giving notice to every applicant for an adoption order in respect of the child, and within one month of the dispensation order make application to High Court for revocation of the dispensation and interim orders.
- where an adoption order has been granted within one month of the dispensation order, any person whose consent was dispensed with can apply to High Court for revocation of any adoption order (with notice to parties).
- if the District Court refuses to grant a dispensation order the applicants can appeal to the High Court
- a dispensation order can be granted in the absence of an application for an adoption order, but is valid for only 6 months. i.e. if an application for an adoption order is not made within 6 months of the dispensation order, it will lapse.

However this procedure cannot be used when the identity of the adoptive applicant is known. In these cases, the dispensation order and the adoption order are applied for at the same time.

E8.16 Legal Process

E8.16(1) The stages in the process are listed below:

- 1 The case material is prepared by the social worker
- 2 Submitted to the SSW 105 through a SSW 104, for endorsement of the goal of adoption and approval in principle dispensation action.
- 3 Referred to Legal Section for opinion on whether or not there is a case which is likely to succeed
- 4 Preparation of dispensation application and affidavits (stating the grounds)
- 5 Personal service on parties (if possible). If necessary, seek Court's directions for service. If required person is living in another country and exact whereabouts known, a Court order to serve outside of New Zealand jurisdiction may be issued.
- 6 If personal service not possible, application to Court for order allowing substituted service by advertisement or otherwise (NZ or overseas)
- 7 Substituted service (if applicable)
- 8 Application and supporting affidavits including affidavits of service lodged in Court and hearing date obtained
- 9 Court hearing - can be defended

E8.16(2) It will be noted that a well substantiated case presented by the social worker can take the process quickly to stage 4 but if the whereabouts of the required consenters are not known and particularly if the person(s) is believed to be resident in another country then long delays occur (stage 5, 6 and 7). Stage 9 can also be lengthy particularly if the required person fails to present at the hearing, presents without legal representation, or counters this legal process with a request for a Section 64 Review (Children and Young Persons Act).

E8.16(3) At the present time, under current legislation the Court does not lightly remove from a parent his/her rights in relation to adoption of a child by dispensing with his/her consent.

E8.17 PREPARATION OF CASE (Steps 1, 2 and 3 - E8.14)

E8.17(1) Identification of required consenters

The social worker will already have completed Part E8.2 with legal advice if necessary.

E8.17(2) Exhaustion of possibility of obtaining consent

The Social Worker will have completed Part E8.11, with legal advice if necessary.

E8.17(3) Establishing the Grounds (See Adoption Act, 1955, s.8(1)(a), (b) and (c).)

(a) The most commonly used grounds for establishing a case under Section 8(1)(a) are that the parent "failed to exercise the normal duty and care of parenthood" in respect of the child. Although circumstances prior to the child's coming into care may be relevant and may support the case, much of the proof has to arise from the time since the child came into care.

That is to say, parents have to be shown to have failed in the role of a non-custodial parent. This duty and care has been held to comprise, amongst others, a duty to exercise access and keep in touch in various ways, take a close interest in the child's health, education, physical and emotional welfare, and the exercise of some control over the upbringing of the child re nurture, care or education.

(b) Establishing a case of failure to exercise the normal duty and care of parenthood has to address, in exact and specific form for each parent whose consent is to be dispensed with, all of the following:

- nature of parent child relationships/contact prior to Guardianship Order
- the contact with non-custodial parent at the time the child came into care
- details of support/facilities offered to parents to meet contract or goal

- details of access meetings (when, where, how long, since when, quality of)
- details of provision of food, clothing, shelter
- details of enquiries made regarding the child and his/her circumstances (of social worker, school, foster parents)
- child's response to and interest in natural family/parents
- details of parents role in time of child sickness (if relevant)
- details of exchange of gifts, letters, phone calls
- details of other operative links of child with parents/family (ie nurture, care or education)
- requests for return home of child and response
- details of any plan to return the child home and outcome
- details of known intention by parent(s) to seek return of child (dispensation action usually suspended if parent seeking return of child (Section 49 C & YP Act)) or applying for a Section 64 Review (C & YP Act)
- details of any barriers placed by anyone in way of access and/or involvement and reasons for this
- details of any maintenance order in force - is it up to date
- details of any other financial contribution
- a checking of some of the above details with foster parents of child to ensure exactness and completeness.

(c) On occasions a case is established under Section 8 (1)(b). This of course relies heavily on medical evidence.

(d) Very rarely a case may arise under Section 8(1)(c). This refers to a procedure whereby a Court elsewhere in the Commonwealth frees a child for adoption in NZ.

E8.18 Common Case Management Dilemmas

E8.18(1) Difficulties quite often arise in trying to match the case management requirements with the legal requirements.

Moves which may seem appropriate from a purely social work perspective may be quite inappropriate in legal terms.

E8.18(i) Two common problem areas are:

(a) Determining access for non-custodial parent.

Access arrangements may be quite liberal when the initial goal is return home, but if the goal is changed to adoption it may become necessary to reduce parental contact and access. Restrictions on access may also be appropriate where adoption is the initial goal. They may also be appropriate from a legal standpoint because it is more difficult to establish parental failure if very regular contact is being facilitated, and it may be desirable to cease encouraging access and contact.

However the temptation is to go a step further and generally discourage the parent from taking any interest in the child and severely curtailing access. This is unacceptable as it leaves the Court with the impression that the Department is manipulating the situation by attempting to ensure the failure of the non-custodial parent, and at the same time promoting the bonding of the child to the foster parents. This approach effectively prevents the parent from having any role to fall in, and reduces the chances of obtaining a dispensation order.

(b) Placing with a view to adoption when the child is not available in the legal sense

Dispensation applications will often be strengthened when the child is in the care of foster parents who wish to adopt, and the placement is going well.

Similarly, it may be thought desirable from a casework point of view to place a child for adoption once the goal has been approved, even if the parents are not willing to consent (or not available to ask). However this cannot be done. The child is not free for adoption until the necessary consents have been obtained or dispensed with, and the social worker cannot seek an adoptive home for the child. (See E8.10(d)).

E8.18(3) Faced with planning dilemmas of the sort listed above, a course of action appropriate to the pursuit of the best interests of the child should be identified, and if uncertainty about it exists, consultation with Regional Executive Officer (SW) can be arranged or liaison with the District or Head Office Solicitors depending on whether the issues of concern are social work or legal ones.

E8.19 PRESENTATION OF CASE FOR DISPENSATION ACTION

When it is clear that the adoption cannot be achieved with the required consents, the case is presented to the District Solicitor (or Legal Section, Head Office).

E8.19(1) General material:

- send District Office file (will be returned within 15 working days)
- file will contain:
 - (a) approved proposal for adoption goal
 - (b) all recent case plans

- copy of the Guardianship Order (in envelope, not spiked)
- full original certified copy of Birth Certificate (in envelope not spiked).

E8.19(2) Content of Submission recommending dispensation action

Introduction

- a Brief general comment about reason for submission.
- b Details of consents obtained or available
 - full name and address of any parent or guardian whose consent is available or has been obtained
 - details of when and where a consent has been obtained.
- c Information about natural parents/guardians whose consents unobtainable:
 - If mother;
 - full name including aliases, address, occupation, or benefit status and marital status
 - if address unknown give last known address, and full details of attempts to find her including details of informants and possible addresses overseas (see E8.11)
 - details of when last asked to consent (must be recent), and mother's reasons for refusal
 - If father:
 - if relevant give details of all possible fathers
 - full name including aliases, addresses occupation and benefit status and marital status
 - if address unknown - same details as with mother (above)
 - on what basis has he been identified as a required consenter eg -
 - was he married to the mother
 - details of any person to whom the mother was married at time of conception
 - was the father living with the mother in a domestic relationship at the time of conception or birth
 - was the father in an ongoing relationship but cohabitation after conception impossible for some given reason
 - if relevant state who alleges that a person is the father and the response of this person if known
 - has the father admitted paternity, signed Birth Registration or been adjudged the father

E8.19(2) (contd)

- has father acknowledged paternity by taking an ongoing role in life of child, even if spasmodic
- has any maintenance order or Liable Parent Contribution been established
- what was the father's response to a request to consent to adoption and reason for refusal
- when was the most recent request made.

If other guardian: (also E8.3)

- name and details of guardian
- details of legal basis of role
- what has been their exact role in the life of the child
- details of their response to a request to consent, reasons for refusal, date last approach made.

d Evidence to Support dispensation of consent

Explicit account of the grounds established under Section 8(1)(a) or (b) or (c) of Adoption Act, 1955 (see E8.17(3))

e Pursuit of Best Interests of Child

- brief summary about the ways in which adoption will further the best interests of the child
- if there are already applicants seeking to adopt the child that information will be available in the approval on file
- if a placement is not being made until availability of the child for adoption is established provide some brief comment about the placement that will be sought.

f Additional Information for Affidavit

- full name and address of the social worker who is the current caseworker and length of time involved
- full name and address of any other staff who may be required to make an affidavit. Sometimes a foster parent may be required to give evidence
- whether the social worker and others offering proof would prefer to swear or affirm. ie whether they hold religious beliefs that enable them to swear on the Bible or not.

g Recommendation endorsed by SSW (105)

E8.20 ACTION FOLLOWING PRESENTATION OF CASE**E8.20(1) Legal Activity and Liaison**

Upon endorsement of the action from a casework perspective the submission is referred to the District Solicitor or Legal Section, Head Office as appropriate. A legal opinion is prepared from the material provided and if it is considered that the case has at least a reasonable chance of success it is prepared for presentation before the District Court. (See E 8.16(1))

When affidavits are prepared they are returned to the social worker for swearing or affirmation.

Liaison will be direct between social work staff and the departments solicitors (whether District or Head Office) preparing the case.

In areas without a District Solicitor the Office Solicitor engages a Crown Solicitor to represent the department in the Court proceedings. If adoptive applicants prefer to use the services of their own solicitor and proceed on a private basis, they may do so. However, if they wish to have assistance in meeting the legal costs, approval must be obtained from the Director General (Legal Section). This approval must be obtained before the legal process commences. It is usually preferable for the departments solicitors to prepare cases for dispensation as they have had the opportunity to build up a level of expertise to an extent not often possible for general solicitors.

E8.21 Application for Adoption Order

Following the granting of dispensation of consent/s an application for an Adoption Order must be filed within 6 months (or else the Dispensation Order lapses).

E8.22 Monitoring Responsibility

The Assistant Director (social work) and the District Solicitor or Legal Section, Head Office have a joint monitoring responsibility which continues until the Adoption Order has been achieved. The departmental solicitors will monitor the legal aspects of the case and the Assistant Director (social work) the social work and legal aspects where they impinge on each other and influence the progress of the dispensation proceedings.

Assistant Directors (social work) are expected to have in place a monitoring system and this should address in particular:

- the progress of dispensation proceedings and ensuring that requests for information from legal advisers are attended to promptly
- the need to ensure an application for an Adoption Order within 6 months of a Dispensation Order being made if the latter is not to lapse.

E8.23 ACTION FOLLOWING ADOPTION ORDER**(1) Interim Order:**

An advice slip is prepared indicating that the Order has been made. The child's status under the Director-General's guardianship continues and financial support is continued (unless the adoptive parents do not wish it).

(2) Adoption Order:

The Director-General's guardianship terminates automatically at this point, (Section 49(7)b C&YP Act 1974. An advice slip is prepared which shows this termination and the child's new name should be recorded as an "alias" so that subsequently the data can be recalled. Family Benefit, Family Support and Handicapped Child Allowance (if applicable) commence with the termination of board payments.

E8.24 Financial Support

When board payments are being made for a child at the time of an Interim Order of adoption, the payment can be continued until the adoption is finalised if the adoptive parents wish this. Such payments can be regarded as some recompense for the legal fees incurred.

When an Adoption Order is made in the first instance (and the Director-General's guardianship immediately ceases), in order not to disadvantage the adoptive parents, board payments may be continued for a six month "interim" period. This action requires the approval of SSW 105. Payments of Family Benefit etc would not then occur until board payments ceased.

In any case where extraordinary costs arise in relation to the adoption of a child or young person in care eg obtaining consents of parent overseas, recommendations for some assistance with legal fees should be referred by SSW 105 to the District Solicitor or Director General (Legal Section), Head Office. Whenever possible, approval for assistance should be obtained prior to the legal action occurring.

E8.25 Director-General's Consent Not Required

The provisions of Section 7(3) of the Adoption Act 1955 do not require the Director-General's consent to the adoption of a State Ward. When the Act was framed the inter-departmental committee considering its provision decided that as Social Workers must approve placements for adoption and must also provide reports to the Court there would be adequate safeguards. If a District Judge queries the absence of a consent executed by the Director-General, the Social Worker should explain that the Director-General does not interpret Section 7(3) of the Act as requiring consent from him.

This must not be confused with adoption consents based on Section 7(4) of the Act. If that procedure is used, the Director-General's consent is clearly required.

E8.26 Procedure to be followed where the Director-General opposes an adoption placement for a child or young person in care where it has been recommended by a Social Worker

There may be occasions when a Social Worker and the Director-General (or whoever is acting with his delegated authority in respect of the adoption of children and young persons in care) disagree over a particular adoption placement. If the proposed adoption has already come before the Court then the Social Worker should set out clearly in their report that the Director-General (or whoever is acting with his delegated authority in this respect) opposes the granting of the application.

In circumstances where the matter has not yet proceeded to Court the Director will arrange for the case to be taken over by other appropriate staff in order that agreement can be reached on the proposed adoption.

E12.5 The Welfare of the Child is Paramount

When reporting on any adoption proposal or in dealing with local inquiries concerning an overseas child, Social Workers should keep these guidelines constantly in mind. However well-motivated and worthy would-be adopters may be, it is the child who must be considered first. The guidelines are designed to ensure that his welfare will be promoted by adoption and that he will "settle harmoniously into his new community". If he is living in reasonable circumstances overseas entry is not likely to be granted.

E12.6 Location of Children

It is not intended that the Department will actively seek children overseas on behalf of people who want to adopt an unspecified foreign child. If inquiries of this nature are made the people should be told that most countries are not keen on "exporting" children for adoption but if they know of, or think they can locate a child, their proposal will have to be thoroughly investigated both here and overseas and will have to meet the guidelines set by Government.

E12.7 Problems Associated with Inter-Country Adoptions

Adoptive applicants should be told that inter-country adoption is often a complex, lengthy, and costly business. Social Workers should carefully discuss the problems of inter-cultural adoption with enquirers and try to assess their motives. Many people who wish to adopt a foreign child have worthy humanitarian reasons for doing so but may not have thought objectively about the difficulties of bringing up a child from another culture.

E12.8 Non-European New Zealanders Wanting a Child of Their Own Race

Sometimes childless non-European New Zealanders wish to adopt a child of their own race and cannot do so in this country. Although in general the Department does not try to locate children in other countries for adoption, some limited assistance may be possible in certain cases where a couple does not know of a particular child who is available.

Inquiries should be referred to Head Office but nothing should be said to raise a couple's hopes of success as such children, especially Chinese ones, are often very much in demand in their own countries and legal difficulties are numerous.

E12.9 Children Living in New Zealand on Temporary Entry Permits

Sometimes a couple apply to adopt a child who comes from overseas and is already living with them, but has only a temporary entry permit to stay in New Zealand.

As adoption in New Zealand may not give such a child the right to remain in New Zealand it is essential in all adoption applications where the child concerned comes from overseas that details be immediately sent to Head Office. No report recommending the making of an adoption order should be sent to the Court until this has been done and the question of the child's residential status has been determined.

E13. ADOPTION APPLICATIONS BY MEMBERS OF STAFF(ref H7.4 re Delegation)E13.1 Guidelines

Amongst a staff as large as ours there are certain to be members who wish to adopt a child. With the difficulties being experienced in having enough babies for placement with approved applicants it is important that Department staff are not advantaged or disadvantaged by being attached to this Agency.

The following guideline should therefore apply.

- (a) When staff who have little if any contact with social work staff involved in adoption the normal processing procedures should apply.
- (b) For Benefits and/or Administration staff who are known to the adoption workers a brief interview should be done by the A/D Social Work, asking if the couple are happy to be processed in the local office or if they would prefer to have other arrangements made.
- (c) When senior departmental staff and any member of the Social Work staff wish to apply to adopt their request is to be forwarded to the Regional Director.

In most cases such an application will be dealt with by the Social Worker nearest to the applicants district who is working full time in the adoption area. Before any decision is made however the A/D Social Work in the applicants district will be asked to discuss with the couple the alternatives available with particular reference to difficulties that might be experienced because of moving outside their home area.

Except in exceptional circumstances senior and social work staff adoption applications will not be processed in the office where the applicant is working, and any placement will be made from the district that processes the application. In cases where a staff member is either the adoptive applicant or the parent of the child being adopted, form SW 569 (advice to National Index about family benefit) should be placed in an envelope separate from other National Index mail, marked "Staff matter - Confidential" and addressed to the Administration Officer him/herself, Data Processing Centre, P.B. 27/1, Upper Hutt. The form should either be noted to indicate which of the parents is a staff member or should be accompanied by a covering note explaining the situation. When forms FB 5, FB 6, FB 35 and 35A relating to family benefit are sent out from National Index, they will be enclosed in a separate envelope marked "Staff Matter - Confidential" and addressed to the Director him/herself. A covering note will show the relationship between child and staff member.

E9 ADOPTION APPLICATIONS BY PEOPLE WHO LOCATE A CHILD BY THEIR OWN MEANS

When couples who have located a child for adoption approach the Department for approval either prior to or after the birth of the child, the assessment procedures should commence immediately and not wait upon a request from the Court for a report.

References and a Police report are to be obtained and the interviews are to be carried out, within the time limitation, with the same thoroughness as any other application.

Recommendations to the Court when a report is requested should identify the positive and negative elements of the placement and, while it must take into consideration the wishes of the birth mother and the already established contact, the fact that placement may be a 'fait accompli' does not absolve the Social Worker from opposing an order being made if the needs of the child cannot be met in the suggested home.

The fact that a child is the subject of an application where the placement has been arranged privately does not mean that the needs of that child differ from those whose placements are arranged by the Department.

When such adoption applications are reported on by a Social Worker from this department they must be subject to the same standard of investigation which is undertaken when the Department has responsibility for placing the child. That is, not only must the adoptive parents' personal background and present situation be discussed but the situation regarding the early history of the child and the personal wishes of the birth parents need to be checked out even if the consent(s) has been signed.

The "welfare and interests of the child" need to be the prime consideration. However, the natural rights and wishes of the birth parents must be respected. The fact that this Department may be able to make what appears to be a more suitable placement is not the point at issue. Of most importance is that any placement will provide a secure and loving environment for a child and the report should reflect the Social Workers' views on this after they have completed their investigations.

When the child is already in the home approval on form SW 602 is not issued to give legal cover to the situation while the Department's investigations are being carried out. Any person making a request for an approval in these circumstances should have their attention drawn to Section 6 of the Adoption Act.

E10 IDENTIFICATION OF ADOPTING PARENTS BY NATURAL MOTHER

E10.1 Mother Legally Entitled to Know Names of Adopting Parents

Section 7(6) of the Adoption Act 1955 provides that "The consent of any parent or guardian of a child to an adoption may be given ... without the parent or guardian knowing the identity of the applicant for the order". This means that solicitors and others are legally entitled, provided they have the concurrence of the parent or guardian to obscure that part of the consent document containing the identity of the adopting parents at the time that the parent or guardian signs it, or else to use a form of consent that does not specifically name the applicants. In the majority of cases mothers do not want to know the names of the adopting parents and this procedure is therefore widely practised. In a few cases, however, the mother will ask to know the names of the adopting parents and while Social Workers may advise the mother against this, she is nevertheless legally entitled to know. Such a wish on the mother's part will usually be made known during the initial interviews in which case the Social Worker would have to accept her wishes although he/she would need to be frank about the possible difficulties of finding a couple willing to adopt a child whose mother would later be able to identify them. There are couples who would be happy to meet or have direct contact with the mother of a child available for adoption and sensitively handled, this can be a positive experience for all concerned. (Refer E10.3.)

E10.2 Adoptive Parents Should be Consulted Before Disclosing Name

On the other hand the mother may not request the disclosure of identity until much later when preliminary arrangements will have been made and adoptive parents found. She may even leave it until she is about to sign the consent document. If this occurs, the Social Worker should consult the adoptive parents before disclosing identity so that they may reconsider their decision, if they wish, in the light of the natural mother's request.

E10.3 Meetings Between Natural and Adoptive Parents

Provided that all parties are in full agreement and the Social Worker is convinced that it would be beneficial to all concerned there is no reason why arrangements should not be made for a meeting between one or both adoptive parents and one or both natural parents of the child in question. Such an arrangement, however should not be undertaken lightly and not without prior discussion with a Senior Social Worker. This could be done without revealing identity on a first name basis. (Refer E6.15.)

E11 ADOPTIVE APPLICANTS FROM OVERSEASE11.1 Inquiries Received (Section 3)(ref H7.4 re Delegation)

When overseas people make inquiries regarding adoption before they come to New Zealand such inquiries are to be referred to the Director-General for reply. The Department can not assist overseas applicants to adopt a child here and will not obtain advance background reports on applicants who wish to contact a private organisation which arranges adoption placements. Social Workers should not advise overseas applicants to locate a child through private sources, but if applicants have a child offered to them in this way then the Director-General should be advised immediately.

E11.2 Applicants to Apply Direct to Court(ref H7.4 re Delegation)

There is nothing in the Adoption Act to prevent persons coming from overseas, locating a suitable child, and applying to the Court here for an adoption order. However, because such applicants are generally known to us on paper only and because they normally apply for a final order in the first instance, leaving no opportunity for a trial period as provided by an interim order, Social Workers should not issue an approval but should advise the applicants to apply direct to the Court. When such applicants locate a child privately and apply direct to the Court for an adoption order, a Social Worker is required to report to the Court in the usual manner. All such cases should be referred to the Director-General who will obtain background information from the appropriate overseas social work agency. When a request for a report arrives from the Court it should be actioned quickly as overseas enquiries usually take a considerable time. (Refer also E6.13.) The Court should be advised that a report cannot be filed until such time as reports are available from the adoptive parents' country.

E11.3 Criteria for Reporting on Overseas Adoption Orders

The first basic point that should be made in considering an adoption application from overseas when reporting to the Court is that the present and future welfare of the child is paramount. This of course applies to all adoptions.

Since we are basing a favourable recommendation to the Court in any overseas adoption on what we judge to be the child's welfare we should consider amongst the usual criteria, the educational and employment opportunities available to the child in the country of placement.

It is important to establish whether a New Zealand adoption order will be recognised in the applicants' own country and whether it will have the right to enter its new parents' country and to receive full citizenship.

The mother of a child proposed for placement with overseas applicants should be told something of the proposal and of the likely making of a final order in the first instance.

E11.4 Judges' Attitudes

Some Judges have in the past been willing to grant a final order in the first instance; some have granted an interim order, and have given leave under Section 15(2)(6) of the Act for the applicants to take the child out of New Zealand, and have later been willing to accept the reports of a reliable person or agency in the applicants' own country to grant a final order on the basis of these reports. However, certain Judges take the view that once a child leaves New Zealand s/he is beyond their jurisdiction and they have declined to follow the latter course.

E11.5 Applicants Arriving Without Warning

There are always cases where a couple from overseas arrive without warning and inquire about adoption. In such instances the couple should be told that the Social Worker can not approve placement or assist in any way.

E11.6 United States Adoptive Parents

A New Zealand child who has been in the care of American adoptive parents for less than two years can be admitted to the United States in only two ways:

- as an immigrant on the New Zealand annual quota (this involves long delays as the New Zealand quota is very small);
or
- as an "eligible orphan".

An "eligible orphan" under the United States immigration law is defined as a child under fourteen years of age who is an orphan because both parents have died or disappeared or deserted it. For a child to be allowed entry on this basis the United States Naturalisation Department requires proof that the natural parents of an adoptive child have released it for adoption and emigration and also that they are incapable of caring for it themselves. Social Workers who arrange adoption placements with American citizens intending to return to the United States should obtain from the natural parents a statement to this effect and advise all applicants to consult their Embassy about immigration regulations. Where a child is born out of wedlock only the mother's circumstances are taken into account.

E11.7 Australian Adoptive Parents

Australians who adopt a child in New Zealand should have it pointed out that not all Australian States recognise adoption orders made in New Zealand. If they intend returning with the child to Australia they should be encouraged to consult the Australian High Commission as to the ruling in the state to which they may return.

E12 OVERSEAS ADOPTIONS AND IMMIGRATION

E12.1 Entry to New Zealand of Children Adopted Overseas

Children adopted in overseas countries may enter New Zealand in the following ways -

- (a) Where a New Zealand citizen(s) has adopted a child overseas, and if that adoption satisfies Section 17 of the Adoption Act 1955 (i.e. the order is made "according to the law of that place" and gives the adoptive parents rights superior to those of the natural parents with regard to custody and property) then the child is deemed to be a New Zealand citizen and has a prima facie right of entry into New Zealand.

Right of entry in these instances is obtained through the provisions of Section 3(2) of the Citizenship Act 1977.

This section reads -

"a person shall be deemed to be the child of a New Zealand citizen if he has been adopted by that citizen ... by an adoption to which Section 17 of that Act applies".

- (b) Where the provisions of the Citizenship Act 1977 do not apply (and therefore the child does not have a prima facie right to New Zealand citizenship) an entry permit is required before the adopted child can enter the country.

Government's guidelines which determine the rights of entry of children involved in adoption, apply in these cases. (Refer E12.4.)

E12.2 Entry Permit for Foreign Children for Adoption in New Zealand

In most cases a foreign child for adoption in this country must be granted an entry permit by the Immigration Division of the Department of Labour before he/she can come to New Zealand. Governments guidelines also apply in these cases.

E12.3 Overseas Adoption Matters to be Directed to Head Office
(ref H7.4 re Delegation)

All matters concerning the proposed adoption in New Zealand of overseas children or the location of overseas children or the entry of children adopted overseas should be referred to Head Office. This should be done as soon as possible after advice in districts is received.

The only exception to this instruction is where -

- (1) An adoption order has already been obtained overseas by New Zealand citizen(s), and
- (2) Where the adoptive parents wish to obtain the child's entry.

In this instance the enquirers should be referred to the Department of Internal Affairs (Citizenship Division). If any doubts are held about this type of enquiry then advice should be sought from Head Office.

When advising Head Office of any proposal, districts should provide full details of the applicants and the child (if the child is known) where appropriate an assessment of the applicants should commence as soon as possible.

Social Workers should not enter into correspondence with the Department of Labour. These matters are handled by Head Office.

E12.4 Guidelines for the Adoption of Overseas Children

Before a recommendation can be made to the Department of Labour there must of course be a full investigation of the applicants' circumstances as in a local adoption, but it is also particularly important to know a good deal about the child concerned, to see whether the guidelines apply. This may entail inquiries overseas.

The guidelines are as follows:

- (a) The child should be in need of help, and it should be in the interests of the child that it move from the society in which it has been born and be adopted by parents from another country.
- (b) To ensure as far as possible that the adoption will be successful, the prospective adoptive parents, the child and the other consent etc.) must meet the standards which apply to the adoption of a child born in New Zealand.
- (c) To assist the child to adapt to its new society it should be pre-school age, unless there are special circumstances.
- (d) To promote the better matching of the child with the prospective parents an overseas social welfare agency, acceptable to the Department of Social Welfare in New Zealand, should report on the child.
- (e) The prospective parents must have a genuine reason for seeking the adoption.
- (f) Proxy adoptions will not normally be accepted unless the adoptive parents have had previous ties with the child.
- (g) Where the adoptive parents have not made arrangements for the adoption in accordance with the above criteria before leaving New Zealand, but while temporarily overseas wish to adopt a child in an overseas country, the adoption must conform with the law of that country, and before the parents return to New Zealand the child must have lived with them for a sufficient period to ensure that it has become an integral part of the household.

E12.5 The Welfare of the Child is Paramount

When reporting on any adoption proposal or in dealing with local inquiries concerning an overseas child, Social Workers should keep these guidelines constantly in mind. However well-motivated and worthy would-be adopters may be, it is the child who must be considered first. The guidelines are designed to ensure that his welfare will be promoted by adoption and that he will "settle harmoniously into his new community". If he is living in reasonable circumstances overseas entry is not likely to be granted.

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Inquiries should be referred to Head Office but nothing should be said to raise a couple's hopes of success as such children, especially Chinese ones, are often very much in demand in their own countries and legal difficulties are numerous.

E12.9 Children Living in New Zealand on Temporary Entry Permits

Sometimes a couple apply to adopt a child who comes from overseas and is already living with them, but has only a temporary entry permit to stay in New Zealand.

As adoption in New Zealand may not give such a child the right to remain in New Zealand it is essential in all adoption applications where the child concerned comes from overseas that details be immediately sent to Head Office. No report recommending the making of an adoption order should be sent to the Court until this has been done and the question of the child's residential status has been determined.

E13. ADOPTION APPLICATIONS BY MEMBERS OF STAFF(ref H7.4 re Delegation)E13.1 Guidelines

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The following guideline should therefore apply.

- (a) When staff who have little if any contact with social work staff involved in adoption the normal processing procedures should apply.
- (b) For Benefits and/or Administration staff who are known to the adoption workers a brief interview should be done by the A/D Social Work, asking if the couple are happy to be processed in the local office or if they would prefer to have other arrangements made.
- (c) When senior departmental staff and any member of the Social Work staff wish to apply to adopt a baby/older or special needs child their request is to be forwarded to the Senior Social Worker Adoptions, Head Office who will refer it to the permanent Head Office Adoption Committee.

In most cases such an application will be dealt with by the Social Worker nearest to the applicants district who is working full time in the adoption area. Before any decision is made however the A/D Social Work in the applicants district will be asked to discuss with the couple the alternatives available with particular reference to difficulties that might be experienced because of moving outside their home area.

Except in exceptional circumstances senior and social work staff adoption applications will not be processed in the office where the applicant is working, and any placement will be made from the district that processes the application. In cases where a staff member is either the adoptive applicant or the parent of the child being adopted, form SW 569 (advice to National Index about family benefit) should be placed in an envelope separate from other National Index mail, marked "Staff matter - Confidential" and addressed to the Administration Officer him/herself, Data Processing Centre, P.B. 27/1, Upper Hutt. The form should either be noted to indicate which of the parents is a staff member or should be accompanied by a covering note explaining the situation. When forms FB 5, FB 6, FB 35 and 35A relating to family benefit are sent out from National Index, they will be enclosed in a separate envelope marked "Staff Matter - Confidential" and addressed to the Director him/herself. A covering note will show the relationship between child and staff member.

E13.2 Adoption by Relatives of Social Workers

To ensure that the department's impartiality in respect of adoption cannot be questioned, Social Workers should not handle adoption matters when a relative is involved. In all such cases, another Social Worker, not previously personally involved, should handle the application. In small districts it may even be necessary to request an officer from an adjoining district to handle a particular adoption.

Assistant Directors (Social Work) should be informed by any Social Worker when a relative is an adoption applicant, so that s/he may re-allocate the inquiries to another Social Worker.

APPENDIX TO PART E

	<u>Form</u>	<u>No.</u>	<u>Ref</u>
Fig. 1	Report on Child available for Adoption	SW 581	E4.1, E7.4
Fig. 2	Application to receive a child with a view to Adoption	SW 545	E3.4, E3.30
Fig. 3	Social Worker's summary report on adoptive applicants	SW 554	E3.24 - E3.29
Fig. 4	Police report on applicants for adoption	SW 532	E3.34
Fig. 5	Letter to Referees	SW 547	E3.31
Fig. 6	Letter to adoptive applicants		E3.41
Fig. 7	Summary report of adoption application	SW 529	E3.45
Fig. 8	Social Worker's approval for the placement of a child for the purpose of adoption	SW 602	E6.11
Fig. 9	Statistical Summary Card	SW 606	E7.5
Fig. 10	Notification to Benefits and Pensions, Head Office of child's placement for family benefit payment	SW 569	E6.13, E6.20, E7.4
Fig.11	Case Plan	SW 515	E8.3, E8.6
Fig. 12	Flow Chart of Social Work and Clerical procedures for Adoptions		E6, E7

Report on Child Available for Adoption

Full Name of Child Sex Date of Birth

Confined at Date Due Registered at

Birth weight Time of Birth

Delivery details in full

Progress while in hospital

Discharge report (to include details and results of all tests done and any medication administered or prescribed)

Full medical report to be sent to (name of Family Doctor)

Address

Description of child (to include race)

Placement Data

Date of placement Approving Social Worker

Date consent signed Solicitor Phone

Conditions of placement (if any)

Contact made between adoptive/natural parents (to include details of meeting, gifts exchanged etc.)

Attitude of natural mother to later contact

Attitude of adoptive parents to later contact

Birth Mother (if child is extra-marital)

1. Name (underline Surname)

Known as (underline Surname)

Maiden name (if applicable)

Address Phone

Date of birth Religion Race Tribe

Place of birth Nationality

Single/married*/separated*/divorced*/widowed* (delete)

*Will she consent to adoption? Yes/No

2. Pen picture: brief description of mother including colour and texture of hair, skin, eyes, height, build, personality and overall impressions

Dr. Address

Number of birth mother's brothers and sisters and any relevant information about them

Natural Father

1. Name (underline surname)

Known as (underline surname)

Address Phone

Date of birth Religion Race Tribe

Place of birth Nationality

Single, married*/separated/legally separated*/divorced*/widowed* (delete)

Name of child's stepmother/father's cohabitee

2. Paternity and maintenance information.

Is he named on the child's birth certificate? Yes/No

Does he know he is said to be the father of the child? Yes/No

Is a maintenance order in effect or being applied for? Yes/No. If yes, give details

Will he consent to the child's adoption? Yes/No

3. Pen picture: brief description of father including colour and texture of hair, skin, eyes, height, build, personality and overall impressions

4. (a) Is his present state of health satisfactory? Yes/No. If no, give details

Dr. Address Phone

(b) Has he had in- or out-patient treatment at hospital? Yes/No. If yes, give details

(c) Is there any history of mental illness, low intelligence, or unstable personality? Yes/No. If yes, give details

(d) Has he suffered from epilepsy, allergic conditions, tuberculosis, diabetes, or any hereditary defect or disease? Yes/No. If yes, give details

(e) Are any of the above conditions (c and d) or other disorders present amongst near relatives? Yes/No. If yes, give details

5. (a) Father's relationship with his own family — past and present

(b) Education — type of school. Further education or training. Academic or other qualifications

(c) Occupation — present and previous occupations

(d) Interests, hobbies, talents

(e) Information on relationships with child's mother

(f) Father's present situation and future plans for himself and any other children he has

6. Further details of birth father's family background. (This information is important to the child in later life.)

Birth Father's Parents

His Father's Name Age Place of Birth

His Mother's Name Age Place of Birth

Are they aware of this child's birth? Yes/No Mother Father

Ethnic background

Physical appearance

Education, occupation, and interests

Health, past and present

(If dead, state cause and at what age)

Parents' siblings (any relevant information)

Number of birth father's brothers and sisters and any relevant information about them

Details of Husband (if child is extra marital)

Full Name

Address

Marital status

Present relationship with wife

Attitude towards child (is he aware of his/her existence)

Will he consent to adoption if required. Yes/No

Social Workers Comments (to include reasons for placement)

Social Worker

Number and date of interviews

APPLICATION TO RECEIVE A CHILD WITH A VIEW TO ADOPTION

APPLICANTS' SURNAME			Phone No.
ADDRESS (Describe location if necessary)			
If moved there within three years give previous address			
HUSBAND	(Christian names)/...../19..... (Date of birth)	
Occupation	Employer:		
Religious denomination ..	Approximate annual income:		
WIFE	(Christian names)	(Maiden surname)/...../19..... (Date of birth)
Occupation (Present or prior to marriage)	Religious denomination:		
When were you married ..	/ /19	Where were you married?	
Have you any children born of your marriage or of one of you? If so, give their full names and birth dates.			Are you both British nationals or New Zealand citizens? If not, give details:
Have you previously adopted a child? If so, give name(s) and birthdate(s)			Have you previously applied to adopt? If so, to whom?
If either of you has been married previously please state	How was the marriage terminated?		
	Where and when was it terminated?	If the wife has been married previously please state her former name:	
Has either of you been adjudged guilty of any offence against the law? If so, give details and dates			
Give the names and addresses of at least two persons (not being relatives) who know you well as a married couple and who would be able to vouch for your character and suitability to adopt a child (NOTE—Referees will be asked to report independently.)			
Do you have a particular child in mind in making this application? If so, give his or her name	If you have preferences as to the age, sex, or race of the child you hope to adopt, please state these: Please state the religious denomination in which you intend that the child should be brought up:		
Give the name and address of your solicitor			

The Director, Department of Social Welfare,

We have considered this matter together and now make joint application to take into our home a child for adoption. We believe that we can adequately maintain and satisfactorily care for any child who may be placed with us. We realise that our application may not succeed, and that if it does we may have to wait a considerable time before a placement can be arranged.

..... (Husband).

Date:/...../19.....

..... (Wife).

(Please Tumble

SOCIAL WORKER'S SUMMARY REPORT ON ADOPTIVE APPLICANTS

Dates of office interview and home visits

Applicant's surname:		Descriptive address:
Referred by:		Applications with other agencies:
Reasons for wishing to adopt – (include any relevant medical history)	<p style="text-align: center;">Doctor: Doctor's opinion sought:</p>	
Accommodation: (Note adequacy and whether owned or rented)		
Financial position: (Broad outline of income, savings, debts, insurances, commitments, etc.)		
Personal background: Health: Education: Employment history: Interests and hobbies: Church affiliation: Experience in child care: Intelligence: Standard of living: Personality: Comments on own or adopted children: Physical appearance: (Height, build, colouring, etc.)	Wife – age: Race: Country of birth:	Husband – age: Race: Country of birth:
Attitude to special placement: (e.g., non-european, handicapped, etc.)		

(Fig 3 - Cont)

Page 2

Comments on application -- (impressions from visits and interviews and oral comment from referees and police insofar as not documented elsewhere on file).

Office interview:

Home visits:

Home visits (continued):

Recommendation:

Application is approved/not approved/deferred*.

Decision:

.....
Social Worker.

.....
Approving Social Worker.

*Delete whichever not applicable.

Police Report on Applicants for Fostering or Adoption

The Supervisor,
Criminal Records Bureau,
Police National Headquarters,
Private Bag,
WELLINGTON.

I/We have applied to adopt/foster (a) child/ren. I/We therefore consent to a search being made of your criminal records and any criminal history information held by you being disclosed to the Department of Social Welfare. In the case of an adoption application I/We understand that the result of these enquiries will be made known to the Court if I/We file an application for an Adoption Order.

Signed: (husband)

..... (wife)

Witness:

Date:

(For office use only)

Husband's full name:
Forenames Surname

Date of Birth: Occupation:

Wife's full name
Forenames Surname

Wife's maiden or earlier surnames:

Date of Birth: Occupation:

Applicants' address:

Former address/es if moved within the last three years

Brief details of any convictions disclosed

Date of previous report and police record number

Would you please conduct a search of your records in accordance with the above request and advise this department of any police prosecutions in respect of either of the abovementioned applicants.

*A reply paid envelope is enclosed.

*Also enclosed is a duplicate copy for your own records.

.....for Director

.....
District

The Director,
Department of Social Welfare,

.....

A search has been made of our records and the following is the outcome

Date:

Supervisor
Criminal Records Bureau
Police National Headquarters

4-3/86

DEPARTMENT OF SOCIAL WELFARE



DISTRICT OFFICE,

Telephone:

Telegrams: Distwel

If telephoning or calling about this letter, please ask for

Reference: (Please quote)

Dear

of have/has applied to this Department to foster/adopt a child, and have/has given your name as a person who knows the family well and could act as a referee.

There is considerable responsibility in finding the right family for a foster/adoptive child – not only to ensure a good future for the child but also for the satisfaction of the foster/adoptive family. We like to share this responsibility with people who know the applicant(s) well.

For this reason we would be pleased if you could complete the sections overleaf, drawing on your knowledge and observations, and then return this form to the Department in the enclosed stamped addressed envelope.

If you feel you do not know the applicant(s) sufficiently well or you do not wish to complete the form please tick here and return.

If you would prefer to discuss this matter personally, please contact the social worker whose name appears below the letterhead.

Yours faithfully,

for Director.

Question 1 Please comment on the applicant's maturity and stability.

Question 2 Please comment on the ability of the applicant(s) to be flexible and to cope with stress.

Question 3 Are the applicant(s) able to give and receive affection within their own family? Please give details.

Question 4 If the applicant(s) have children of their own how do you think their children will influence the success or failure of the proposed placement? Is the applicant's family one you like your children to be with?

Question 5 Have you any other comments which may be of value to us in considering the application?

Sample letter to adoptive applicants
advising that their application has been accepted

Dear Mr and Mrs -----

I am pleased to inform you that our enquiries regarding your application to take a child, with a view to adoption, have been satisfactorily completed. Your names have now been added to our records of couples assessed as being suitable.

As there are so few babies at present available for adoption, the recording of your name does not guarantee that I will ultimately be able to offer you a child. It may therefore be necessary to review your circumstances from time to time.

Should you yourselves locate a child who is available for adoption you should contact me. The reason for this is that before you may receive a child who is not related to you and is under the age of 15 years, into your home with a view to adoption, you must have either the approval of a social worker under section 6(1)(2) of the Adoption Act 1955, or alternatively an interim order from the Court.

If you should change your address, be away from home for any length of time, or should your situation change, would you please advise this office. During the waiting period, which may well be lengthy, we would like you to feel free to keep in touch with your visiting social worker or the adoptions social worker from time to time.

Yours sincerely,

for Director

NEW ZEALAND DEPARTMENT OF SOCIAL WELFARE
SUMMARY RECORD OF ADOPTION APPLICATION

(Fig 7)

S.W. 529

Serial Number
of Application:

Address: _____ Phone: _____

Age at Application — (a) Husband: _____ (b) Wife: _____ Religious Denomination — (a) Husband: _____ (b) Wife: _____ Religion child to be brought up in: _____

Occupation — (a) Husband: _____ (b) Wife (present or prior to marriage): _____ Willingness to board child while waiting: _____ Solicitor: _____

Age and sex of child applied for: _____
Children — (a) Own: _____ (b) Adopted: _____
Birth dates: _____ Sex: _____ Birth dates: _____ Sex: _____
Comment on Applicant's background and suitability: (Education, intelligence, health, standard of living, child-care experience)
Attitude to "Difficult" placement: (Part Maori, handicapped, older child)

Date of Application: _____ Dates of follow-up inquiries by Applicants prior to placement: _____

PLACEMENT: Child's Name: _____ Sex: _____ Date of birth: _____ Where registered: _____ Natural mother — Name: _____ Address: _____ Marital status: _____ Additional comment: _____

Placement arranged by: _____ Date placement: _____ B. and P Section advised: _____ Interim order made: _____

_____ (Applicants) _____ (Child) _____ to adopt _____

1	2	3	4	5	6
---	---	---	---	---	---

(Remove flap after typing)

NEW ZEALAND DEPARTMENT OF SOCIAL WELFARE

**Social Worker's Approval for the Placement of a Child
for Purpose of Adoption**

(Section 6 (1) (a) Adoption Act 1955)

ACTING under the authority of section 6 (1) (a) of the Adoption Act 1955,

I, , Social Worker
of hereby approve the placement
in the home of and
....., his wife
at
of
(a male child born on at)
for the purpose of adoption.

.....
Date. Social Worker.

NOTE— This approval is valid for one month only. Within one month from the date of the approval the adopting parents must, if the child concerned is still in their care, apply to the Court for an interim order of adoption. Failure to apply could constitute an offence under section 27 (a) of the Adoption Act 1955.

NOTES FOR GUIDANCE

For adoptions in which the Department was not involved, much of the information on this form will not be available, and some questions may not be relevant. In these cases enter NA (not applicable), or NK (not known) for the appropriate questions.

Age at Placement

If the child was already in the adoptive home prior to the adoption, e.g., in parent-spouse adoptions, enter NA (not applicable).

Age of Natural Parents

This is the age of the natural or birth parents at the time of the birth of the child.

Age of Adoptive Parents

This is the age of the adoptive parents at the time of the final adoption order.

Question 31 -- Adoption of Children in Care

Remember to fill in the length of time (years and months) the child was under the care of the Director-General.

CONFIDENTIAL

(Fig 10)

S.W. 569

Serial No. /

DEPARTMENT OF SOCIAL WELFARE

TO: Administration Officer,
Data Processing Centre,
Private Bag 27/1,
Upper Hutt.

FROM: Social Work Division.

Office
Date
Stamp

FAMILY BENEFIT

The person named below will be applying for family benefit for the child placed with her with a view to adoption. The child is now being maintained without cost to the State.

Natural mother: Mrs
Miss

Address:
.....

Child's name:

Date of birth:

Registered at

Adoptive mother:

Adoptive father:

Address:
.....

Date of placement:

*The adoptive mother is already receiving family benefit for

.....
Assistant Director.

*Delete if not applicable.

HEAD OFFICE INDEX ACTION

Index Cards
Prepared/Amended:

Form FB 6
Prepared:

(S.W. 569 Serial No.)

Recorded:

Checked:

Form FB 5
Issued to

CASE PLAN

Reg. No.

Child's Name: Born:

Identifying Information

(Attach a copy of S.W. 542A and S.W. 542B or C for information of Review Panel)

A SUMMARY GUIDE TO COMPLETING THE CASE PLAN

THIS PAGE – Attach S.W. 542A and latest B or C to give identifying and background information when case referred to review panel.

INSIDE PAGES –

- The maximum period of any plan is 6 months.
- Persons consulted should be named and those who have agreed to it should be underlined.
- The Goal should be the special long-term casework objective.
- The Target Problems are those which are identified as being an impediment to achieving the goal and which have been selected for social work intervention.
- The short-term Objectives should flow from the Target Problems and summarise what needs to happen in the next six months.
- Tasks are those specific actions expected to be undertaken by each person e.g. parents, child, foster parents, social workers (list tasks for each separately) to achieve the short term objectives during the period of the plan.
- The Contingency Plan is the alternative that may need to be considered if short-term objectives are not being achieved.
- Progress Report section allows the Social Worker to assess the appropriateness of the goal and the relevancy of the target problems, to indicate which short-term objectives have been achieved and/or what has hindered progress, and to comment on the response of all parties (including the social worker) to the assigned tasks.

PROGRESS REPORT FOR PERIOD TO

GOAL AND TARGET PROBLEMS (How realistic was the goal and how relevant were the Target Problems?)

THE OBJECTIVES (which have been achieved?)

RESPONSE TO ASSIGNED TASKS

(Attach new plan for approval)

SOCIAL WORK PLAN FOR

AGE:.....

FOR PERIOD TO

PERSONS PRESENT AT THE MEETING (underline those who have agreed to plan)

PERSONS ALSO CONSULTED

GOAL (i.e. where should this child live permanently)

TARGET PROBLEMS (i.e. why can't he/she live there now)

SHORT TERM OBJECTIVES* (i.e. problems we will work on in the next six months)

TASKS* (i.e. jobs we each have to do)

CONTINGENCY PLAN

(A) If the goal cannot be achieved.

(B) If present living arrangements do not work.

Contact Social Worker

Approved

for A.D. S.W.

Date:

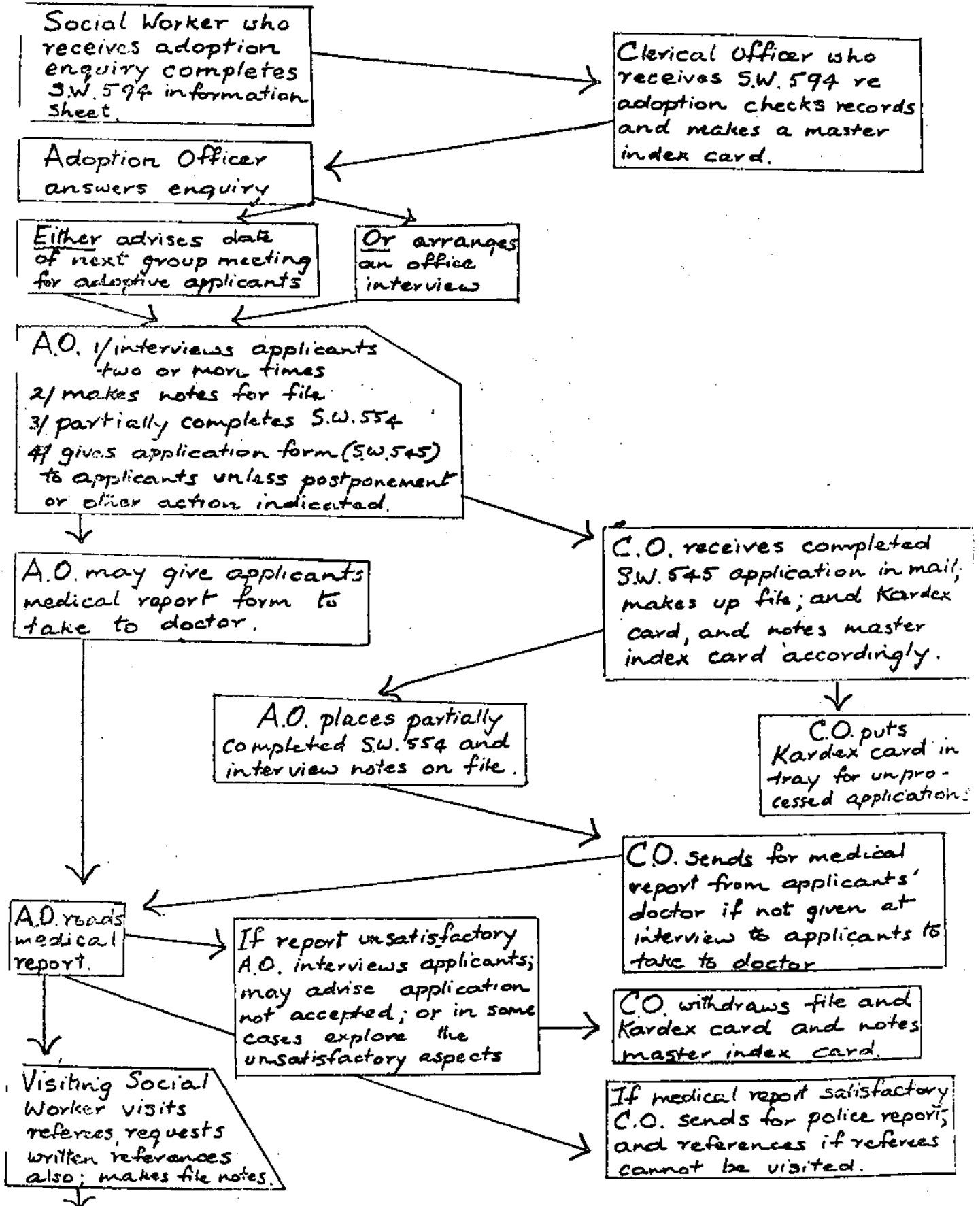
*If insufficient space use comments page

COMMENTS ON PLAN AND/OR PROGRESS BY S.S.W, A.D.S.W, OR REVIEW PANEL

FLOW CHART FOR ADOPTIONS

SOCIAL WORK ACTION

CLERICAL WORK ACTION



2.

A.O. studies police and referee reports and if favourable calls for home visits, giving instructions on particular aspects of application to note further.

V.S.W. makes home visit or visits, makes notes for file and completes SW 554

A.O. convenes selection panel to decide whether application should be officially accepted.

Accepted: A.O. notes file accordingly.

Declined: A.O. notifies applicants personally.

C.O. receives file for action

Accepted: C.O. prepares letter of acceptance and posts to applicants.
2/ tags file,
3/ notes Kardex card,
4/ prepares visiting slip

Declined: C.O. cancels records and withdraws file, notes master index

A.O. checks file

V.S.W. puts visiting slip in visiting book and makes periodic home visits during waiting period.

A.O. checks file when a suitable placement imminent.

When apparently suitable placement is in view A.O. refers proposal to selection panel.

A.O. or V.S.W. sees successful applicants who see baby in hospital and advise that they wish to adopt it.

C.O. prepares adoption approval and letter to solicitor. Sends notification SW 569 to Benefits and Pensions Section Head Office.



3.

A.O. signs and despatches letter and approval, signed by A.O. or V.S.W., to Solicitor promptly.

C.O. actions file:
1/ Alters master index card.
2/ Places Kardex card in "babies placed" tray.
3/ Places copy of letter to solicitor and approval on file.
4/ Places S.W. 581 (baby's background) on file.

A.O. checks that clerical action is complete

V.S.W. makes at least two home visits, seeing both parents before reporting to Court.

A.O. receives request from Court for interim report.

V.S.W. prepares and sends report to Court after it has been checked by A.O.

A.O. receives notification from Court of making of interim order.

C.O. notes interim order date on Kardex card; makes bring up on file for six months' time for final report.

V.S.W. notes date of interim order in visiting book, with date from which application for final order may be made by solicitor. Continues visits.

V.S.W. writes final report to Court after A.O. has received request.

A.O. receives notification from the Court of making of adoption order.

C.O. 1/ withdraws file unless another S.W. 5 & 5 application has been received
2/ notes master index card
3/ makes new master index card for child and cross-references
4/ Removes Kardex card.
5/ Completes statistical card (S.W. 606)

A.O. checks statistical card

C.O. refers statistical card to Statistics Section, Head Office.

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PART F: CHILD CARE CENTRESF1 DEFINITIONS AND DELEGATIONSF1.1 Legal Definition

The Child Care Centre Regulations (1960) issued pursuant to the Child Welfare Act 1925 includes the following definition:

"'Child care centre' means any premises which are or purport to be mainly for the care of three or more children under the age of six years of age by the day or for part of the day or for any period of less than eight consecutive days, whether for reward or not" (Reg. 2).

F1.2 Statutory Exemptions

There are 13 statutory exemptions set out in Reg. 2 (a - m):

- (a) Any residence within the meaning of the C. & Y.P. Act 1974.
- (b) Any home registered under Part IX of the C. & Y.P. Act 1974.
- (c) Any foster home under Part VIII of the C. & Y.P. Act 1974 when the number of children who are cared for in that home and who are not children of the foster parent does not exceed the number of infants which the foster parent is licensed to receive and maintain in that home.
- (d) Any registered school within the meaning of the Education Act 1964 (whether or not residential accommodation is provided for children).
- (e) Any free kindergarten recognised by the Minister of Education.
- (f) Any playcentre recognised by the Director-General of Education.
- (g) Any licensed private hospital.
- (h) Any institution under the control of the Department of Health or of a Hospital Board.
- (i) Any institution within the meaning of the Hospitals Act 1957.
- (j) Any hospital within the meaning of the Mental Health Act 1969.
- (k) Any children's health camp within the meaning of the Children's Health Camps Act 1972.

- (l) Any premises in which all the children are members of the one family in the care of a relative.
- (m) Any other premises or class of premises declared by regulation under this section not to be a child care centre.

Fl.3 Working Definition

The following summary of the essential elements of the legal definition may serve as a practical guide:

- (a) The number of children attending or likely to attend at any one time must be at least three.
- (b) The frequency with which the premises are used for the purpose should not be less than 3 hours per week.
- (c) Private residences used for group care of three or more children require to be registered.
- (d) All alternative kindergartens and pre-school groups not recognised by the Department of Education are required to be registered.
- (e) Playgroups where each parent retains responsibility for his/her own child on the premises do not require to be registered.
- (f) The group care of children of staff or visitors in any hospital requires to be registered.
- (g) The group care of children under five years of age on any registered state school or private school who are not exempt underage enrolments or special pre-school classes under S.98 and S.108 of the Education Act 1964 is required to be registered.

Fl.4 Administrative Discretion

The Child Care Centre Regulations provide for administrative discretion especially in respect of the schedule requirements. The Director-General will exercise this responsibility only under exceptional circumstances. In general, where new centres are being established the applicants must be advised of the need to meet the full requirements of the regulations.

Fl.5 Types and Classes of Registration

There are two types of licences, provisional and full. A provisional licence may be issued for any period up to 12 months (Reg. 7) or renewed at the discretion of the Director-General for up to a maximum period of two years (Reg. 15).

There are two classes of full licence 'A' and 'B' (Reg. 6). Class 'A' indicates that the centre conforms with the requirements of the Child Care Centre Regulations and in addition has at least one adult staff member holding a recognised training qualification in terms of Reg. 6(2).

Class 'B' indicates that the centre meets the requirements of the Child Care Centre Regulations but does not include on its staff a person with a recognised training qualification in terms of Reg. 6(2).

A full licence once issued must be renewed upon application by the licensee unless there has been a demonstrable deterioration in the standard or circumstances of the child care centre. (Reg. 14(2)(a).)

Where the original licence was issued in error it must be renewed. (Reg. 14(2).)

The class of licence must be specified in any advertisement or public notice relating to the centre Reg. 6(3).

F1.6 Authorities Which Are Delegated (ref H7.4 re delegation)

Authority is delegated to district Directors who may in turn delegate to 320.104 as follows:

- (a) To issue one provisional licence valid for a period of 12 months from the date of issue in respect of any centre providing that:
 - (1) the use of the premises is not contrary to the Town and Country Planning Act 1977. (Reg. 7A being Amendment 4 1970.);
 - (2) the premises and equipment conform to the standards required and are generally suitable;
 - (3) the staffing and standard of care are likely to conform to the standards required under Part III of the C.C.C. Regulations; and
 - (4) the person to be in charge of the children is suitable to care for children (Reg. 5 (2)(a,b,c)).
- (b) To issue a full licence in respect of any centre which meets all the requirements of the C.C.C. Regulations including the amendments and schedules and the requirements of local body by-laws.
- (c) To issue class 'A' licences in respect of centres which conform as above and where in addition an adult staff member holds a recognised training qualification Reg. 6(2) (a to e).

- (d) To issue amending or replacement licences as under a, b, and c above where there is a change of licensee, approved variation in the First or Third Schedule, variation in the recognised training qualification or errors in any of the above.
- (e) To renew full licences.
- (f) To approve plans of existing buildings which are proposed to be used as child care centres where these meet the full requirements of the Child Care Centre Regulations.
- (g) To waive licence fees in the case of a centre which is not operating for profit (Reg. 8(3)).

F1.7 Authorities Which Are Not Delegated (ref H7.4 re delegation)

- (a) To extend provisional licences.
- (b) To issue full licences where centres do not fully comply with the regulations, schedules or by-laws.
- (c) To issue class 'A' licences where the centres do not clearly fall within the statutory definitions.
- (d) To approve structural alterations to centres.
- (e) To approve plans of buildings that do not meet the full requirements of the regulations.
- (f) To attach special conditions to full licences.
- (g) To suspend, revoke or decline licences.
- (h) To initiate prosecution for breaches of the regulations.
- (i) To approve any other certificate or qualification issued in New Zealand or elsewhere under the discretionary clause Reg. 6(2)(f).

F2 NEW APPLICATIONSF2.1 Guidelines

It is an offence to operate a child care centre without a licence. Once a formal application for registration of a new child care centre is received, the applicant is statutorily entitled to a decision within 30 days of submitting the application or of providing references concerning the person who is to be engaged in caring for the children (Reg. 5(1)) whichever is the later.

Applications should not be accepted until the following conditions have been met:

- (1) Where it is proposed to operate a child care centre upon premises owned by the Department of Education (i.e. all state primary and secondary schools, Teachers' Colleges and technical institutes) permission must first be obtained from the Department of Education (Property Division, Head Office). No other action should be initiated until such permission is obtained.
- (2) The Local Authority has approved the use of the premises as a child care centre in terms of the Town and Country Planning Act 1977. (Reg. 7A, Amendment No. 4 1980.) Town planning approval may involve a hearing and an appeal which could last considerably longer than the statutory 30 days.

Once accepted applications must be treated promptly to ensure minimal delays.

Where an application is to be declined, adequate reasons must be given in support of a recommendation to the Director-General.

F2.2 The Licence Application

The licence application SW 597 (see Fig.1) should be supported by the following evidence:

- (a) Department of Education permit where applicable (see F2.1).
- (b) Town Planning approval initiated and supplied by the applicant.
- (c) Character references referring to the suitability of the person in charge of children to care for the children who attend.
- (d) Plan of the premises showing dimension, indoor and out, and clearly indicating the uses to which each part will be put.

- (e) A licence fee of \$2.00 where appropriate. Only one fee is required per centre per year. It should be refunded automatically if the application lapses, is withdrawn or declined. Extension within 12 months of original provisional licence should be without charge.

F2.3 Action on Receipt of Application

- (a) Acknowledge receipt of application having ascertained that the necessary information as above has been supplied.
- (b) Where necessary issue a receipt for the licence fee.
- (c) Ensure that the applicant has a copy of the CCC Regulations 1960.
- (d) Invite the Local Authority to inspect and report on the premises to be licensed in terms of the standards to be observed (Reg. 17) and fire protection. (Reg. 20a and b as amended 1973.)
- (e) Invite the M.O.H. to inspect and report on the proposed centre in terms of the standards to be observed. (Reg. 17, 18, 19, 21, 22, 23 and 24.)
- (f) Arrange initial inspection by Social Worker.
- (g) Prepare report on form SW 599 (see Fig.2).

F2.4 Steps Towards Licensing

The decision as to whether a centre meets the full requirements of the regulations is difficult to make until the centre has been observed in operation. A full licence cannot be issued until these requirements are met. The solution therefore is to issue a provisional licence. Once the Director is satisfied that Reg. 5(1) and (2) are met i.e. that the premises and equipment conform to the standard required; that the staffing and standard of care are likely to conform to the requirements and that the person who is to be in charge of the children is a suitable person to care for children; he/she shall then register the centre from the date of application.

The following information should be supplied to the Director-General:

- A copy of the licence certificate
- A copy of any covering letter to the licensee
- Initial Report SW 599 (see Fig.2)
- Copy of the Application Form SW 597 (see Fig.1)
- Floor plan of the premises
- M.O.H. Reports
- Local Authority report
- A covering letter only if it is desired to draw attention to some specific matter.

F3 INSPECTIONS PRIOR TO LICENSING

F3.1 Social Worker's Inspection

The initial inspection is carried out by a Social Worker who must determine -

- (a) Whether the centre requires to be registered under the C.C.C. Regs.
- (b) If registration is required whether it meets the standards of the C.C.C. Regs.

It may be necessary to make more than one visit before making a recommendation about a licence.

Initial visits must be made by prior arrangement or appointment.

A report should be prepared on SW 599 (see Fig. 2) and a copy forwarded to the Director-General. This report is designed to provide a basic overview of service and should comment on the type of service, staffing, the programme, standards, records maintained, and make a recommendation to the Director-General on the licensing details.

F3.2 Local Authority Inspection

A request for an inspection report from the Local Authority should be addressed to the Town Clerk and explicitly request a fire protection inspection and a report as to whether the centre premises meets the standards (Reg. 17, 18, 19, 20). Local Authorities co-ordinate the N.Z. Fire Services which make recommendations on measures to be taken. The power of the local body stems from its own by-laws and it must decide which by-laws apply to the premises concerned. The Local Authority will report to the D.S.W. Director. Failure to meet the by-laws would be an absolute bar to full licensing but where the unmet requirements do not affect the safety of the children a provisional licence may be issued in the meantime.

Where there are no by-laws, fire protection measures may be approved by a member of the Fire Services established under the Fire Services Act 1972 (Reg. 20 as amended 1973).

F3.3 Health Department Inspection

A request for a Health Department report should be addressed to the Medical Officer of Health and relate to the standards to be observed. (Part III Reg. 17, 18, 19, 21, 22, 23, 24). The Department of Health has a continuing responsibility for the oversight of child care centres and acts as adviser. The Medical Officer of Health or his deputy has statutory right of entry to centres not only under Reg. 31(2) but also under the Health Amendment Act 1958. In addition the Medical Officer of Health has sweeping powers, applicable to all premises where there is a threat to public health. The Medical Officer of Health will provide a report on his department's initial inspection.

F4 FULL LICENSINGF4.1 Procedures

On receipt of Local Authority and Health Department reports the Director must decide which of the following courses to follow:

- (a) To issue a full licence valid until the following March 31 where all the requirements of the regulations including the schedules and by-laws are met.
- (b) To recommend to the Director-General an extension of the provisional licence where special circumstances apply.
- (c) To recommend to the Director-General that the application be declined.

Procedure for issuing full licences is the same as for provisional except that it is necessary to consider all the relevant reports. If the child care centre proposal meets all the requirements, draft a licence requisition (SW 600) (see Fig.3) and present for typing.

Issue the licence which must be signed personally by the issuing officer.

If the terms of the licence differ from the application a covering letter explaining the differences must be forwarded. This should also refer to the right of review under Reg 16.

The original licence must be delivered by hand or registered mail to the applicant. Subsequent amendments or renewals may be sent by normal postal delivery.

The remaining three copies are filed as follows; one on the relevant child care centre file, one to the Master Licence File in numerical order and one to the Director-General.

Spoiled licences must be cancelled and filed on the Master Licence File in numerical order.

The following should be forwarded to the Director-General:

1. Copy of licence.
2. Copy of any covering letter.
3. Copy of Social Worker's initial report, SW 599 (see Fig.2). Copies of Town Planning approval, Local Authority report, including Fire Services and Health Department report need not be included, but their existence noted in the checklist at para 13 on SW 599.
4. The original application.
5. A plan of premises.

6. A covering memo only if it is desired to draw attention to some specific matter.

(The application, sketch and Town Planning report may have already been submitted for provisional licence.)

Advise the M.O.H., the town clerk of the Local Authority and the district pre-school advisers, Education Department, and the local liaison person of the Association of Child Care Centres of the issuing of the full licence.

F4.2 Variation to Full Licensing

If a class 'A' licence is sought but the qualification presented does not come within the definition in Reg. 6(2) (a to e) make a recommendation to the Director-General.

The discretionary clause Reg. 6(2)(f) provides for the Director-General to approve any other certificate or qualification issued in New Zealand or elsewhere if he is satisfied that it is of an equivalent or higher standard than those recognised. It is necessary that the applicant submits the course syllabus for consideration.

When it is considered necessary to apply a special condition to the full licence then the approval of the Director-General must be sought.

F4.3 Procedure where Refusal of Registration is Recommended

Any recommendation to decline an application must be fully justified in terms of the Child Care Centre Regulations. This authority is not delegated. The applicant must be advised in writing by registered mail and attention drawn to the right of review under Reg. 16.

In some cases applicants may prefer to withdraw their application to avoid the necessity for a formal refusal. In this event brief details should be notified to the Director-General i.e. name of applicant, type of centre, whether operating and reason for withdrawal.

F4.4 Appeals

Any appeal under Reg. 16 against any decision or requirement of the Director-General, and made within 14 days of receiving notice of the decision or the requirements should be notified to the Director-General as soon as possible.

F5 RENEWAL, TERMINATION OF LICENCESF5.1 Renewal of Licences

A licence expires on the date endorsed on it. Where an application for renewal has been received 14 days before the expiry date, the licensee may continue to operate until he/she is notified of the result of the application.

F5.2 Lapsed Licences

A licence lapses before the endorsed date if:

- (a) the centre closes permanently (temporary closure does not affect the validity of the licence);
- (b) if the licensee ceases to be associated with the centre;
- (c) upon suspension or revocation of the licence;
- (d) upon transfer of the centre from the premises named in the licence;
- (e) if the centre becomes statutorily exempt from the regulations, i.e., by recognition by the Department of Education.

Each licensee is required to be notified in writing not later than 3 weeks before the licence is due to expire that it requires to be renewed. For full licences and some provisional licences this means March 10 in each year.

Licensees with full licences are statutorily entitled to renewal of their licences upon application unless there is some demonstrable deterioration since the original licence was granted. This offers a measure of protection to licensees against subjective decisions of different licensing officers.

An application for extension of a provisional licence where applicable requires to be submitted early to the Director-General to ensure the licence is renewed before the expiry date.

F5.3 Termination of Licence

Suspension or revocation of licence is not delegated authority.

In special circumstances the Director-General may suspend a licence forthwith. (Reg. 13(1).)

A licence may be suspended after 14 days prior notice in writing where the Director-General is satisfied that a registered child care centre has ceased to comply, or failed to do or to provide anything required to be done in accordance with the regulations.

A suspension notice must specify -

- (1) the reasons for such suspension;
- (2) the terms and conditions on which registration will be reinstated;
- (3) advise the licensee of his right of appeal (Reg. 16);
- (4) and be signed personally by the Director-General.

A suspension notice will be hand-delivered to the licensee and the delivery receipted by the licensee and the delivering officer.

The Director-General may grant one further extension of not more than 14 days if he is satisfied that further investigation is necessary or desirable.

Where the suspension period (14 days) has expired and the conditions for reinstatement or review have not been met the Director-General shall revoke the registration.

A licence which has lapsed is required to be surrendered to the Social Worker. It may be destroyed and the file copy endorsed accordingly.

The Director-General, M.O.H., Local Authority and Education Department should be advised of the closure.

Once a licence is lapsed the premises revert to being an unregistered centre. Continued operation after the lapsing constitutes a breach of the regulations 3(3).

F6 THE ROLE OF THE SOCIAL WORKER

F6.1 Guidelines

The main purpose of the regulations is to establish at least minimum standards. This point requires emphasis and centres should be encouraged with supervision and assistance to adopt higher standards.

The role of the Social Worker in a child care centre is a dual one. Whilst ensuring that minimum standards are adhered to the Social Worker acts as an adviser on the wider aspects of child care.

As a general rule, the input of time would be greater in full-day child care than the part-day pre-school service.

Local sources of information and specialised advice are the Early Childhood Services of Education Department, the NZ Childcare Association and the NZKTA and Playcentre Federation.

Pre-school advisers may only visit a centre on the invitation of the licensee as they do not have a right of entry.

Registered Children's Homes and sessional Child Care Centres should be visited at least every four months and full day Child Care Centres at least once per month.

These routine visits do not require prior notice or arrangements and should be varied as to time and day.

The following suggestions may be helpful to visiting Social Workers.

Check that:

- the centre atmosphere is relaxed, warm and friendly and a stimulating place for young children,
- there are sufficient adult staff interacting and working with the children,
- there is adequate liaison with other childhood services - e.g. Public Health Nurse, Plunket, Local Health Centre, Parents' Centre, new entrants' class(es) at the local school(s),
- there is good two way communication between parents and centre staff,
- the ages and number of children present is in line with the conditions of licensing,

- the general living conditions are maintained to a suitable standard,
- a play programme is provided. (In early childhood, playing, in addition to being fun, serves a variety of functions, exploring the world, trying alternative roles and testing new skills. Play involves problem solving and decision making and through this the child develops work attitudes and the concentration needed for achievement. Play is a motivating force in the intellectual, social, emotional and physical development of children. A range of equipment and activities appropriate to the stages of all the children should be available in the programme.)
- the health needs of the children, including their emotional needs, are safeguarded,
- a varied and nutritional diet is provided in the full-day centre,
- a first aid box is maintained in full working order,
- the following records are maintained and available:
 - Daily Attendance Roll with subsidised children identified,
 - Personal Records of each child in attendance including an emergency contact for parents or guardians,
 - A record of action taken in respect to accidents or illness occurring at the centre,
- the licence certificate is displayed in a prominent position on the premises,
- you are available to advise staff on administration, staff training, child management, child care subsidy and the day to day programme,
- you maintain a record of each visit and your observations,
- you follow up significant issues which require to be remedied.

F7 REGULATIONS AND SCHEDULESF7.1 Types of Child Care Centres

There are many forms of child care centres determined by the specific needs of the families who use them. For classification purposes ten different types have been identified and coded.

- | | |
|--------|---|
| Code 1 | Private kindergarten or playcentre |
| 2 | Community kindergarten or playcentre |
| 3 | Domestic child minding centre (caters for up to six children in private home) |
| 4 | Day nursery all day child care |
| 5 | Industrial or institutional child care centre |
| 6 | Shoppers Creche |
| 7 | Overnight care |
| 8 | Special pre-school for intellectually handicapped or disabled children |
| 9 | Family day care i.e. Barnados NZ |
| 10 | Registered Children's Homes which provide full-day care (exempt from registration). |

F7.2 Staff/Child Ratios

The staff/child ratio is determined by the Third Schedule of the regulations and varies in respect of stated ages permitted to attend; the type of child care service; and whether care is provided overnight. The maximum number permitted to attend is 50. No relaxation in the standard requirement may be permitted (except for provisional licensing) without the Director-General's approval. This will only be given in special circumstances.

The Director-General may in special circumstances such as particular design, construction or special use, of a centre, authorise a different staffing requirement from that set out in the Third Schedule. Reg. 25(3). This authority is delegated to Directors.

F7.3 Infants

The staff/child ratio for infants under two years is based on the special dependency needs of infants. The 1:5 ratio is barely satisfactory from this point of view.

F7.4 Kindergartens

The kindergarten or pre-school centres which open for not more than four hours in the day are required to have a staff/child ratio of 2:35. This was originally fixed on the basis that in Free Kindergartens the children may be older, are controlled by a trained director, housed in a purpose built premises, and maintain a ratio of 2:40.

F7.5 Overnight Care

A special ratio of 1:4 is applied for overnight care in case of emergencies where evacuation of the premises may be necessary.

F7.6 Full-Day Care

A full-day child care centre for 15 children or more which serves meals to the children is required to have an additional staff member for the preparation of the meal and tidying up periods Reg. 25(3)(d). This additional person need not be present at other times and need not have turned 17 years. At all other times the staff/child ratio remains as set out in the Third Schedule.

F7.7 Special Pre-School Disabled Children's Centres

Voluntary agencies provide early childhood education and special care services for intellectually handicapped and disabled children.

The staff/child ratio for these children is varied under Reg. 25(3)(a) as follows:

- 1:3 children under 3 years
- 1:5 children over 3 and under 6 years.

F7.8 Programme

The programme for children in a child care centre will vary depending on the underlying philosophy of the organisation, the type of service, staff influence, and the ages and developmental stages of the children who attend. Some common themes will be obvious;

- (1) that adult supervision indoors and out is maintained at all times,
- (2) that a purposeful play programme is provided,
- (3) that a range of equipment in sufficient quantities and varieties indoors and out is available to all the children,
- (4) that passive and active activities are rotated,
- (5) that in a full-day child care centre, food is provided at intervals of not more than 2 1/2 hours,

- (6) that the children become familiar with a routine of handwashing and toileting,
- (7) that the children are provided with an opportunity for undisturbed rest,
- (8) that as far as possible these activities will be carried out in close communication with a parent or guardian.

F8 GENERAL STANDARDSF8.1 Safety and Well-being of Children

An important principle underlying standards to be observed is the safety and well-being of the children i.e. it is important to establish:

- the buildings are structurally safe;
- there are safeguards against fire; easy egress; adequate space for play, sleep, meals; outdoor play; convenient and safe toilets and handbasins; laundry and kitchen facilities; suitable lighting, ventilation and heating; that the premises, furnishings, bedding and equipment are maintained in a safe, clean condition; outside doors, fences and gates are secure. It is the responsibility of not only the licensee but of every staff member to ensure that there are no hazards to the safety of the children.

F8.2 Space

- (a) Indoors: The standard minimum requirements for indoor play space is 2.32m^2 for children over 2 years of age and 3.71m^2 for infants under 2 years and disabled pre-school children. In computing indoor space all furniture, fittings, passageways, toilets, kitchen, laundry and administrative rooms should be excluded.
- (b) Outdoors: The standard minimum requirement for outdoor play space is 6.96m^2 for each child over 2 years. This compares with the Free Kindergarten standard of 20.45m^2 . Between a quarter and a half of the minimum space per child should be covered in a material which permits outdoor play all year round - e.g. bark chips, gravel, sand, concrete etc., and the remaining area grassed or otherwise landscaped to provide a sunny sheltered safe environment.

F8.3 Toilet Facilities

The Second Schedule provides for a minimum of at least one toilet for every ten persons of 3 years of age or over with a similar number of hand basins (called lavatory basins in the Schedule). Potties are required to be provided for children under 3 years of age (one for every four children). The Health Department requires that children be provided with individual towels or paper towels or an accessible roller towel dispenser but NOT communal towels.

F9 OFFENCES AGAINST THE REGULATIONS

F9.1 Procedural Offences

Breaches of the regulations fall into two categories "procedural offences" and "the operation of unregistered centres".

Procedural offences include -

- (a) failure to seek prior approval for structural alterations or changes in the use of the premises;
- (b) failure to notify change of licensee;
- (c) failure to notify loss of staff holding a recognised training qualification when used for class 'A' licence;
- (d) obstruction or deception of the visiting officer;
- (e) knowingly making a false statement in an application;
- (f) failure to specify the licence classification in any advertisement or public notice.

F9.2 Operation of an Unregistered Centre

Reports of unregistered centres should be investigated promptly and the steps to licensing fully explained to the operators. The procedure for licensing where it is possible would be as for new applications.

PART F: CHILD CARE CENTRES

APPENDIX

	<u>Form</u>	<u>No.</u>	<u>Reference</u>
Fig. 1	'Licence Application'	SW 597	F2.2, F2.4
Fig. 2	' Social Worker's Initial Report on Application'	SW 599	F2.3, F2.4, F3.1, F4.1
Fig. 3	'Licence and Certificate of Registration'	SW 600	F4.1

Application for Child Care Centre Registration and Licence

(The Child Care Centre Regulations 1960)

The Director, Department of Social Welfare.

I,, (Full name of the person to be the licensee)

of Phone
 hereby apply for (renewal of) the registration of the premises described below as a child care centre and for the issue of a licence. I certify that I am 20 years of age or over and that the information below is correct. I understand that I am required to notify you of any proposed alterations to the premises or the operation of the centre, which may affect the accuracy of the information below.

..... (Date) (Signature)

Full name and street address of centre				Phone:	
Is this application made on behalf of an organisation, e.g., company or association?	YES	NO	Give name and address of organisation:	Full name of organisation's representative:	
Full name and address of person who will be in charge of the children in attendance.				Phone:	
State total number of adult staff (i.e., persons over 17 years of age) who will be present when children attend.	Total Staff No.		Staff Names	Training	Designation
	A	B			
Which class of registration is applied for?					
Will this centre be limited to disabled children (i.e., intellectually or physically handicapped)? Give details.					
Maximum number of children (excluding licensee's own children) expected to attend at any one time.	Max. No.	Children under 2 years	<input type="checkbox"/>	School Age (Before or after school.)	<input type="checkbox"/>
		Children over 2 years	<input type="checkbox"/>	Children staying overnight.	<input type="checkbox"/>
Number of licensee's own children	Ages:				
When will centre operate?	Days:			School Term Only	
	Hours:			YES	NO
Which meals will be provided?					

NEW ZEALAND DEPARTMENT OF SOCIAL WELFARE

The Child Care Centre Regulations 1960

CHILD CARE CENTRE – INITIAL REPORT ON APPLICATION FOR REGISTRATION AND LICENCE

Name and address of Centre:		Name and address of licence applicant:		
Tel:		Tel:		
General description of Centre:		Type (see Code 1-10)	Open 4 hours + Less than 4 hours	
Maximum expected attendance at any one time:		Overnight	By Day	
			Under 2 yrs	Over 2 yrs
STAFFING		Designation	Full or P/T	Training
Names				

Who relieves in emergencies or staff absence?

How stable is staffing arrangements?

Are there special circumstances justifying variation in the Third Schedule?

Additional comments:

PREMISES INCLUDING GROUNDS State whether premises are: Public Hall Adapted dwelling Purpose-built centre Family Residence School building Other	Interior play space Playspace Less furniture and fittings sqm	Outdoor Space Grass..... Hard..... Other..... sqm	Toilet facilities W.C. Pans Potties Urinals Hand basins Bath Shower	Premises will accommodate Children Under 2 years Children over 2 years
	For what other purpose are premises used?	Standard of house-keeping?	KITCHEN DINING	LAUNDRY NUMBER OF PLAYROOMS

TYPE OF FENCING AND GATES	SWIMMING POOL	TYPE OF HEATING	TYPE OF BED
ANY HAZARDS (Stairwells, banks, traffic etc.)		Shade?	Drainage?

PROGRAMME (Tick those provided)

Individual Play?	<input type="checkbox"/>	Meals?	<input type="checkbox"/>	Are there passive and active sequences?
Group Activities	<input type="checkbox"/>	Rest periods?	<input type="checkbox"/>
Indoor play?	<input type="checkbox"/>	Trips away?	<input type="checkbox"/>	Is it adaptable or rigid?.....
Outdoor play?	<input type="checkbox"/>	Is the programme planned?	<input type="checkbox"/>	Does it cater for all the children?.....
Comment on the atmosphere:			

PLAY EQUIPMENT

Adventure (Boxes "Junk" etc.)	<input type="checkbox"/>	Manipulative	<input type="checkbox"/>	Sand	<input type="checkbox"/>
Books	<input type="checkbox"/>	Mobiles	<input type="checkbox"/>	Small Vehicles	<input type="checkbox"/>
Carpentry	<input type="checkbox"/>	Music	<input type="checkbox"/>	Soft Toys	<input type="checkbox"/>
Clay	<input type="checkbox"/>	Natural Science	<input type="checkbox"/>	Swings	<input type="checkbox"/>
Climbing	<input type="checkbox"/>	Painting	<input type="checkbox"/>	Tricycles	<input type="checkbox"/>
Construction	<input type="checkbox"/>	Rockers	<input type="checkbox"/>	Trucks etc.	<input type="checkbox"/>
Imaginative (dress up etc.)	<input type="checkbox"/>	Rattles	<input type="checkbox"/>	Water	<input type="checkbox"/>

Condition of equipment	Sufficient quantity and variety for all the children?
------------------------	---

Sited for supervision and to eliminate hazards?	Adequate for needs of all age ranges?
---	---------------------------------------

MEALS	General comment:
Snacks only? Where prepared?.....	
Extra staff member required?.....	
Main meals? Menu available?.....	

CHILD MANAGEMENT	Does supervision allow freedom within boundaries for children?
Individual attention?.....
Group skills	Sensitivity to child's feelings?.....
Adult contact with infants - consistent?

Staff expectations of children -- Appropriate?
.....
How do parents/staff communicate?
.....

How is discipline exercised?

How is the group managed? (...small groups)

ADMINISTRATION

RECORDS

Daily attendance?
Enrolment?
Accident and injury?
Childcare subsidy?
Are records current?
 -- Available?

FEES

Per Hour
Session
Day
Week
Term
Special Rates?

GENERAL

Insurance?
Doctor on Call?

RECOMMENDATION

I recommend Licensing as follows
Class to expire
Hours and Days of Opening

STAFF	CHILDREN		
	Night	Day	
		Under 2 yrs	Over 2 yrs

Special Conditions:

Staff Qualifications

CHECK LIST

Town Planning
M.O.H Approval
Fire Board Approval
Local Authority
Landlord
Maximum No. of Children
Limiting Factors

Fee waived YES NO

OUTSTANDING REQUIREMENTS FOR FULL LICENCE

Play Equipment
Fencing
Hard Surface/Grass
Heating
First Aid Supplies
Other

DATE SOCIAL WORKER

DATE FOR DIRECTOR

SW 600

DEPARTMENT OF SOCIAL WELFARE

(The Child Care Centre Regulations 1960)

0016476

LICENCE AND CERTIFICATE OF REGISTRATION

CLASS:

The person named below is hereby licensed to conduct a Child Care Centre at the premises described herein, subject to continued compliance with the Child Care Centre Regulations 1960 and with the conditions endorsed hereon.

Date of expiry of this licence:

Name of licensee (and of centre, where applicable):

Address of centre:

Hours and days or occasions for which centre is licensed to operate:

Ages and maximum number of children permitted to attend at specified times, in relation to the number of adults present:

		By Night	By Day	
			Children Aged Under Two Years	Children Aged Two Years and Over
(a) When member	adult staff present			
(b) When members are present	adult staff			
(c) When members are present	adult staff			
(d) When members are present	adult staff			
(e) When members are present	adult staff			

Class A licence only:

Training qualification(s) of staff:

(Other special conditions):

.....
Date of Issue

.....
Social Worker.

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PART H : ADMINISTRATIONH1 FILINGH1.1 Master Index

All District Offices maintain a Master Index of cases coming under notice of the Social Work Division. It will therefore contain cards for all:

- Wards (including S.11 cases).
- Children and young persons under Supervision.
- Children, young persons and families on Supportive Services.
- Children and young persons appearing before the Children and Young Persons Court.
- Children and young persons referred by Youth Aid.
- Children in foster homes licenced under Part 8 of the Children and Young Persons Act.
- Children placed for adoption.
- People making application to adopt.
- People making enquiries about adoption.
- Children, young persons and families who have been brought to our notice either by self referral or referral by other agencies or individuals.
- People who offer themselves as foster parents.
- Adult clients not necessarily families.

H1.2 Information Contained in Master Index

The Master Index is designed to provide quick referral to any material the District holds about an individual or family coming to notice. The amount of information recorded on a card will vary but in every case should include:

- The full name of child or young person or the name of the family and names of children.
- The full name of parent(s).
- Date of birth of child/young person (or age).
- Date of coming to notice.
- Method by which individual/family came to notice.
- Reference to personal, family or miscellaneous file (see 1.4 below) on which information is held.
- Date of termination of Guardianship or Supervision Order where applicable.
- Date of transfer from District and record of District or institution to which file transferred where applicable.

H1.3 Filing of Master Index Cards

Master Index cards must be filed in strict alphabetical order to ensure rapid and reliable reference.

H1.4 Files

There are four types of files held in a District Office:

61P/1145F

(a) Personal Files.

These are used in all cases where a child or young person or adult is taken on to a Social Worker's caseload as an individual, e.g. Wards, children/young persons under Supervision. Personal Files are also used in Supportive Service where a particular person is our principal concern rather than the family as a whole.

Individual files are also used in adoption work and for foster parents. Each page is called a folio and numbered in sequence - the most recent information being on top of the file. The abbreviation P/F is used.

(b) Family Files.

These files are made up in cases where the family as a whole is the focus of our attention rather than individual members, e.g. families placed on Supportive Service.

Where individual children/young persons subsequently come to notice and are placed on supervision or under guardianship a personal file is made up.

As with Personal Files individual pages are called folios and numbered in sequence. The abbreviation is F/F.

(c) General Files.

General Files serve three main purposes:

- (i) Hold correspondence and records concerning matters of policy, staffing, administration and management which relate to a District Office or any institution under its control.
- (ii) Hold correspondence, information sheets, notes for file and reports relating to individuals or families who are the subject of complaints or inquiries and where there is not a need for a separate personal or family file (H1.11).
- (iii) Similarly notification slips or correspondence from other districts which do not warrant the creation of a personal or family file are placed on a file for miscellaneous correspondence to and from that District.

To assist ready reference to material on General Files all records relating to a particular case are given the same folio number and individual pages identified by letters of the alphabet, e.g. records relating to the same matter will be numbered, 56, 56A, 56B, 56C.

If there are more than three folios on any matters and it is likely that there will be further correspondence/information then material is to be removed from the General File and a Personal or Family File made.

In these cases the Master Index card is to be noted accordingly and a sheet placed on the General File with a note of action taken, e.g. Folios 56 - 56C removed on 18/1/83 to Personal File for Mary Smith b. 18/2/82.

(d) Staff Files.

A personal file is held for every member of staff. Both personal and general files about staffing matters are kept locked in the custody of the A.D. Admin or appropriate senior staff member.

H1.5 Filing Procedures

(a) Alphabetical System for Personal and Family Files.

Personal and Family Files are held together and filed in alphabetical order. This is by no means a perfect system and Social Workers should familiarise themselves with the way the method is operated in their District Office.

Adoption Files and Foster Parent Files are also filed in alphabetical sequence but in most District Offices held separate from other files.

(b) Numerical System for General Files.

General Files are numbered according to a numerical series system designed to ensure that papers relating to one subject, District, or type of work are kept together.

Three numbers are used:

The first identifies the District
The second identifies the subject matter
The third identifies the sub-series,

e.g. 15 / 4 / 3

District	Subject	Particular aspect of subject
Number	e.g. Family Homes	e.g. Finance

Because the need for sub-division of correspondence and records will vary from District to District the subject and sub-series numbers may differ. Each District will have an index identifying files held and numbers allocated. Social Workers should familiarise themselves with the General Files held, especially those directly related to their work.

H1.6 Correspondence and Records With Relevance to More Than One File

In the course of our work there are occasions when correspondence or other records (either coming into the office or going out) relate both a particular case and a wider policy matter. In such cases it is important that copies of the material are filed on both the Personal/Family File and the relevant General File.

H1.7 The Bring-Up System

This is a system whereby material on a file can be brought to the attention of the appropriate staff member at a future date.

Efficient use of this system can:

- Reduce the number of files accumulating on desks awaiting further information.
- Ensure that arrangements for Wards are not overlooked, e.g. Specialists appointments.
- Ensure preparation of a Court report for a hearing adjourned to a future date is not overlooked.
- Ensure that correspondence requiring a reply is not overlooked.

When a Social Worker wants a file brought to his/her attention at a future date this can be done either by completion of a Bring-up Slip or by entering the information on the Transit Sheet (see 2.4).

Practice varies between District Offices and Social Workers should familiarise themselves with the system operated in their office.

H1.8 Transfer of Files

When individuals or families move from one District to another, their files are forwarded. It is important that this is arranged promptly. A Transfer Action Sheet (SW 630) (see Fig. 2) is to be completed and Master Index Card noted at the time of transfer.

The Transfer Action Sheet is completed in triplicate. One copy is retained by the sending Office; copies 2 and 3 go with the file and copy 3 is later returned to the sending office acknowledging receipt.

When a Ward is admitted to a National Institution his/her file is forwarded. In this situation and on other occasions when a move from the District is temporary, a skeleton file is made up for District Office use.

H1.9 Past Records

When a file ceases to be current e.g. our involvement is terminated by agreement or legal status comes to an end, the file may be withdrawn from the system and filed separately.

The Master Index Card is noted "Withdrawn" so that any person looking for the file knows it can be located in the Withdrawn system. The Kardex card is placed on the file so that it can be used if the file becomes current again.

H1.10 The Kardex

The Kardex is designed to provide up-to-date information about:

- The status and whereabouts of children/young persons who are on legal status with the Department.
- The address and current placements with foster parents.
- The names and addresses of foster parents available.
- The names and addresses of current adoption placements.
- The names and addresses of people approved for adoption.

Information for the Kardex is obtained from notification slips (except in cases of fostering and adoption where records are updated from the file).

The Kardex is used for statistical purposes and to assist in the preparation of six monthly returns. It should also be used as a basic management tool by ADSW and Supervising Social Workers. Most of the information which will become available on the computer for caseload monitoring, management and oversight is already available in a well kept Kardex system.

H1.11 Filing of Miscellaneous Cases

If the indications are that there will not be much correspondence following a miscellaneous enquiry it is probably not convenient for such notes to be placed on a "miscellaneous case" file. The master index will show on which miscellaneous file these papers are to be found. In some cases, initial judgment will be found to be incorrect and a personal file will have to be made at a later date as further papers and correspondence come to hand. In this case the master index must be amended accordingly.

Where general files of "miscellaneous cases" are used, however, the papers related to one child, adult or family should be kept together, and not scattered through the file in date order. This may be achieved by allotting each case a "folio" number from an index at the top of the file. A distinctively coloured sheet of paper, bearing the folio number at the bottom is placed above the correspondence referring to the case, and separates papers from those above. This system has the disadvantage that all papers are to be added to or removed from those pertaining to the case under consideration. However, in practice, this is not as serious as it may seem, and in any case, the system possesses the corresponding advantage that if it does become necessary to start a personal file all related papers can be removed easily in one operation. If such a change is made, the register at the top of the file and the master index must be noted accordingly.

H1.12 Categories for Statistical Returns of Miscellaneous Cases

To facilitate the completion of biannual statistical returns all miscellaneous cases are numbered according to the category listed below which best describes the problem presented by the case:

1. Child abuse, cruelty or ill-treatment
2. Child's misbehaviour or leaving home
3. Truancy
4. Child's suspension from school
5. Child in detrimental environment/neglect
6. Family breakdown
7. Housing difficulty
8. Adults with personal or emotional problems
9. Enquiries about adoption

10. Enquiries about placing a child in a registered home, child care centre, licensed foster home.
11. Enquiries from prospective foster parents.
12. Home help enquiries.
13. Enquiries referred to other specialised agencies - marriage guidance, vocational guidance, health services, legal services etc.
14. Advice or help to pregnant single girls.
15. Advice to solo parents about taking maintenance action.
16. Custody enquiries.
17. Placements arranged by Social Workers for alternative care for disabled persons.
18. Investigations made into home alterations for disabled persons.
19. Beneficiaries and other adults in need of material assistance - clothing, furnishings, upkeep of housing, emergency grants, etc.
20. Home visit to determine benefit eligibility.
21. Other.

Only the predominating category should be entered even though several categories may be involved in any one case.

Where a benefit related inquiry is more appropriately placed under "B.&P. applications taken by Social Workers" this category, mentioning type of benefit, should be used.

H1.13 Indexing and Actioning of Miscellaneous Enquiries

The number of the heading under which the case falls should be inserted by the Social Worker in the box at the bottom of the Information Sheet after the word "miscellaneous" or in a prominent place on the letter if the complaint is a written one. The file will then be referred to the clerical staff for indexing and entering in the register held for compiling six-monthly returns. Cases are counted by individuals or families seeking or being referred for inquiry or help. For example a family having four children counts as one case.

When an inquiry that has been counted as a miscellaneous case is referred to us again either from the same or from a different source, it will not be counted if the case is still receiving attention. It will be counted a second or subsequent time if the initial or earlier case has been closed. This will mean that in some cases an Information Sheet will be used for a case for which we already have some record and even a personal or family file. The clerical officer's initials opposite the heading "Indexed" in the bottom right-hand corner of the information sheet will indicate that the case has been recorded in the Master Index and his initials alongside the heading "Miscellaneous" will indicate that the case has been counted for statistical purposes.

H2 INWARD CORRESPONDENCE

H2.1 Date Stamping

All mail opened by the mail clerk will be stamped to show the name of the office and the date mail received. Correspondence addressed to Social Workers which is received unopened must be date stamped, placed on the file and referred to the Senior Social Worker. The onus is on the Social Worker to ensure this is done.

H2.2 Indexing and Filing

All mail relating to children is checked against the index and attached to the appropriate file. Index cards are made out for new cases. General correspondence is given a file reference and placed on that file before being referred to the appropriate officer.

H2.3 Folio Numbers

Every page attached to a file is to be numbered. This applies to each page of the same letter or report. The only exceptions are extra copies which are to be sent on and correspondence received for information and return. In the latter case only the covering memo is given a folio number.

This system allows for ready reference to information. The person placing material on a file is responsible for adding the appropriate folio number.

H2.4 Transit Sheets

Every file has a transit sheet immediately below the cover sheet. The purpose of the transit sheet is to refer material on the file to the appropriate person(s) for action.

When mail is placed on the file the clerk enters the folio number(s) on the transit sheet and refers the file to the appropriate Senior Social Worker by entering their name alongside. The date is also entered.

H2.5 Minuting

Inward correspondence is generally referred to the Senior Social Worker. He/she then refers material to the Social Worker responsible by adding a written comment and entering the name of the Social Worker on the transit sheet.

This method of referral is known as "minuting" or "minuting on". The purpose is to ensure that decisions and recommendations are recorded in writing and to avoid unnecessary time being spent in passing such information on verbally.

Correspondence requiring the attention of the Director will be referred through the ADSW. Likewise correspondence received by the ADSW will be referred through the SSW.

H2.6 Action Completed

When the person to whom a file has been referred, has completed the necessary action this is noted on the appropriate folio, together with initials and the date.

He/she will then "sign off" the file by adding his/her initials to the transit sheet alongside the entry which originally brought the file to his/her attention.

H2.7 Return of Files to Filing System

No file is to be returned to the filing system unless "signed off". As this is the only check of whether action is completed it is essential that all papers requiring attention are recorded on the transit sheet and not "signed off" until the action is complete.

If there is an unavoidable time delay in completing the action, the file should be placed on B/U (see H1.7) so that the matter is not overlooked.

H2.8 Papers Removed From File

When papers are removed from a file they should be replaced by a plain sheet on which is stated:

- The folio number(s) of the papers removed.
- The subject.
- The reason for removal.
- The date of removal.
- To whom papers referred or the file on which they are now placed.
- Signature of person removing papers.

If papers are returned this sheet is to be removed.

H2.9 File to Be in Date Order

In general papers are to be filed in date order. Where this might entail inserting a paper in its proper sequence after later folios have already been numbered, it is important not to re-number them but to insert the late arrival as e.g. folio 23A.

H3 OUTWARD CORRESPONDENCE

H3.1 Correspondence With Other Districts, Institutions and With Head Office (see also H8, submissions)

Correspondence within the Department is referred to as a memorandum, plural: memoranda (abbreviation: memo, memos). All memos are to be typed on District Office letterhead.

(a) Addressing and Signing Correspondence.

A Social Worker writing a memo which contains a recommendation will address the memo to the most senior person in the District or Institution in which he/she works.

- i.e. In a District Office - The Director
 In an Institution - the Principal
 In an Area Welfare Office - the Area Welfare Officer

The only exception is in a District Agency where correspondence dealing with matters other than issues involving policy is addressed to the Senior Social Worker. Policy matters are to be referred to the Director of the parent office.

The memo is signed by the Social Worker with his/her designation and then referred to the Senior Social Worker. The Senior Social Worker adds comment and/or endorsement and addresses this to the most senior person in the appropriate office or institution (see above). Where correspondence is destined for Head Office it is to be addressed to the Director-General.

The Senior Social Worker signs the memo over the designation "for Director". This method of referral is also known as minuting (see 2.5).

When correspondence requiring a decision is being forwarded to Head Office it is important that the level of delegation is checked so that it is minuted on by the appropriate person.

A Social Worker writing a routine memo which does not involve a recommendation may address correspondence direct to the appropriate senior person in that District or Institution and sign his/her own name over the designation "for Director".

(b) Heading.

All internal correspondence is to be headed with:

- The full name of the child, date of birth and status. Surname only to be in capital letters.
- A brief statement of the subject of the memo.
- Reference to any relevant previous correspondence (see para (c) and (d) below).

e.g. Mary Jane SMITH b. 4.3.82 B
 Sub: Contact with natural mother
 Ref: Your memo F/F:NRA:JBK 14.12.82

(c) File reference and initials.

The file reference and the initials of the person writing the memo, together with the initials of the typist are to be placed on the top right hand corner of all memos.

This reference can be quoted on the reply and serves two main purposes:

- Assists the filing clerk by providing a quick reference to the file on which correspondence is to be placed.
- Ensures correspondence is more readily brought to the attention of the person handling the matter.

The inclusion of the typist's initials allows the writer to identify the person preparing the memo should any alteration be required.

(d) Quoting file references and initials in reply.

When responding to a memo the file reference and initials shown on the originating correspondence must be quoted, e.g. Ref: Your memo P/F NRA:JBK 14.12.82.

(e) Numbering paragraphs.

In elaborate memoranda each paragraph should be numbered. This allows ready reference to material contained in correspondence.

(f) Number of copies.

It is not uncommon for more than one District and/or Institution to be involved in a case. Social Workers should ensure that copies of correspondence go to all Districts and Institutions involved. In this way a great deal of time and confusion can be saved.

Where more than one Districts/Institution is involved Social Workers should ensure that the typist prepares a copy for each District. When correspondence is minuted on, each copy can be directed to the appropriate District.

Two copies of memos to Head Office, containing a recommendation or requiring a reply are to be prepared. One copy is placed on the Head Office file and the second is returned with the Head Office reply.

Where possible Senior Social Workers minuting correspondence should endeavour to leave enough room for the reply on the same page.

Correspondence with Head Office may involve another District or Institution. All copies should be forwarded to Head Office so that they can be sent to the appropriate places once the decision has been made.

Copies are forwarded direct to Institutions or Districts in the following cases only:

- When information is of routine nature.
- Progress reports.

- Where the matter is urgent and Districts/Institutions need to be advised as soon as possible. In this instance extra copies are to be sent to Head Office so that all Districts/Institutions can be advised as soon as the decision is made. When copies have been forwarded direct this should be clearly indicated either in the final paragraph or in the minute.

When corresponding with Head Office on a policy matter an extra copy should be prepared and filed on the appropriate District Office General File. An extra copy should also be supplied for the Head Office General File.

H3.2 Correspondence With Other Government Departments

Correspondence is to be prepared in memo form with a heading to enable subject matter to be readily identified and should be signed "for Director".

Departmental jargon and abbreviations are to be avoided. Words should be spelt out in full and terms explained in ordinary language.

It is not acceptable as a general rule for a District Office to communicate direct with the Head Office of another Government Department. If representations are considered appropriate a memo should be forwarded to our Head Office setting out the situation and making a recommendation. If appropriate the matter can then be referred on.

H3.3 Correspondence With Other Agencies and Individuals

This should be in letter form, i.e. "Dear Mrs Brown, ... Yours faithfully/sincerely ...". A heading may be used if appropriate.

Social Workers writing to clients on routine matters may sign their own name and use their designation.

Routine correspondence with other agencies, schools etc., where a relationship has been established may if the Supervisory Social Worker approves, be signed by the Social Worker using his/her own designation.

Letters or reports concerning more serious or important matters should be signed "for Director". In some cases it may be appropriate that the Director himself/herself signs correspondence, e.g. response to a complaint from a member of the public or organisation.

Social Workers must consult their supervisor, and supervisors must make it quite clear with their staff team on an individual basis, what is the appropriate level for signing correspondence. This level will naturally vary with the experience of the Social Worker concerned.

If another District is involved correspondence can be brought to their attention by adding an appropriate minute to a copy of the letter.

All letters or reports are to be typed on District Office letterhead.

H3.4 Overseas Correspondence

In recent years there has been an increase in the amount of overseas correspondence, especially with Australia.

Where it is considered necessary to contact a Social Work agency in another country the matter is to be referred to Head Office.

Contact will then be made by Head Office with the Head Office of the appropriate Department in the country concerned.

As with correspondence to other Government Departments (H3.2) jargon and abbreviations are to be avoided. In most cases the District report will be forwarded with a covering letter from Head Office.

Once contact has been established it may be appropriate for the District Office to communicate direct with the equivalent office concerned if the matter is ongoing. Copies of all such correspondence must be forwarded to Head Office.

H4 MINISTERIAL AND OMBUDSMAN ENQUIRIES AND COMPLAINTS TO THE DIRECTOR GENERAL ON SOCIAL WORK MATTERS

H4.1 Ministerial Reports (Refer H7.4 delegation)

Members of the public frequently make direct contact with the Prime Minister, political heads of Government departments, and Members of Parliament to express some personal or general concern that they are experiencing. All such matters that are relevant to this department, whether addressed to the Minister of Social Welfare in the first instance or not, are referred by him/her to the Director General, as administrative head of the department, for a response. This requires an investigation of the issues raised by the member of the public and a report on them. These enquiries and complaints cover a range of issues i.e. some concern policy, programmes, general delivery of service but most frequently the ones directed to the Social Work Division concern dissatisfaction with case management.

Unless the facts are already available in sufficient detail on Head Office files the matter is in most cases referred to the District/Institution concerned. A copy of the original letter is included so that the exact nature of the inquiry is known.

Usually the Minister sends an interim reply indicating that she/he will reply further as soon as her/his enquiries have been completed. Where the interim reply contains anything of substance a copy will be enclosed with request for a report so that the District will know what has been said.

Matters referred by the Minister to the Director General for his/her investigation must be addressed with high priority both in Head Office and in districts/institutions. All requests from the Director General for investigation and reports are conveyed by Courier Services to ensure the minimum of delay. It is essential that the required investigation and subsequent report is completed in districts and national institutions and dispatched to the Director General within 5 working days of receipt of the request.

If this action cannot be completed within 5 working days, an interim reply must be sent to the Director General stating reasons for the delay and the expected date of dispatch.

If a matter is raised in the complainant's letter which obviously requires direct and immediate action this should be undertaken promptly.

Where direct action of this sort is required the social worker should inform the client clearly that action is being taken at the Minister's request. In most cases, where issues are ongoing, the Minister encourages the complainants to pursue and resolve the matter at local level.

District Action

When reporting on Ministerial enquiries:

- Identify the issues specifically. It may be necessary to first list these for yourself as the writer may not have stated them clearly.
- Set the general scene. Once the issues are clear write one or two paragraphs to explain the setting and provide the background.
- Address the issues. Factual content should be stated then the social worker's assessment of the situation. This should include something about the attitudes of those involved so that the reader gets some understanding of the dynamics of the situation. If applicable, state how you view the situation with hindsight. Could you have done things differently?
- Avoid righteous indignation. Set out your case with an objective stance. A detailed defence which lists the shortcomings of a complainant is not necessary.
- Number the paragraphs of the report.
- Send one copy only to Head Office.
- The report may be prepared over the signature and designation of the Social Worker or other officer who has been directly involved in the matter but should be forwarded with any necessary additional comment, to Head Office over the signature of the Director or Assistant Director.
- Send the district file only if requested.

Head Office Action

When the district reply is received in Head Office a draft reply to the enquirer is prepared and submitted to the Minister for signing.

This response encompasses both the complainant's and department's views. Sometimes an acknowledgement has to be made of the shortcomings in our service, an explanation given about how these arose and, where appropriate and possible, proposals for correcting the situation.

Once the Minister has sent his/her reply to the enquirer a copy of this is sent to the district. If there is any comment that Head Office wishes to make on the issues raised it will be done at this stage.

Monitoring our Service

The enquiries and complaints received by the Minister can be useful in providing for learning at several levels. The Minister takes particular note of policy issues that arise, Head Office identifies gaps in services and shortcomings in practices and programmes, and it is equally important that districts consider each enquiry to see if there are practice and management issues which could be improved.

H4.2 Ombudsman Enquiries
(ref H7.4 re delegation)

Matters referred to the Director General from the Ombudsman are dealt with in the same way as Ministerial enquiries. However, in all Ombudsman enquiries the relevant District files are to be sent to Head Office with the District report.

Reports in respect of Ombudsman enquiries must be signed by the Director him/herself.

H4.3 Child Protection Team - Ministerial Enquiries

When an enquiry is referred to the district for a response, related to a child or family who have been referred to the Child Protection Team, the Chairperson of the Child Protection Team should be advised of the correspondence and content. In such instances the Chairperson should always be invited to make comment. By agreement, these comments should either be sent to this office in conjunction with the district report, or sent directly by the Chairperson to the Head Office staff member responsible for the preparation of the ministerial reply. If an independent report is to be sent, the Director should ensure that Head Office is advised of this in their report.

Where it is appropriate for copies of team records to be sent to this office as part of the report on the enquiry, these records should only be sent by Departmental staff with the agreement of the Chairperson. In some circumstances the Chairperson may wish to send copies of team records, in conjunction with the team's independent report to this office.

Because of the volume of correspondence received by the Minister, it is not appropriate for teams to report independently and directly to the Minister on these case issues. Difficulties can occur in matching up the originating correspondence held in this office for preparation of the reply, and the independent report received later by the Minister.

H4.4 Complaints and Enquiries to Director-General

When these relate to District and/or Regional casework and service issues, they will be forwarded to the Regional Director for investigation and reply. The Director-General will first send an interim reply to the correspondent, advising that the matter has

been referred to the Regional Director. Usually it will be appropriate to follow the same procedure as for Ministerial enquiries (See H4.1). Copies of replies sent to correspondents will only be forwarded to the Director-General when specifically requested or when the Regional Director, at the completion of the investigation, concludes that the Director-General should be advised.

If a correspondent expresses dissatisfaction with the Regional Director's response, and indicates a wish to pursue the matter further, the Regional Director may refer the matter to the Director-General for a review. The correspondent should be advised of his review option, along with other options available.

When complaints or enquiries concern a particular Regional Office's service, then the Director-General will initiate the enquiry and seek a report and so on from the Regional Director.

Complaints and enquiries that concern very general issues will be dealt with by the Director-General and if relevant, copies of correspondence will be sent to Regional Directors in order to keep them informed of matters of interest and concern being expressed by the public.

H5 RECORDINGH5.1 Administrative and Casework Importance of Recording

Social Workers are often critical of the time spent in writing about their work instead of doing it. Recording, though, is an integral part of the job. There are other special reasons for doing so, any of which alone would be sufficient to justify a substantial part of the time spent in this way.

- (a) The fact that all the official actions of a public servant are in the final analysis subject to public discussion in Parliament. It follows that, in common with all other State organisations we must maintain fuller records and retain them longer than most private concerns require. But, in addition, particularly because our actions are likely to involve such contentious issues as personal liberty, the rights of parents and the happiness and welfare of children, it is most important that the reasons for actions taken are properly recorded;
- (b) The fact that Social Workers may be absent, or retire, or transfer, and children may transfer from one area to another. It is important that a new Social Worker should be able to obtain the complete picture from records maintained by his/her predecessor.
- (c) Where the children in care or adoptions are concerned, it is important to remember that departmental records are a vital part of a person's life history. In years to come they may be the only available record to which that person can refer for valuable personal and family details.

H5.2 Continuity in Case Records

Social Work intervention must be recorded in such a manner that it provides a continuing record, from the original case report, through the regular visits and interviews, with regular reviews to the time of termination of supervision or control. Great care must be taken to do this work fully and neatly. Wherever an entry is to be placed on the file it should be typed if this is at all possible.

H5.3 Recording of Miscellaneous Inquiries (see also H1.11 - H1.13)

Complaints or inquiries received in interview or by telephone should be recorded on an Information Sheet (Form SW 594 - see Fig. 1).

- (a) Information sheets must be completed as fully as the circumstances require. Informants will usually not raise any objection to providing detail that can be seen to be necessary when this is briefly explained.

Normally the following information is required:

- (i) Home, address and phone number of the informant.
 - (ii) Surname and residential and working addresses of parents.
 - (iii) Where children are involved first name of each child and age in years in descending order, school attending, or place of employment, and specific address if not residing at home.
 - (iv) Date information received, and day of the week and time if likely to be of significance now or later.
 - (v) How information received - office interview or phone call.
 - (vi) How informant has gained his or her information (as a neighbour, a visiting relative etc).
 - (vii) Any indication that Department of Social Welfare or any other agency has been previously involved or is now involved.
- (b) In writing up the Information Sheet from rough notes following the phone discussion or interview:
- (i) Print surnames, first names, addresses etc. where there could be doubt or confusion.
 - (ii) Write legibly and try to marshal your material into an ordered sequence.
 - (iii) Do not hesitate to record impressions of the informant (depressed, garrulous, helpful, critical etc.).
 - (iv) State clearly how the discussion concluded, i.e. what indication was given about follow-up action.
 - (v) Sign and date your record of information.
 - (vi) Enter Miscellaneous Category (see H1.12) in the box at the bottom right hand corner of the Information Sheet. The number entered should represent the category which most closely describes the primary presenting problem.
- (c) Information Sheets when completed are then processed by the clerical staff who check and enter the Master Index, record the Miscellaneous Category (see H1.12) (initialling the box in the bottom right hand corner to show that both of these matters have been attended to), file the sheet and minute it to the supervising Social Worker for the area for a direction on follow-up.

- (d) Where the matter is urgent, e.g. non-accidental injury to a child the index and file check should be speeded up with the Social Worker standing by, and taking the results of the index check plus file (if any) to the supervisor with the SW 594.
- (e) The form SW 594 can also be used in connection with applications for Domestic Purposes Benefit in order to ensure that appropriate cases requiring Social Worker involvement are recorded in the Master Index. The procedure is as follows:
 - (i) The Social Worker taking the application prepares an SW 594 (Information Sheet) with basic facts - mother's full name and address, children's names and birth dates, mother's phone number, if any, date, and a note to state the mother has applied for Domestic Purposes Benefit.
 - (ii) The SW 594 is signed and sent to records with the request that it is either attached to any existing records, or indexed, and a new file made as a family file. The file is then returned to the Social Worker who will be preparing the Social Welfare report.
 - (iii) The same process is adopted where a single girl applies for a Sickness Benefit on the grounds of pregnancy.
 - (iv) The same system should be adopted for any other benefit matters where it is envisaged the amount of casework likely to be involved will warrant such a file. The Master Index card will be in the name of the family with addresses, and names of children and for the single beneficiary, the full name of the applicant.

H5.4 Notes for File

(a) Purpose.

Notes for file are intended as a concise and succinct record of an ongoing case. Listed below are the major reasons why such records are necessary:

- Staff turnover: As a result of resignations, promotions and change of duties it is likely that most children/young persons and families will experience changes of Social Workers over the time they have contact with the Department. Notes for File are a means of conveying information. Failure to provide this information places the individual or family at a disadvantage as there may be lack of continuity as Social Workers change. Clients have a right to expect that members of the Department are aware of past dealings with them.

It also places any Social Worker who becomes involved at a later date at a disadvantage as it is very difficult to gain an impression of a situation without clear records.

- Good casework practice: Writing a Note for File necessitates thinking about events and the act of recording can be an invaluable tool in reviewing and evaluation work.
- Supervision aid: A great deal of time can be saved if the Senior Social Worker is able to read relevant material prior to supervision. Time can then be used in discussing the situation rather than be divided between reporting events and then discussing them.
- Legal aspects of our work: We cannot overlook the fact that our work, on occasions takes us into the legal arena. When involved in Court Action, e.g. dispensation of parental consent to adoption, defended complaints, S.64 Reviews of Guardianship, a well documented file is invaluable in presenting material for the Court's consideration.

Our responsibility is to ensure that the best interests of the child are served. Written documentation is one of the vehicles by which this goal may be achieved. While sometimes it may seem that "more time is spent in writing than doing", it must be stressed that the two aspects are essential to the effective performance of the task.

It should also be borne in mind that files are confidential and protected only to a limited extent. Social Workers should be alert to the possible effects of any information or opinion that they contemplate recording. Any information material on a file may well be subject to the scrutiny of the Ombudsman or of a Court.

(b) Frequency and format.

The frequency and format of Notes for File will be determined by the nature of the task and to some extent the experience of the Social Worker.

Discussion of preparation of Notes for File should be part of supervision. New Social Workers may find it of assistance to prepare Notes for File more frequently, while more experienced Social Workers may rely on more summaries.

It is preferable that frequency is a conscious decision based on weighing the various factors, e.g. nature of case, experience of Social Worker, priority, time allocation, rather than a haphazard process decided by default. Notes for File written out of a sense of duty can become a meaningless record of visits padded out with trivia. However, if written with a sense of purpose they tend to develop a structure which makes them a useful tool.

(c) Use of summaries.

Notes for File are to be prepared at least three monthly. Ongoing cases such as Wards in reasonably stable situations can effectively be covered by three monthly summaries.

When using summaries it may be of assistance to divide the material into paragraphs with appropriate headings. When using summaries it is important that significant events are not overlooked, e.g. if a placement breaks down this should be dealt with in a Note for File prepared at the time (or shortly after) not just mentioned in a three month summary.

H5.5 Visiting Books

Clearly, when visiting, a Social Worker must take with him/her certain information about all current cases, with identifying information relating to the names, ages, status, address, school or employment etc. This information should be clearly set out on separate sheets which are kept in a loose-leaf book called the visiting book. How the Social Worker records such information in his book is not just a matter for him/herself. If absent or on leave and another Social Worker is attending to the caseload temporarily, the visiting book can be of considerable value to the reliever if it is thoughtfully planned and if entries are neatly written. He/she should be able to continue oversight of the caseload on the basis of information recorded in the visiting book.

The Visiting Book serves three main purposes:

- (1) Record of Caseload: To ensure that the Social Worker does not "lose" cases and records the dates of significant contacts. Also to allow the Social Worker to refresh memory as to content of previous visits.
- (2) Summary of Important Information: To provide details of -
 - date of birth
 - status
 - address
 - phone number
 - parents' address and contact phone number

In addition to making this information readily available to the Social Worker it is of invaluable assistance to other staff (Senior Social Worker or Social Workers) required to cover for a Social Worker who is absent through sickness or annual leave.

- (3) Memory Aid: When making several visits in one day it is difficult, if not impossible, to remember important details about each child, young person or family. If visits and interviews are to be constructive it is essential that these details are not just trusted to memory.

The form of notes is a matter for each Social Worker to decide but the practice of recording the significant details as soon as possible after each visit is essential to the development of good casework practice.

At best, then, the visiting book should act as miniature personal files with the caution that every attempt to preserve its confidential nature should be made lest the book is mislaid or lost. Abbreviations for the entries should be used so long as they are intelligible enough to enable the Social Worker to dictate from them for entry to the continuing case note sheets and for another Social Worker to understand. When a Social Worker has completed dictation for an entry he should enter a tick in the right-hand column alongside the entry in the visiting book. No notebook other than the visiting book should be kept for cases already on a Social Worker's caseload.

Every visit made to all continuing cases should be recorded, however, and should be dated.

H5.6 Visiting - minimum requirements

It is difficult to say how often children, young persons, families etc. on status with the department should be visited. This depends on many factors, and frequency of visiting is an important part of planning a caseload in consultation with one's supervisor.

Each child or young person under guardianship, on supervision, on supportive service, and each family of a ward who is not living at home should be visited at least once every four months. Every adoption placement should be visited at least once every two months. In all cases the children/young persons on status with the department should be seen personally by the Social Worker.

Registered Children's Homes and sessional Child Care Centres should be visited at least every four months and full day Child Care Centres at least once per month.

H5.7 Visiting Returns

Two weeks before the end of April, August and December, a Clerk should make up a list from each Social Worker's visiting book of all cases not yet visited and minute the list to him/her. Each visiting book should be checked against the Kardex, for those cases which are recorded in the Kardex system, and the card flashed when visiting for the current period is confirmed. Those cases remaining unflashed should be checked against the lists of unvisited cases and any not on these lists (and therefore not allocated to any Social Worker), should be identified and referred to the appropriate Senior Social Worker for allocation and visiting.

On the last day of April, August and December the lists showing those still not visited are referred to A.D.S.W. for appropriate action. The lists are eventually filed for future reference.

H6 STANDARDS OF WRITTEN MATERIAL

H6.1 Guidelines

- Written material should be clear and concise. Repetition is to be avoided.
- One idea to each paragraph. Number paragraphs for easy reference.
- Organise material in logical sequence.
- Be careful in discriminating between fact and opinion or speculation.
- Conclude with recommendation or summary which clearly defines the purpose of the memo, note for file or report.

H6.2 Need for Recommendation

Social Workers confronted with a problem should always be thinking towards a solution rather than merely passing the problem to a person of a higher grade.

In preparing a memo Social Workers should ensure that they conclude with a clearly stated recommendation. just as when seeking an opportunity to discuss a problem with their Senior Social Worker they should be prepared to suggest a solution not just pose a problem.

H7 DELEGATIONS

H7.1 Introduction

The Director-General delegates responsibility for most of the day-to-day decision making to the Directors. Directors in turn may delegate many of these authorities to their staff subject to pre-determined minimum levels. Any Director may raise the level according to local circumstances but no decisions or signing or minuting of correspondence may be actioned at levels lower than those stated.

Any especially contentious matter or those which could lead to adverse publicity, or to an approach to the Ombudsman or Minister should be decided by or referred to the highest reasonable level (usually that of Director).

Any person who is not satisfied with a decision made under delegated authority should be advised that he/she may request a review. Such a review should normally be conducted at the next highest level of authority.

H7.2 Matters to Be Referred to Head Office for Decision

The following matters must be referred to the Director-General for decision. The minimum level to which Directors may delegate the signing of submissions to Head Office is indicated. (The items below have been included in a comprehensive list under H7.4 for easy reference.)

	<u>Subject</u>	<u>Minimum Delegation Level</u>
(a)	Engagement of Crown Solicitor - (SWM A4.12(g); C3.1; C10.16; C11.6)	SSW 104 to D.G. (Legal)
(b)	Overseas Adoption (SWM E11.1; E11.2; E12.3)	SSW 104 to D.G.
(c)	Acceptance by Director-General of Appointment as Guardian under Section 7(4) of the Adoption Act (SWM E2.9)	SSW 105 to D.G.
(d)	Recommendation for Appointment of Resident Members of Children's Boards (SWM B1.3)	ADSW to D.G.
(e)	Employment of Community Work Supervisors beyond the Allocated Number of Hours (SWM C12.8)	ADSW to D.G.
(f)	Establishment of and Supervisors for Attendance Centres (SWM C13.9; C13.12; C13.13)	ADSW to D.G.

H7.2 - H7.3(b)

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| (g) | A.C.C. Offer of Lump Sum Entitlement
(SWM N11.22) | SSW 104 to D.G.
(Legal) |
| (h) | Request for Higher Board Rate in excess
of 150% | Director to Reg. Dir. |
| (i) | Recommendation for Appointment of Community
Members to Review Panels
(SWM M3.7) | ADSW to D.G. |
| (j) | Ward Travelling Overseas (where parents
object) or for extended or indefinite
period (SWM N7.2) | ADSW to D.G. |
| (k) | Discharge recommendation where the Review
Panel disagrees or where certain conditions
are not being met (SWM 21.3 (a)(b)(c)) | SSW 105 to D.G. |
| (l) | Proposal for sterilisation of ward
(SWM R3.3) | Director to D.G. |

H7.3 Matters Requiring Advice to the Regional Director

Directors are required to notify Regional Director of the following matters. The minimum level to which the Director may delegate the signing of this correspondence is indicated. (The items below have been included in a comprehensive list under H7.4 for easy reference.) The Regional Director is required to advise the Director-General on those items listed below which are asteriked.

	<u>Subject</u>	<u>Minimum Level for Signing</u>	
(a)	The Death of a Ward and the Arrangements Made for the Funeral Advice	ADSW to Reg Director	*
	(Phone or network advice followed by memo) (SWM N13.1) The Findings of any Inquest (SWM 13.3) Advice	Director to Reg Dir.*	
(b)	Significant Comments from the Bench relating to Guardianship Orders (SWM C8.26)	SSW 104 to Reg. Director	

H7.3(c) - H7.4

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|--|-----------|-------------------------------|---|
| (c) Death of Child in Foster Home Licensed under Part 8 of the Children and Young Persons Act
(Phone or network advice followed by memo)
(SWM A8.16) | Advice to | ADSW
Reg. Director | * |
| (d) Resignation of Family Home Foster Parents
(SWM P1.15) | | SSW 104 to Reg. Dir. | |
| (e) Multiple Abscondings from Institutions
(Phone or network advice followed by memo)
SWM Q5.4.7) | | Principal to
Reg. Director | * |

H7.4 Matters delegated to Directors

The following schedule specifies matters which have been delegated to Directors. Regional Directors may arrange their own delegations with the Regional Office. District Directors are also expected to set the specific delegation levels within their office. The schedule sets out the lowest level to which a District Director may delegate each type of decision.

In an AWO where the highest graded social worker is 320.104, the Director may delegate to this person authority to exercise all, or some, decisions at 320.105 level. In the smaller Districts where the designation ADSW is not used, the Director may authorise the senior person in the social work division to make decisions at ADSW level.

There will be situations where, although the decision is technically within the authority of a particular person, the nature of the problem is such that it should be referred on. Where a matter is likely to cause significant public comment, is unusual, or has political or policy implications Directors should notify the Regional Director. All staff need to exercise their judgment in deciding what matters should be referred to a more senior officer on these grounds. The Regional Director will decide whether there maybe a need for the matter to be referred on to Head Office. (See H7.5 : Management of High Profile Cases). This process of referring appropriately to higher levels of seniority, which may extend to the level of the Director-General and Minister reflects the existence of a chain of accountability for the efficiency and effectiveness of the Department's performance.

Where a member of the public or a staff member is dissatisfied with a decision made under delegated authority, he or she should in the first instance take the matter up with the person making the decision and ultimately with the Director where this is necessary. Where a matter cannot be resolved in a satisfactory way within the district, it should be referred to the Regional Director for a decision, or for referral to Head Office.

Included in this schedule are the items listed in H7.2 and H7.3. This makes it a comprehensive list of delegations. The paragraph headings in the relevant parts of the manual contain a reference to this schedule.

The levels shown in the Schedule refer to field staff only. In the case of National Institutions please read 'Principal' for 'Director'; 'Assistant Principal' for 'ADSW' and equivalent residential social worker gradings for the SSW levels.

H7.5 Management of High Profile Cases

Situations occurring in relation to children and young people and/or family or individual circumstances, which are likely to cause significant public comment, or are unusual or have political or policy implications are referred to as high profile cases. Some examples are; families found to be in situations of dire poverty or need, allegations of inadequate departmental performance in field or residential service, or events such as manslaughter or murder charges arising in relation to children or young people perhaps under the guardianship of the Director-General.

Sometimes, the case situation is already known to the department e.g. a child in care, a family on supportive service or in receipt of a benefit but sometimes there has been no prior involvement in the situation. Such cases tend to come to the attention of the Minister or the Director-General through the media, or through questions asked in the House. Quite often, District Directors have already alerted the Regional Director to a pending high profile case situation and the Director-General and Minister are in receipt of early briefing. Such prompt notification makes it possible, if required to set in train appropriate remedies to the case situation giving rise to concern.

There are two main aspects to be considered in the management of these situations. They are:

(a) Resolution of the Problem/s

Prompt and thorough investigation is a pre-requisite to problem/s resolution. The degree of complexity in these steps varies over a wide range. However, on occasions the problem/s are of such complexity and have such wide ranging implications that it is necessary for District, Regional and Head Office personnel and even the Minister, to participate in the resolution. This can be so even when technically, decision making in relation to any particular aspects of the case management lies at District level. At Head Office, legal, medical and other specialist services may become involved with social work and Benefit managers and consultation with Head Offices of other Government Departments eg. Health, Housing, Education, may be required. In this multi-level, multi-disciplinary consultation and decision-making, District Office personnel remain the front-line workers with the client situation.

(b) Communication

At each level of involvement, reliance is placed on the efficiency and effectiveness of the communication system between all those involved. At the extreme positions, the Minister and Director-General are dependent on succinct, accurate and ongoing current information input and the District Director and staff are dependent on clear and concise guidance, instruction and authorities. In most cases, the Regional Director will be the link between District and Head Office.

Communication Procedures

A case maybe identified as a high profile one as the outcome of information being first received at any level. When this arises, the following guidelines apply:

- Prompt telephone notification, via the Regional Director to or from Head Office;
- District to check/update/correct computer information so that basic information is available to all;
- Prompt follow-up of verbal reports by written reports (and other material already available) relating to the high profile situation;
- When the matter is of an ongoing nature, identification by District Director of a key worker and back up person in the District;
- Clarification between District and Regional Directors and Head Office as to the channels to be used for maximum efficiency and effectiveness in any particular case;
- Any verbal communication of decisions made outside District be promptly repeated in written form;
- When appropriate Head Office communication be co-ordinated through a Head Office key worker.

<u>SWM Ref</u>	<u>SUBJECT</u>	<u>MINIMUM DELEGATION LEVEL</u>
N17.10	"H". status after six months under guardianship (if in accordance with plan)	SSW 104
N17.10	"H." status less than six months under guardianship	ADSW
N17.10	Declining "H." status	ADSW
N17.10	"H." status after 6 months under guardianship if not in accordance with the plan	ADSW
N17.17	Financial support to parents of ward on "H" status	ADSW
N17.20	Cancellation of "H" status	ADSW
N18.9	Financial assistance for wards getting married	Director
N21.3	Discharge of ward 1) When pl. mtg. agrees and residual guardian exists 2) When no unanimity in mtg., - or no residual guardian, - or ward 15 yrs or younger with less than 12m on H status, - or ward 16 yrs or older with less than 12m on H status and no satisfactory financial resource	Director SSW 105 to DG
N21.4	Retention of trust money after discharge	SSW 105
N21.11	Application to Trust for Intellectually Handicapped people on behalf of ward prior to discharge	ADSW
N	Consent to appointment of foster parents, as additional guardians and custodians (Guardian- ship Act). see CM 1986/112 pending insertion in SWM)	ADSW
Pl.7	Placement of ward in family home	SSW 104
Pl.8	Special purpose family homes, furnishing	Administration
Pl.10	Advertising for family home foster parents	SSW 104
Pl.10	Recommendation for appointment of family home foster parents	SSW 105 to Director
Pl.10	Interviewing applicants for family homes	SSW 104
Pl.10	Approving appointment of Family Home foster parents guidelines to be issued	Director
Pl.15	Resignation of family home foster parents	SSW 104 to Reg.Dir.
Pl.18	Appointment of liaison social worker for family home	SSW 104
Pl.22	Transport assistance for family homes	SSW 104
Pl.28	Laundry charges for family homes in special circumstances	Liaison SWker
Pl.29	Reading material for family homes	Liaison SWker and foster parents

<u>SWM Ref</u>	<u>SUBJECT</u>	<u>MINIMUM DELEGATION LEVEL</u>
P1.31	Recreation equipment for family homes	Liaison SWker and foster parents
P1.33	Engagement of relievers in family homes	SSW 104
P1.37	Engagement of relievers during school holidays	Administration
P1.41	Major ground maintenance of family homes	Administration
P1.41	Hire of trailer for family homes	Administration
P1.42	Commercial cleaning of family homes	Administration
P1.45	Check of fire alarm procedures in family homes	Administration
P1.48	Maintenance of television set in family homes	Administration
P2.2	Advertising for foster homes	SSW 104
P2.6	Declining applications to be foster parents	SSW 104
P2.8	Fostering by staff of child or young person in care. Director to:	Reg. Director
P2.20	Expenses in training foster parents	SSW 104
P2.22A	Approval to Place wards in foster homes (depending on number and natural relationships)	(SSW 104 (SSW 105 (Director (Regional-Director Director
P2.23A	Ward using surname of foster parents	Director
P2.25	Issue of new board book or coupon to replace a lost one	Administration
P2.26	Approval of Higher Foster Care Allowance	
	- up to 100%	SSW 105
	- up to 150%	Director
	- over 150%	Reg D to DG
P2.26	Reducing or terminating HFCA	SSW 104
P2.27	Continuation of board payments where ward's absence from home exceeds 6 days	SSW 104
P2.36		
P2.37	Hire/purchase cots, prams/pushchairs/car seats etc.	102/3
P3.1	Approval of private foster homes as temporary receiving homes up to 2 beds	ADSW
	more than 2 beds	Director
P3.3	Closure of temporary receiving homes	ADSW
Q2.1.4	Admission to institutions (informal)	SRSW
Q2.1.5	Admission to institutions (short term)	SRSW
Q2.2.2	Proposal for admission to institution (short term)	SSW 104
Q2.2.8	Travel funding for parent escorting child to regional institution	SSW 104
Q3.1.4	Proposal for admission to institution (extended care)	SSW 105
Q3.1.4	Admission to institution (extended care)	Principal
Q3.4.7	Home leave from extended care	Asst Principal
Q3.4.10	Special leave from extended care	Principal
Q3.5.2	Return to district from extended care	SRSW
Q5.4.7	Multiple absconding	Principal to DG
Q6.4.1	Approval to admit to secure care	SRSW
Q6.4.2	Approval to admit to close custody	Asst Principal
Q6.9.2	Extension of secure placement beyond 72 hours (Kohitere, Kingslea, Hokio, Owairaka, Weymouth.)	Principal
Q6.9.3	Extension of secure placement beyond 7 days (Kohitere, Kingslea, Hokio, Owairaka, Weymouth) to Principal	1st Asst Principal Principal 1st Asst Principal

<u>SWM Ref</u>	<u>SUBJECT</u>	<u>MINIMUM DELEGATION LEVEL</u>
Q6.9.4	Extension of secure placement beyond 14 days (Kohitere, Kingslea, Hokio, Owairaka, Weymouth)	Director to DG Principal to DG
Q6.13.1	Approval to transfer out of secure care	SRSW
Q7.1.1	Authority for medical treatment	
	- medical examination; X-ray; purchase of prescribed medicine	RSW
	- private specialist treatment; supply and replacement of aids	SRSW
	- counselling or psychotherapy from private practitioner	Asst Principal
Q7.1.14	Authority to sign anaesthetic and hospital admission approvals	RSW
Q16.4	Admission of ward to Walmokola/McKenzie Schools	SSW105 to local admission committee
Q17.3	Admission of ward to Salisbury/Campbell Park/Hogben	SSW105 to Ed Dept HO
Q17.8	Board payments for holiday periods Section 115 pupils	SSW 104
Q18.5	Proposal for admission of wards to psychiatric hospital	SSW 104
Q19.2	Proposal for admission of wards to Schools for the Deaf	SSW 104
Q20.2	Proposal for admission of Wards to registered Children's Homes	SSW 104
Q20.3	Proposal for admission of wards to Foster Care programme of Voluntary Agency	SSW 104
Q20.4	Proposal for admission to private institutions other than registered Children's Homes	SSW 104
R2.3	Contraceptive advice for persons in guardianship	SSW 104
R2.4	Contraceptive advice for person in care but not in guardianship	SSW 104
R3.3	Proposal for sterilisation	Director to DG
R4.4 (a)	Proposal for abortion without parents' consent	Director
R4.4 (b)	Recommendation not to inform parents of abortion	Director
T1.1	Entering, approving, cancelling section 11 agreements	SSW 105
T1.4	Renewal of Agreements	SSW 105
T1.7	Inclusion of special clauses in agreement	SSW 105
T2.1	Signing of section 11 agreements	SSW 105
U1.6	"W.s." and "W. temp.B." status	SSW 104
U2.6	Signing of notification slips	SSW 104

H8 SUBMISSIONS

H8.1 Submissions to Include Recommendations

Submissions to Head Office on case work matters must be as concise and succinct as possible and must end with a clear recommendation. This does not preclude the possibility of offering more than one option for consideration. In that case the author of the submission should state which of the options is being preferred by him/her.

H8.2 Number of Copies and Supporting Documentation

In preparing submissions, districts should attach copies of any relevant papers from their files which are considered necessary to provide background information for the decision maker. One copy of the submission and support documents, together with an additional copy of the submission alone (minus supporting documentation), should be forwarded to Head Office. The copy of the submission will be subsequently returned to the district with the Head Office decision recorded on it, and the original will be retained in Head Office. Where other districts or institutions are involved, the initiating district must attach sufficient copies of the submission (with copies of the supporting documentation where this is necessary) for Head Office to refer on to the appropriate district(s)/institution(s).

H8.3 Copies Only of Supporting Material

Unless otherwise requested the documents in support of a submission will be destroyed when the submission itself is returned to the district. It is therefore important that copies only be attached to the submission and that the originals be retained on the District's file.

H8.4 Occasions when Files Accompany Submissions

There may be occasions when districts wish to forward the file of the Ward with the submission. Such occasions should be few - it may be considered appropriate, for example, to forward the personal file on occasions where a Ward is appealing against a decision made by the district under delegated authority. Another may be in cases of an application for a review under Section 64 of the Children and Young Persons Act 1974 for the discharge of a child or young person from the Director-General's guardianship. There will also be occasions when Head Office will request the file.

APPENDIX TO PART H

	<u>Form</u>	<u>No.</u>	<u>Ref</u>
Fig. 1	Information Sheet	SW 594	H5.3
Fig. 2	Transfer Action Sheet	SW 630	H1.8

Department of Social Welfare

TRANSFER ACTION SHEET

Office:.....

The Director/Principal/A.W.O.

.....
(Social Work)

Full name of child/ren:.....

Date of Birth:..... Status:.....

Transfer of (Tick appropriate box):

<input type="checkbox"/> Personal File	<input type="checkbox"/> Adoption File-Title:.....
<input type="checkbox"/> Family File	<input type="checkbox"/> Foster File-Title:.....

The Transfer is: PERMANENT TEMPORARY

PERMANENT TRANSFER

Date of child's transfer to District:...../...../.....

Please receive the records marked "✓".

<input type="checkbox"/> Personal Cards	<input type="checkbox"/> Dental Benefits Card
<input type="checkbox"/> Copy of Refunds Card	<input type="checkbox"/> Restitution Card

Savings Account: Bank:.....

Account Number	BANK	BRANCH	ACCOUNT	SUFFIN

TEMPORARY TRANSFER

File referred regarding:.....

File required back at..... Office by...../...../.....

...../...../.....

.....
for Director/Principal/A.W.O.

Index Card Noted:.....

The Director/Principal/A.W.O.

Files and records as above received on:...../...../.....

.....
for Director/Principal/A.W.O.

This Action Sheet is to be prepared in triplicate for use as follows:

- Top copy: to be retained by sending office.
- Copies 2 and 3: to go with the documents to the receiving office.
- Copy 3: to be returned to sending office acknowledging receipt.