



Practice Guidelines

Prepared by:

The BC Hear the Child Society Board of Directors

November 2016

Forward

These guidelines have been developed based on the initial work of the Kelowna Project (Meaningful Child Participation in BC Family Court Processes—Kelowna Pilot Project) initiated by the Ministry of Justice and the International Institute for Child Rights and Development. They have been further refined based on research and input from our Roster Members collected in a survey conducted in 2014. These Guidelines have been developed within the context of the Society Mandate, Vision, Mission and Values.

Hear the Child Society Mandate

Our mandate flows from the UN Convention on the Rights of the Child (the “Convention”) and the *Family Law Act*, SBC, 2011 c.25.

Article 12 of the Convention requires that State Parties (including Canada) must “assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child.” This is a right, not a requirement. So, the child may say what they want to say, and nothing more. Absent any child protection concerns, which we are under a duty to disclose, our roster members report as objectively and exactly as possible—and only—what the child authorizes us to say.

The *Family Law Act* requires that in making any decision affecting a child, the only consideration must be the best interests of that child (s. 37(1)). In considering those interests, the parties and the court must consider “the child’s views, unless it would be inappropriate to consider them.” (s.37(2)(b))

Our Roster Members are trained in providing non-evaluative view-of-the-child reports. That is to say, we do not offer opinions, draw conclusions or make recommendations based on what we hear. It is left to the parties, or the courts, to do that. Rather, our training is focused on conducting a sensitive and structured interview and reporting the child’s expressed views as accurately, objectively, and fully as possible.

Our mandate is to help children speak for themselves.

Our Vision

Leaders in hearing and integrating the voice of children into decisions affecting their lives.

Our Mission

The BC Hear the Child Society promotes the inclusion of the voice of children in decisions affecting them; maintains a roster of trained non-evaluative child interviewers; and, provides public and professional education.

Our Values

We believe in:

- The child’s right to have a voice and to be heard in matters affecting them;
- The opportunity for children to exercise that right; and
- An interview process that is respectful, accessible and non-evaluative.

Overview and Terms Used

A Hear the Child report ('HTC Report') is a non-evaluative, verbatim report of a child's views with respect to their parenting arrangements or any other issue about which the court, or the parents, wish to have a child's views heard.

These Practice Guidelines provide three levels of guidance when interviewing children and writing reports as follows:

1. The term '**must**' in a Practice Guideline denotes the highest level of direction, indicating that the described practice is mandatory.
2. The term '**should**' indicates that the practice described in a Practice Guideline is highly recommended and should only be departed from in exceptional or compelling circumstances.
3. The term '**may**' in a Practice Guideline is the lowest strength of guidance and indicates a practice that the Interviewer should consider adopting, but from which the interviewer can deviate in the exercise of good professional judgment.

Definitions

child	a person who is under 19 years of age
family dispute resolution professional	as defined in the <i>Family Law Act</i>
<i>Family Law Act</i>	means provincial legislation governing family separation issues, that came into force on March 18, 2013, replacing the <i>Family Relations Act</i>
<i>Family Relations Act</i>	means previous provincial legislation replaced by the <i>Family Law Act</i>
family violence	as defined in the <i>Family Law Act</i>
guardian	means the person with legal care of the child (usually a parent); or as defined in the <i>Family Law Act</i>
Hear the Child <u>or</u> HTC Agreement	means the document provided to guardians for signature, outlining the terms on which the interviewer will proceed with the interview (see <i>Appendix A</i> for sample Agreement); this document will usually include the terms of the retainer
party	includes guardian, non-guardian and any other person involved in the production of a HTC Report

Abbreviations

CFCSA	<i>Child, Family and Community Service Act</i>
FLA	<i>Family Law Act</i>
HTC	Hear the Child
MCFD	Ministry of Children and Family Development
PG	Practice Guideline

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1. SETTING UP THE INTERVIEW

1.1. Guiding Principles

The following principles guide the work of a child interviewer:

- Child interviewer is a neutral party and does not take the side of either guardian
- Interviewer's primary duty is to the child
- To do no harm; recognizes when should not go ahead, or should terminate the process
- Interviews are child centred, not dispute centred
- Children are interviewed individually
- Children are interviewed privately

1.2. Court Order or Agreement

The interviewer must have either a court order or an HTC Agreement for a Hear the Child Interview signed by all guardians prior to proceeding.

Where there is a court order, a signed HTC Agreement should also be obtained. Where there is no court order, an HTC Agreement signed by all guardians must be obtained prior to commencing the interview process.

The interview may be done by agreement from only one guardian in the following situations:

- There is only one guardian named in an FLA or FRA court order; or
- There are two guardians and one guardian has limited parenting responsibilities under s. 41 of the FLA.

1.3. Exceptional Circumstances

In exceptional circumstances, notwithstanding PG 1.2 above, a decision to proceed with the interview without the agreement of all guardians is at the discretion of the interviewer and is dependent upon the interviewer's experience, situation and circumstances.

The interviewer must be prepared to explain their decision to proceed without the agreement of all guardians.

1.4. Acceptance of Documents

Where there is a court order appointing the interviewer, the interviewer must obtain a copy of the court order and reference that court order in the HTC Report.

The interviewer should not accept affidavits, applications, responses, Reasons for Judgment, or any other legal document, as that could be perceived as potentially biasing the interviewer.

The interviewer, at their discretion may obtain and review (the interviewer should maintain their non-evaluative perspective when reviewing these reports):

- Court order specifying parenting arrangements
- Third party reports specific to the child

1.5. Information to the Guardian and /or Legal Counsel

The interviewer must provide to guardians and/or their legal counsel information on the process (see example in Appendix B) and clarify with them the scope of the interview.

In addition to providing information to the guardians, the interviewer may wish to gather information about the child by way of phone call, intake form (see example in Appendix C), or other means.

1.6. Transportation

Transportation of the child to and from the interview should be shared between the guardians or provided by a mutually agreed-to third party. Where shared transportation is not possible, the transportation arrangements should be agreed to by all parties.

Where guardians cannot agree on transportation, decisions about transportation may be made by legal counsel or the interviewer.

1.7. Standardized Fees

The HTC Society does not have standardized fees for child interviews. Each child interviewer is responsible to set their own fees; and refund policy, if the interview process is terminated before completion.

2. THE HTC INTERVIEW

2.1. Non-Evaluative Interview

A Hear the Child interview is non-evaluative. It is an interview designed to obtain the child's perspective on his or her life, including parenting arrangements. It is not intended to be a fact-finding mission, but rather the goal is to capture verbatim, as much as possible, the child's views.

In conducting the interview, the interviewer **must**:

- Capture a description of the child's behaviour, without making conclusions
- Capture the perspective, or views, of the child, as presented by the child
- Use the child's own words in quotation marks, as much, and as often, as possible
- Be mindful of their own personal bias and how it might affect the interview
- Listen through the lens of the child and not the lens of the parents' dispute

In conducting the interview, the interviewer **must not**:

- Make recommendations, evaluations, or provide their own opinion based on what the child has said
- Interpret what the child has said
- Grill or cross-examine the child in an attempt to elicit specific information
- Challenge something the child has said
- Attempt to influence the child
- Use leading questions or encourage the child to provide a specific answer

2.2. Conducting the Interview

It is important that the child understand the interviewer's role and is comfortable throughout the interview.

In conducting the interview, the interviewer **must**:

- Greet the child and try to establish rapport
- Provide a comfortable, child friendly environment
- Tell the child that their role as interviewer is to listen and capture what they have to say
- Explain to the child that the interviewer is not going to make any decisions, and that the decisions will be made by their guardians or the judge
- Make sure the child understands that the interviewer is neutral, and not on anyone's "side"
- Explain to the child what the interviewer will be doing during the interview, i.e., the interviewer will be taking notes, writing a report and reviewing it with them
- Explain to the child who may see the report
- Explain to the child, in age appropriate language, the interviewer's responsibilities under the CFCSA (e.g., if I have any concerns about your safety I have to report)
- Ensure that the child agrees to the interview and wants to proceed

In conducting the interview, the interviewer **may**:

- Provide toys or drawing material to help the child feel more comfortable
- Provide drinks or snacks (should check with guardians first)

2.3. Age of the Child

It is important to remember that the biological age and the cognitive age of the child are not necessarily the same. The interview process is designed for children between the ages of 6 and 18. In determining whether or not to interview a child, each interviewer should make that decision based on their personal comfort level with children of different ages, as well as their professional background and training in understanding the developmental stages of children.

2.4. Interviewing Children Separately

The primary role of the interviewer is to reflect the views of each individual child, even when part of a sibling group, rather than to reflect the role of the collective perspective of the group. When interviewing two or more siblings, the interviewer must meet individually with each child. It is important to let each parent know in advance that the children will be interviewed separately.

Notwithstanding the paragraph above, there may be times when siblings need to be interviewed together (i.e., a child wants or needs an older sibling in the room). An option to consider, if children are reluctant to be interviewed separately, is to start the interview with all siblings together and break off into separate interviews when a comfort level has been achieved.

2.5. Number of Interviews

- The interviewer **should** have two meetings with each child
- The first interview **should** be in person
- The first interview is to listen to and capture what the child says
- The second interview **may** be in person, by phone or by video call or conferencing
- The second interview is to review the draft report with the child
- In the second interview, the interviewer will answer the child's questions, clarify the wording of the report, and make additions or deletions to the report as requested by the child
- The interviewer may have additional questions as well in the second interview
- Additional interviews may take place at the discretion of the interviewer

2.6. Process for Recording the Child's Views

The child's comments must be captured and the method of capturing is up to the interviewer. The interviewer must explain to the child how the interview will be captured, and must ensure that the child is comfortable with the method.

2.7. Process for Review

The interviewer must review the content of the report with the child prior to finalizing the report.

2.8. Guardian/Party Will Not Leave

Prior to the interview, the interviewer must let the guardian/party know that the interview will take place without the guardian/party being present. The interviewer must not interview the child with a guardian/party in the room. If the guardian/party will not leave the room, the interviewer must not proceed with the interview.

2.9. Child Will Not Let Guardian/Party Leave

If a child is resistant to being alone with the interviewer, the interviewer should attempt to make the child comfortable by doing some or all of the following:

- Start the interview by explaining the process and asking friendly “get to know you” questions
- Not ask questions about either guardian/party if a guardian/party is in the room
- Encourage the guardian/party to leave once the child seems comfortable
- Pause the interview to allow the child to “check in” with the guardian/party; the interviewer should accompany the child in this case
- Break the interview down into shorter sessions
- Consider setting the interview up so the child can see the guardian/party in another room, if possible

The interviewer must not proceed with the interview, if the child insists that the guardian/party remain present.

3. WRITING AND DISTRIBUTING THE REPORT

3.1. Non-Evaluative Report

All HTC Reports are to be non-evaluative.

HTC interviewers must not include any opinion, evaluative language or recommendations in an HTC Report, regardless of the interviewer's qualifications to do so.

An evaluative statement would be:

"Mary seemed happy to participate in the interview and was quite content to speak with me."

A non-evaluative statement would be:

"Mary said she was willing to speak with me and that she was happy to have an opportunity to share her views."

An evaluative statement would be "Mary seemed happy to participate in the interview and was quite content to speak with me." A non-evaluative statement would be "Mary said she was willing to speak with me and that she was happy to have an opportunity to share her views."

3.2. Format

All HTC Reports must be provided in writing and in a PDF format (see *Appendix D* for a sample format).

HTC Reports must include the following:

- Court file number, where applicable
- Court location, where applicable
- Date of the report
- Names of the parties
- Name and dates of birth of the children
- Reference to the court order for the interview (if applicable) and the name of the judge ordering the report
- Interviewer's contact information
- Statement as per the interviewer's duties
- Information reviewed beforehand
- Background statements
- Approach used with the child
- A section on the child's views—interviewers use their discretion as to whether they wish to describe the first and second interviews separately in the report

Interviewers may wish to include the following information:

- Statements summarizing the phone call with the guardians (if one was done)
- Statements summarizing the phone call with legal counsel (if one was done)
- An appendix providing a summary of the interviewer's qualifications

3.3. Content of the Report with Respect to the Child's Views

The HTC Report must only contain the information the child agrees can be included in the report. The interviewer must not change a child's response without the permission of the child.

In some situations, a child might wish to change their response to a question or remove a point from the report. In many cases this is straightforward and the interviewer will make the change as requested. However, in some circumstances the interviewer may wish to explore these situations with the child, including whether alternative wording is acceptable to a child. Ultimately, the interviewer must respect the child's wishes and must only include what the child agrees can be included in the report.

Child protection concerns must be reported immediately to MCFD. Please see PG7—Child Protection Concerns for further information.

3.4. Interviewer's Notes

The interviewer's notes belong to the interviewer and should be kept in a physical or computer file, pursuant to the requirements of the interviewer's governing body.

3.5. Distributing and Filing a Report

All reports should be signed and dated prior to distribution and/or filing with the court. At the time the assignment is accepted, the interviewer should confirm distribution of the report, including whether the report is to be filed with the court.

Where a court order directs the report to be filed with the court:

- The interviewer may choose to file the report directly with the court, in which case a filed copy should be distributed to the parties and legal counsel; or
- The interviewer may provide the report to counsel or the parties for filing with the court.

Where a court order does not provide any directions with respect to filing the report or the report is done by agreement the report is distributed to the guardians/parties and legal counsel.

4. DECLINING OR TERMINATING THE INTERVIEW

4.1. Definitions

Declining means a decision to decline an assignment to prepare an HTC Report and takes place at the initial stages of the process, when the interviewer is deciding whether or not to accept the assignment.

Terminating occurs after an assignment has been accepted and the interviewer is no longer able to continue with the interview or complete the report, and the interview is then terminated.

Examples of when an interview might be terminated:

- Personal reasons on the part of the interviewer
- Immediate child protection concerns; risk of harm to the child
- Conflict of interest discovered in the course of the interview
- Parental interference or behaviour including refusal to leave the child alone with the interviewer
- Child's refusal to participate
- The child's fear of having the report made available to their guardian
- Threatening behaviour towards the interviewer by the child or a guardian or party

4.2. Declining the assignment to prepare an HTC report

Absent a court order naming the interviewer, interviewers must use their discretion as to whether to accept or decline an assignment to prepare an HTC report. Interviewers must not accept an assignment if they have a conflict of interest with the guardians or parties. When deciding whether to accept an assignment, interviewers may wish to consider the following:

- The age of the child and the interviewer's skills and ability to interview that child
- Willingness of the child to participate in the interview
- Ability of the child to participate in the interview
- Allegations of parental alienation or coaching
- Presence of any developmental disability or learning disability and the interviewer's skills and ability to interview that child

Interviewers who are named in a court order who are unwilling or unable to accept an assignment to complete an HTC Report must advise legal counsel in writing, to obtain a court order absolving the interviewer of responsibility to complete the report.

4.3. Terminating the assignment to prepare an HTC Report

4.3.1. Court Order

Interviewers named in a court order who are unable to complete an assignment to prepare an HTC Report must advise the parties and/or legal counsel in writing that they are unable to complete the assignment.

The interviewer must ask the parties and/or legal counsel for cooperation in obtaining an order by consent, absolving the interviewer of the responsibility to complete the HTC report.

In the absence of cooperation by the parties and/or legal counsel, the interviewer should contact the HTC Board for assistance.

4.3.2. By Agreement

In situations where the HTC Report is commissioned by 'agreement' between the guardians, the interviewer must notify the guardians in writing that he or she is unable to complete the assignment. The interviewer, depending on the reasons for termination, may wish to refer the guardians back to the Roster to select another interviewer.

4.4. Fees in these Situations

4.4.1. Termination by the Interviewer

When an HTC Report is terminated or the interviewer has decided not to provide the final report, the interviewer may charge fees according to their personal billing practice. The interviewer must include a clause in their agreement that clearly describes their billing practice in these situations.

4.4.2. Termination by Parties

Before the HTC Report is released, if the guardians decide that they no longer wish for the HTC Report to be prepared or completed, the interviewer may charge fees according to their personal billing policies or practice. The interviewer must include a clause in their retainer/agreement that clearly describes their billing practice in these situations.

Sample Clause: You shall at all times have the right to terminate our services upon written notice to me telling me this. If you terminate our services, you agree to pay my fees and expenses up to the date of termination of those services. If appropriate, I will also ask you to sign a court form which advises the court that I no longer act for you.

5. REQUESTS FOR FOLLOW-UP OR ADDITIONAL INTERVIEWS

5.1. Definitions

A **follow-up interview** takes place after an HTC Report has been filed or distributed.

An **additional interview** takes place before an HTC Report has been finalized, filed or distributed.

5.2. Follow-up interviews at the request of the guardians or legal counsel

In the event that one guardian or legal counsel for one of the /guardians contacts the interviewer for a follow-up interview after the report has been filed or distributed, the interviewer must again seek agreement of the child's guardians before proceeding with the follow-up interview.

The follow-up report must make reference to any prior report(s).

The interviewer must confirm distribution of the report as per the PG3—Writing and Distributing the Report.

5.3. Follow-up interviews at the request of the child

If the child contacts the interviewer directly, the interviewer must only proceed with agreement of the guardians or by order of the court.

The interviewer must confirm distribution of the HTC report as per the PG3—Writing and Distributing the Report.

5.4. Additional Interviews

In the event the child contacts the interviewer directly or a guardian contacts the interviewer prior to filing or distribution of the HTC report, interviewers may, at their discretion and with the consent of the guardians, interview the child again.

Note: in these circumstances the interviewer must be alert to issues of parental coaching and influencing and ask appropriate questions. Please see the PG6—Complex Parent Child Relationships.

5.5. Fees

Fees for additional or follow-up interviews are at the discretion of the interviewer.

6. COMPLEX PARENT CHILD RELATIONSHIPS

6.1. Definitions

Influence is a normal part of socialization and parenting. It is the way parents teach children their values and their expectations for behaviour, emotional expression and relationships, including information about child safety and protection. Influence can be a concern in understanding a child's views and opinion if the influence appears to not be in a child's best interest or if it is thought the influence will benefit a parent and not necessary the child.

Alignment occurs in parent child relationships where a child strongly identifies with a particular parent. This can be within the context of normal development where there are shared interests, natural affinity in temperament and personality, and where a parent is highly attuned to a child and their needs. Alignment can be a concern where a child over identifies with the needs and interests of one parent to the detriment of their relationship with the other parent.

Coaching can be a concern if there is a sense that a parent or guardian deliberately tells a child what to say to the interviewer when this is not what a child would like to communicate. However, there are situations, particularly for younger children where a child has spoken of their concerns with one parent and then the parent helps the child find the words to tell the interviewer. In this situation, what appears to be coaching, if a child uses language that does not seem consistent with other communication, may be a matter of a parent trying to support a child's communication.

Alienation occurs when there is a complete breakdown of a child's relationship with a parent as a result of a parent's deliberate efforts to influence a child's relationship with the other parent, including encouraging a child to sever their relationship with the other parent. In some situations, rather than parent alienation, a child may determine they do not want to see a parent due to the stress of experiencing the conflict between the parents. The child may choose to opt out of a relationship. Children may be able to indicate their reasons for not seeing a parent that appears developmentally appropriate and protective or may be the result of an initially inadequate parent child relationship.

Alienation can often be achieved inadvertently when a child continuously hears the primary caregiver say bad/defamatory things about the other parent. *For example:* "I wish your dad would stop taking me to court"; "your mom won't give me the amount of child support she is supposed to give so I don't have enough money to buy you new clothes for back to school"; "your parent was the one who wanted the divorce, not me."

6.2. Non-Investigative Role

An HTC Report is a non-evaluative report and the interviewer does not have a role in investigating or determining whether influence, alignment, coaching or alienation is present. By definition, an HTC interviewer must not put any statements into the HTC report about their beliefs as to whether a child has been influenced, coached, or is experiencing alignment or alienation.

In general, a thorough interview that explores a child's views should elicit information about the parent child relationship. This may reveal information that indicates possible influence, alignment, coaching or alienation. While the interviewer will ask questions about the parent child relationship, the interviewer should not ask leading questions in an attempt to prove that influence, coaching, alignment or alienation is present. See Appendix E for sample questions.

The child's answers to questions must be recorded anecdotally and the interviewer must not give opinions or draw conclusions. For example:

When I asked Mary if there was anything her mother wanted her to say in the interview, the child reported: *"My mom told me that if I spend more time with my dad then she won't get as much money. I know my mom needs the money, so I shouldn't have more time with my dad, otherwise, it will affect the money she gets from my dad. I overheard my mom saying she hoped that the parenting time with my dad wouldn't increase."*

The interviewer records the answers to these questions and includes them in the report only if the child agrees the answers may be included.

7. CHILD PROTECTION CONCERNS

7.1. Definitions

Duty to Report Pursuant to s. 14 of the CFCSA, a person who has reason to believe that a child who has been, or is likely to be, abused or neglected, has a duty to report the matter to a child welfare worker. It does not matter if the person believes that someone else has reported the situation.

Reason to Believe Based on what the person has seen, or information that has been received, the person has reason to believe that a child has been or is likely to be at risk. The person does not have to be certain, and proof is not required.

7.2. When and How the Interviewer Must Report

An interviewer who has reason to believe that a child or youth has been, or is likely to be, abused or neglected, and that the guardian is unwilling or unable to protect the child, must promptly report the suspected child abuse or neglect to a child welfare worker at MCFD. If the interviewer believes that danger to the child is imminent (based on degree of abuse and immediacy), the interviewer must pause the interview and make a call to MCFD. Otherwise, the interviewer must make a call to MCFD at the end of the interview. To make a child protection report, contact: 1-800-663-9122.

The interviewer does not need to have proof, or be certain, that the abuse has, or is about to, occur. It is the child welfare worker's responsibility to make that assessment and determination.

Depending on the age of the child, the interviewer may involve the child in making the child protection report. The interviewer may make the telephone call in the presence of the child, and share with the child what the child welfare worker tells the interviewer. The interviewer may also discuss with the child what will happen next, and who will be involved.

The legal duty to report overrides the duty of confidentiality (Note: there is no solicitor-client privilege in HTC reports).

The interviewer must call the police (911) when the child is in immediate danger, or if a criminal offence has been or is likely to be committed against the child.

7.3. What to Include in the HTC Report

With the child's consent, the details of the child protection concerns must be included in the HTC report, and the HTC report may include a statement that a child protection report was made.

If the child does not consent to including in the HTC report the information regarding protection concerns, or that a report was made, then the interviewer must not include this information in the HTC report.

Regardless of whether it was included in the HTC report, the interviewer still has to follow the duty to report the concern either to MCFD, or by calling the police, depending on the circumstances.

8. DUAL ROLES

8.1. Definitions:

Concurrent service means the provision of two or more different services to a client by an interviewer at the same time.

Consecutive or sequential service means the provision of a different service to a client by an interviewer after completion of an HTC report.

8.2. Managing Requests for Dual Roles

All interviewers have other roles including lawyer, mediator, social worker, clinician or family court counsellor.

An HTC interviewer is a neutral and independent role. The HTC interviewer must keep their role as interviewer separate from all other roles. The interviewer must not provide any concurrent service to either the child or any of the parties involved in the report.

A mediator who interviews children as part of the mediation process is not performing an HTC interview. The mediator may be seeking the children's views as a result of s. 37 of the FLA in a confidential process. Mediators cannot concurrently mediate and prepare HTC reports for the same family.

Interviewers may provide consecutive or sequential services if their professional affiliation allows for that service AND they believe they are able to provide the service without bias or conflict of interest. Any consecutive or sequential role must be with the agreement of all parties or by court order.

An HTC interviewer must fully complete the first role before taking on any second professional role.

In considering whether to accept a sequential role (e.g., mediation) the interviewer should consider whether their neutrality would be compromised, or seen by the parties to be compromised in providing the sequential role. In addition, the interviewer should also consider whether their neutrality would be compromised, or seen by the parties to be compromised if asked to conduct a follow up or additional interview of the child at a later date.

In circumstances where a clinician has prepared an HTC Report, provided counselling services, and is subsequently called to testify in court, the clinician should be transparent about the change in role and the effect on their neutrality.

In circumstances where a mediator has prepared an HTC Report, provided mediation services, and is subsequently called to testify in court, the mediator should be transparent about the change in role.

9. SCREENING FOR FAMILY VIOLENCE

9.1. Definitions

Section 8 of the *FLA* requires that:

“a family dispute resolution professional consulted by a party to a family law dispute must assess, in accordance with the regulations, whether family violence may be present...”

While many of the HTC interviewers may be “family dispute resolution professionals” in other family law dispute matters, when preparing a non-evaluative HTC Report they are not being “consulted by a party” as per section 8 of the *FLA* and thus there is no requirement or expectation that they screen for family violence.

9.2. No Assessment or Screening for Family Violence

HTC interviewers are not being consulted, and having a screening or assessment tool for family violence is not appropriate when an interviewer is retained to prepare an HTC Report.

Please note that not being obligated to screen for family violence does not override the interviewer’s duty to report under s.14 of *CFCSA*. See PG7—Child Protection Concerns.

9.3. Dual Roles

In some circumstances, interviewers perform dual roles such as interviewer and family dispute resolution professional. In these cases, the family dispute resolution professional is responsible to screen for family violence. For more information, please refer to PG8—Dual Roles.

Appendix A *Sample Agreement*

[Insert Name or Business Name] of Hear the Child Interviewer Agreement for a Hear the Child Interview and Report

Dated: _____, 2016 at _____, British Columbia.

Name
Between:
[Insert name of Guardian 1]
And:
[Insert name of Guardian 2]
And:
[Insert name of Guardian 3]
(collectively, the 'Parties')
And:
[Insert name of Interviewer] (the 'Interviewer') BC Hear the Child Society Roster member

A. The parties wish to have the views of the child(ren) named below heard:

NAME(S):	BIRTH DATE:

B. The interviewer is a neutral and impartial person who will listen to the views of the child(ren) and report those views back to the parties and the Court (if involved) to assist them in making decisions about the child(ren).

C. The interviewer is a roster member of the BC Hear the Child Society.

THEREFORE WE AGREE THAT:

- 1) The interviewer will listen to the views of the children to assist the parties and the Court to make decisions about the children.
- 2) The role of the interviewer is to report on the responses of the child(ren) to questions regarding their parenting arrangements. The child interviewer does not analyze or evaluate the responses of a child(ren) nor does the child interviewer make any recommendations based on those responses.
- 3) The child(ren)'s participation is voluntary and the child(ren) will not be forced to share their views.
- 4) The views of the child(ren) will be recorded in a written Hear the Child Report.
- 5) The interviewer will only report on what the child(ren) agrees to share.
- 6) If the child(ren) disclose(s) information during the interview that indicates the child(ren) is/are in need of protection as set out in section 13 of the *Child, Family and Community Services Act* (attached as Schedule A) then the interviewer must immediately report this to the Director of Child, Family and Community Services.
- 7) The interviewer is at liberty to share the child(ren)'s views with:
 - a) any party to this agreement;
 - b) a lawyer for any party;
 - c) the Court;
 - d) a lawyer for a child (if applicable); or
 - e) authorized users for research and evaluation purposes, (only aggregate non-identifying information).
- 8) The child(ren) will be informed about the interview
- 9) The parties will not coach, influence or tell the child(ren) what to say during the interview.
- 10) The child(ren) will not be pressed for details after the interview or after the Hear the Child report has been provided.
- 11) The child(ren) are not to be rewarded or suffer any negative consequences as a result of the report.
- 12) The parties will cooperate in the transportation of the children to and from the interview.
- 13) The interviewer will be paid in advance of release of the report the sum of [\$xxx] (plus applicable taxes) for all work performed including meeting with child(ren), reporting on the child(ren)'s views and distributing the Hear the Child Report. If incurred, travel expenses are extra.
- 14) The parties have the right to terminate the Interviewer's services, upon written notice to the interviewer. If the parties terminate the Interviewer's services, they will pay the Interviewer's fees and expenses up to the date of termination of those services. If appropriate, the Interviewer will also ask the parties to sign a court form which advises the court that the parties have terminated the Interviewer's services.

- 15) If the interview process is terminated by the Interviewer, prior to the release of the report, then the parties may, as determined by the Interviewer, be required to pay the Interviewer's fees and expenses up to the date of termination of those services. If appropriate, the Interviewer will also ask the parties to sign a court form which advises the court that the parties have terminated the Interviewer's services. [insert alternate billing practice, as desired]
- 16) If a party or the parties require the Interviewer to attend court, the party(ies) shall make separate, advance fee arrangements with the Interviewer.

The following Parties by their signature, consent to the child(ren) being interviewed:

Name	Signature	Witness
[Insert name of Guardian 1]		
[Insert name of Guardian 2]		
[Insert name of Guardian 3]		
The Interviewer confirms the terms of this Agreement:		
[Insert name of 'Interviewer']		

Schedule 'A'**Excerpt from the *Child, Family and Community Service Act*****When protection is needed**

13 (1) A child needs protection in the following circumstances:

- (a) if the child has been, or is likely to be, physically harmed by the child's parent;
- (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
- (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
- (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
- (e) if the child is emotionally harmed by
 - (i) the parent's conduct, or
 - (ii) living in a situation where there is domestic violence by or towards a person with whom the child resides;
- (f) if the child is deprived of necessary health care;
- (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
- (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;
- (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
- (j) if the child's parent is dead and adequate provision has not been made for the child's care;
- (k) if the child has been abandoned and adequate provision has not been made for the child's care;
- (l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.

(1.1) For the purpose of subsection (1) (b) and (c) but without limiting the meaning of "sexually abused" or "sexually exploited", a child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be,

- (a) encouraged or helped to engage in prostitution, or
- (b) coerced or inveigled into engaging in prostitution.

(1.2) For the purpose of subsection (1) (a) and (c) but without limiting the circumstances that may increase the likelihood of physical harm to a child, the likelihood of physical harm to a child increases when the child is living in a situation where there is domestic violence by or towards a person with whom the child resides.

(2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe

- (a) anxiety,
- (b) depression,
- (c) withdrawal, or
- (d) self-destructive or aggressive behaviour.

*Appendix B**Sample Information Sheet*

Hear the Child Report Information Sheet

The *Family Law Act* states that when determining the best interests of a child the parties and the court must consider the child's views unless it would be inappropriate to consider them. One way to obtain a child or youth's views is to obtain a Hear the Child Report ('HTC Report').

An HTC Report is a non-evaluative, verbatim report on the views of the child on issues related to family transition or family breakdown for the purpose of having the views of the child or youth considered when decisions are made about their best interest. The child has control over what is included in the report and nothing is put in the report without the child's permission. An HTC report does not contain any recommendations nor does it state the opinions of the interviewer.

The report can be done by 'Agreement' between the guardians and the interviewer, by a consent order or by a judicial court order. When the HTC report is by 'Agreement' I require all guardians to sign the 'Agreement for a Hear the Child Interview' and return it to me.

Prior to the interview, I like to speak with each parent's legal counsel (if involved) to get the background on why a report is being requested and to get some very basic background on the issues in dispute. I may ask for copies of any relevant court orders or documents before the court.

I also have a brief phone call with each parent prior to the interview. The interview with each parent is to identify the issues or questions each parent wishes canvassed with the child. While I may ask both parents to provide me with some general background I do not go into any great detail with either parent on the issues before the court or issues being addressed in mediation.

I have two interviews with the child; the first is about an hour; the second one may be shorter. Neither parent will be in the room with the child during the interview. I work with parents and/or legal counsel to determine the dates and times for the interviews and to establish a date by which the report is due.

Transportation of the child to and from the interviews is to be shared equally between the parents, wherever possible. Legal counsel, if involved, may be asked to participate in making the transportation arrangements.

Here are some key points about the interview:

- Most importantly, I work through the lens of the child and their view on parenting arrangements, not through the lens of the parents' dispute
- Children are not decision-makers; the report is being prepared to help their parents, guardians, legal counsel and judges make decisions about their parenting arrangements
- Your child is in charge of whether and how they respond to my questions
- All responses will be reviewed with them; it is their decision on what gets included in my report

- The information is to help parents make the decisions about their child(ren)'s living arrangements or other issues
- I make detailed notes of what the child is saying
- The interview is not evaluative—I am not making any recommendations, simply reporting on what the child is saying.
- There is to be no coaching of the child as to what they say to me; nor is there to be any questioning of the child once the interview is completed, or once the report is received
- The child is to be prepared for the interview by telling them it is their opportunity to share their views on their living arrangements or other issues; as parents you should voice your support for speaking with me.
- If there are child protection concerns, by law I have to report them.

While each interview is tailored specifically to the needs of each child, the questions typically fall into three basic categories:

- Some general questions on how things are going for them now that their parents live in separate houses
- Specific questions about time spent with each parent
- Questions about future parenting arrangements

The interviewer will be paid in advance of release of the report the sum of [\$_____] (plus applicable taxes) for all work performed including meeting with child(ren), reporting on their views and distributing the Hear the Child Report. If incurred, travel expenses are extra.

If a party or the parties require the Interviewer to attend court, the party(ies) shall make separate, advance fee arrangements with the Interviewer.

More information is available at our website: <http://hearthechild.ca/>. Please do not hesitate to contact me with further questions.

Appendix C *Sample Intake Form*

HEAR THE CHILD REPORT INTAKE FORM

A. General (Note 1)

Date:	Billing Instructions:
Is Report Court Ordered?	If Court, What level?
Court Case Name and Number:	Is Report to be Filed?
Is Report by Agreement?	To Whom is Report to be Distributed?
When is Report Required:	Dates for Interview:
What are the Transportation Plans:	
Date of Separation:	Attach Copy of any Current Court Order or Agreement regarding parenting arrangements:
Nature of any Court Application or Dispute between Guardians:	
Description of Current Parenting Time Schedule:	
Purpose of the Report:	
Issues to be Canvassed with the Child(ren):	

B. Contact Information for Guardians/Lawyers

Mother's Name:	Phone:	Email:
Mother's Lawyer	Phone:	Email:
Father's Name:	Phone:	Email:
Father's Lawyer:	Phone:	Email:
Other Guardian Name:	Phone:	Email:
Relationship to Child(ren):		
Other Guardian's Lawyer:	Phone:	Email:

C. Children

Name of Children	To be interviewed?	Gender	Age/DOB	Any special needs?	Grade
	<input type="checkbox"/>				
	<input type="checkbox"/>				
	<input type="checkbox"/>				
	<input type="checkbox"/>				

CONTINUE ON FOLLOWING PAGE(S)

COMPLETE ONE FORM PER CHILD & PER GUARDIAN

Name of Guardian:

1. Name of the Child:
2. Does the Child want to talk to me?
3. What do I need to know about the Child that will assist the Child to talk to me **or** to help me talk to the Child?
4. Is the Child allowed a special snack during this Interview – what would he or she like? Any food allergies?
5. What would help the Child to feel comfortable during the interview?
6. Family Pet(s) and name? (e.g., dog, Rover)
7. Names of close relatives other than Mom and Dad (include biological, adopted and step children)?
8. Names of close family friends the Child may reference?
9. Names of the Child's close friends?
10. List the Child's extracurricular activities (e.g. soccer, dance):
11. Does the Child have a disability or health issue I should know about (e.g. dyslexia)? If so, please describe:
12. Are there any cultural considerations the Interviewer should be aware of
13. Are there any particular issues you want me to raise with the Child (NB. Please keep issues as generic as possible; e.g. Christmas)

Duties of a child interviewer

It is my duty to report on the responses of the child to my questions regarding his or her life and living arrangements with their parents. As a child interviewer, I do not analyze nor evaluate the responses of a child nor do I make any recommendations based on those responses.

It is my intention and practice to include as many of the words and comments used by the child as possible.

Quotes are noted in quotation marks and I try to get as much of a child's responses to a question as possible. If necessary, when I am adding context, I will use square brackets.

At times it may seem like I am including too much information. However, it is my belief that a child's voice has power and the more of that child's voice the parents hear, the more power or credibility this report will have.

Information reviewed

I received a telephone call from [_____] inquiring about the preparation of a Hear the Child report and that call was followed by a telephone call to [_____] , counsel for [_____].

A number of emails were exchanged and I received a copy of the Order made on xxx.

In addition, I reviewed:

- Any previous agreements or court orders related to the children
- The Court Summary Sheet from the parties' appearance before [Judge/Justice _____] on [date].

Other than the information set out above and a general description of the issues provided by the parties, I do not know any other facts or details about the children, the parties, other people or events mentioned in this report. I have reported what the children have told me and the manner in which they did so. I do not know if the information that they reported is true.

Conversations with the parents

I spoke with each of the parents individually before meeting with the children. The purpose of these meetings was to:

- Explain the process of a child interview
- Request that neither parent coach the children as to what they are to say nor question the children following the interview
- Provide an overview of and examples of the type of information that is contained in a typical report
- Gain an understanding of the context within which I am to gather the children's views
- Gain an understanding of each of the parent's concerns in relation to the children
- Develop insight as to the best way to approach the children and gather their views, and
- Provide the time-frame within which to expect the report.

Approach used with the children

I arranged for each of the parents to bring the children to meet with me. The mother brought the children to the first meeting on [date] and the father brought the children to the second meeting on [date]. Both interviews were conducted at my office. Neither parent was present during my interviews with the children.

At the beginning of the initial joint interview with both children I explained that my role is to listen to their views about their living arrangements with their parents and communicate those views to their parents, their parents' legal counsel and to the Court. I emphasized that seeking the child's views is not the same as decision making and further explained that their views would be used to provide input into decisions made by their parents with assistance from legal counsel and the Court. I let each child know that I would be taking detailed notes and would produce a report for the Court. I also explained that I would only report on those parts of our discussion that they agreed I could include in the report and that related to my mandate under the Court Order.

I further explained that by law as a child interviewer I am responsible to report any child protection concerns to the appropriate authorities.

I explained that this process would take two meetings and that in the second meeting I would review the notes from the first interview to ensure that I correctly reflected the child's views. Finally, I confirmed with each child that they were willing to speak with me and that they were comfortable with me disclosing their views to their parents, their parents' legal counsel and the Court.

Background to this report

- Insert general description of the issues
- Insert terms of the Court Order
- Insert relevant background information

First Interview

- Insert narrative of first interview

Second Interview

- Insert narrative of second interview

As I always advise in these reports it is not appropriate for either of the parents (or grandparents) to discuss any information in the report with the children. I am willing to answer questions; however, I have included all of the information [xxx] provided me in this report.

Respectfully submitted,

Child Interviewer

Appendix E *Sample Interview Questions*

Sample Interview Questions for HTC Interviewer¹

Interviews should be tailored to a child's age, capacity, needs and situation. Below are some helpful questions and topics for you to consider when designing your interview. You may have other questions you prefer to use; this is not intended as an exhaustive list. Questions should be geared towards helping a child express their thoughts and feelings about their family situation and issues that concern them. Please remember that that reports are not evaluative and questions are not being asked in order to assess whether coaching, influence, disruption, estrangement or alienation is taking place.

Child Interview Tips

- Frame questions—set the context before asking the question e.g., I want you to think about a specific time
- Stay away from negatives in questions—these tend to elicit wrong information 50% of the time
- When determining when—ask about what grade they were in at the time, the last time, most memorable time, first time or worst time; kids can't remember specific dates very well
- Use questions with 'some or 'something'—stay away from 'any' or 'anything' (questions with some or something will get you more information)
- Be clear about what you mean by this and that
- Use names not pronouns
- Be concrete—who, what, where with younger kids
- With younger kids stay away from 'when, why and how' as they are more abstract concepts
- Use tell me—tell me all about this; tell me everything; tell me more
- Replace 'why' with 'what is the reason' or 'how come'
- When a child references a point in time—ask 'tell me how do you know it was (Christmas)
- If there is a concern that a child is talking about events they did not experience, or talks about a situation that a parent may have suggested to them, then ask—tell me how you know this (name the event or incident) has happened

Introduction

Your introduction provides a context for your interview with the child. It is helpful to provide the child with the purpose of the interview and what to expect. Here are some points to cover:

- Purpose of the meeting is for you to tell me how things are going since your parents have separated so that your parents will know how you are feel when they are making decisions about your family
- This is your opportunity to have some input into decision making
- Your parents (or guardians) will still make the decisions, but your voice is important
- This information will be shared with your parents, lawyers, mediator and sometimes a judge to help them make decisions about your living arrangements (or other issues if identified)

¹ Based on the initial work of JP Boyd, with current update by HTC Board members

- I am going to ask you a number of questions and you get to answer them any way you want—you do not have to answer all the questions
- There are no right or wrong answers; you cannot make a mistake
- What you say is important so I am going to make some notes
- After we finish talking I will go over what you have told me and you can decide if I tell your parents
- My report does not contain any recommendations; it simply provides your views on the issues we talk about
- The law requires that I report any child safety concerns

Here are some questions to set the stage for the interview:

1. Tell me in your own words, why you are here.
2. Did your mom talk to you about the interview? What did she say? Did she ask you to tell me anything in particular?
3. Did your dad talk to you about the interview? What did he say? Did he ask you to tell me anything in particular?
4. How do you feel about talking to me today? Are you ready to go ahead with the interview?
5. What is the most important thing that you want to be sure to tell me today?
6. Is there anything you want your parents to know about how you feel about family decisions?
7. What is the most important thing that you want to be sure to tell me today?
8. How do you feel about talking to me today? Are you ready to go ahead with the interview?

Getting to know you

Start with neutral questions about the child can help put a child at ease and will tell you how well he/she communicates.

1. When was your birthday? What did you do for your birthday?
2. Tell me about who is in your family or the important people in your life.
3. What school do you go to and what grade are you in?
4. What is your favorite subject at school? What subject is the hardest?
5. Tell me about your friends, pets.
6. What do you like to do after school?
7. How do you get along with your brother/sister?
8. How does your brother/sister manage your parent's separation?

How are things going?

These questions can be about the child's life in general as well as related to the separation. Learning about the child's life can help to put separation issues in a perspective about what is important for a child.

1. What is particularly good in your life right now?
2. Are there things you worry about or feel stressed about?
3. Who do you talk to when you are worried about something or feel hurt or upset?
4. Who do you go to when you have a problem?
5. Tell me about how your parents share you?
6. What has changed for you since your mom and dad have stopped living together?
7. What has been the best/hardest thing for you since your parents have separated?

Parent specific questions

Parent specific questions can be useful to ask particularly if the child has expressed concerns about their parent/child relationship. These questions are best asked as follow up to comments about parents made by the child.

1. How would you describe your mom/dad to one of your friends?
2. How can you tell that your mom/dad love you?
3. What activities do you like to do with your mom/dad?
4. What is it like for you at your mom/dad's house?
5. Is there anything your mom/dad can do to make things better for you when you are spending time with him/her?
6. If you could plan the 'best day ever' with your mom/dad, what would that day look like?
7. Do you have any suggestions for your mom and dad and how they could make things better for you?
8. Do you have any general advice for your parents about making children happy when parents are separated?

Communication

These questions can be helpful to help a child express his/her concerns about possibly being caught in the middle.

1. What does your mom/dad support/encourage you to spend time with your other parent?
2. Do you tell your mom/dad about your time with the other parent?
3. Do you tell your mom/dad when you've had a good time with your mom/dad? A bad time? How does he/she respond?
4. Can you call your mom/dad whenever you want when you are with your mom/dad?

Complex parent / child relationship questions

These questions can be helpful if a child has communicated reluctance or refusal to spend time with a parent. Take the child's lead to ask questions about safety and family violence if they hint or mention anything suggestive of this or if others have raised this concern. If child protection concerns arise, let a child know that you will be telling people about this so that he/she can be safe.

1. What has made you feel like you don't want to spend with your mom/dad?
2. How does your mom/dad handle it, what do they say, when you don't want to see your other parent?
3. What would need to happen for you to feel more comfortable about spending time with your mom/dad?
4. Do you worry about anything when you are with your mom/dad?

Step parent/blended family questions

Relationships with a parent's new partner and children can be one of the issues about which a child might want to communicate.

1. How is it for you now that your step parent and her/his children have moved in with your mom/dad?
2. Tell me about the activities you do with your step parent, brothers/sisters?
3. Is there anything you'd like to change about your living arrangements with your step parent/siblings?

Living Arrangements

Encouraging a child to talk about what happens during the week or at transition times can help them talk about any concerns they have about the parenting time schedule.

1. Tell me about your time with each of your parents?
2. How are the current living arrangements working for you?
3. In the future how would you like to share your time between your mom's house and your dad's house?
4. What do you need to be comfortable with your living arrangements in the future?

Holidays and Special Events

Asking a child about parenting arrangements for holidays and events can give a child the chance to talk about how they feel about the parenting arrangements.

1. What happens for school concerts? Parent teacher interviews? Do both of your parents go to these?
2. How do you share your time between your parents for your school, Christmas, spring and summer breaks?
3. What special occasions are important to you? Where would you like to spend these special occasions?

Summary

The end of your interview is the opportunity to talk to the child about what you learned from them about their family situation and what things it would be helpful to tell your mom and dad. Thank the child for talking to you and then review what you have learned. Ask the child's permission to share these things with their parents. Ask if there was anything else they wanted to tell their parents or tell you, the interviewer? You could also talk about plans for the rest of the day, or what they thought about the interview.