

DUMFRIES & GALLOWAY
PUBLIC PROTECTION COMMITTEE



Multi-Agency Non-Disclosure Protocol

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1. PURPOSE

- 1.1 To provide updated guidance and an agreed protocol, on a multi-agency basis, on the provision of information in relation to the non-disclosure of information, including a person's location following changes in legislation brought about by the introduction of the [Children's Hearings \(Scotland\) Act 2011](#). This applies to Children's Hearings, Court and related Local Authority care and protection procedures.

2. DISCLOSURE OF INFORMATION - PRINCIPLES

- 2.1 **The provisions in the Children's Hearings (Scotland) Act 2011, and related Rules, about non-disclosure of information are for the purpose of enabling information which would otherwise have to be provided to an individual to be withheld from that individual.** The Reporter is to provide notification of Hearings and Pre-Hearing panels to various individuals and provide them with copies of all reports, documents and relevant information. This includes each relevant person, any person who appears to have had a significant involvement in the upbringing of the child and, where appropriate taking account of age and maturity, the child. Generally, the presumptions are as follows:

Child under 6	Child 6-11	Child 12 or over
No Notification or Papers	Notification but no papers (unless they request them)	Notification & Papers

All Mothers	All Fathers	Other Relevant Persons
Notifications & Papers	Notifications & Papers	Notifications & Papers

- 2.2 Parties to court proceedings are also generally entitled to receive copies of any documents relied upon in those proceedings.

3. NON-DISCLOSURE OF INFORMATION - PRINCIPLES

- 3.1 There are non-disclosure provisions in the Act and the Hearings Rules which allow information which would otherwise have to be provided to an individual to be withheld from that individual. **They operate in the broader context that no agency should be providing personal information about one individual to any other individual without good cause.**
- 3.2 Every agency must always consider whether it is lawful and appropriate to provide such information, or to include such information in reports, even if no non-disclosure provision applies.
- 3.3 Care should therefore always be taken not to disclose a person's personal information unless it is necessary to do so, authorised by law and proportionate.

- 3.4 Reports provided by any agency to the Reporter or a Children's Hearing should contain only information relevant to a child's circumstances and life, which might include wider family or social circumstances.

4. WHEN TO CONSIDER NON-DISCLOSURE WITHIN THE ACT

- 4.1. The test to any non-disclosure provision is that disclosure of the information to the individual(s) would be likely to cause significant harm to the child (or to a relevant person re disclosure of the relevant person's whereabouts). There is no established definition of what that term means. It covers physical and emotional harm, most obviously where there is an assessed risk to the health or wellbeing of a child or other person and/or a threat of the child being abducted. It should never be reluctance by a carer to share their address.
- 4.2. If a non-disclosure provision is applied, the process must be transparent. The Reporter has a duty to tell everyone entitled to receive the Hearing documentation and papers what information has been withheld and from whom; this includes giving a broad outline to the person from whom the information has been withheld.

5. THE NON-DISCLOSURE PROVISIONS

- 5.1 There are three primary provisions enabling information to be withheld:
1. **A non-disclosure request** - A non-disclosure request may be made by any person. The request must specify what information within the Hearing (or Pre-Hearing Panel) papers is to be withheld from whom, and why. The Reporter must withhold the specified information from the specified individual(s) and refer the request to the Children's Hearing (or Pre-Hearing Panel). The Hearing (or Pre-Hearing Panel) will decide whether to agree to the request.
 2. **Rule 16** - Rule 16 enables the Reporter to withhold the whereabouts of the child or a relevant person when sending notifications or papers or other communications relating to a Children's Hearing or Pre-Hearing Panel.
 3. **A non-disclosure measure** - Where an order by a Children's Hearing or Sheriff requires the child to reside at a particular place, including a place of safety, the Hearing or Sheriff may include a measure in the order prohibiting disclosure of that place. The measure prohibits disclosure of the address, and also other information if necessary to prevent indirect disclosure of the place, e.g. Name of carers, school, etc.
- 5.2. Be clear what you wish to be subject to non-disclosure.
- 5.3. More than one type of non-disclosure provision may apply to a child's case.

6. RESPONSIBILITIES OF REPORT WRITERS

- 6.1 Report writers are responsible for making a non-disclosure request in relation to their report, using the non-disclosure request form which the Reporter provides with the report request. There is a link in the report request; there are two forms to be completed and a guidance note for completion. They are attached to this protocol. **See [Appendix 1](#), [Appendix 2](#) and [Appendix 3](#).**
- 6.2 A non-disclosure request must specify: (i) the information, document or part of document for which non-disclosure is requested; (ii) the person or persons from whom the information or document is requested to be withheld; and (iii) the reason or reasons for requesting each document or piece of information to be withheld from each person.
- 6.3 **If no non-disclosure request is made, the Reporter will presume that providing the document or information in full to those entitled to receive it will not be likely to cause significant harm to the child.**
- 6.4 A report writer should provide information which is, or may be, subject to a non-disclosure provision in a format which supports withholding or redaction of the information (e.g. in a separate document, an appendix or a single paragraph/section within the report). A report must not contain multiple references to the same 'non-disclosure' information. There should be minimum inclusion of addresses, only where legally required and/or of particular relevance.
- 6.5 **Please Note: The Reporter cannot apply Rule 16 for a future placement. Agencies should ensure any details of a future placement that they don't wish to be disclosed are omitted from their report with their Non-Disclosure Request to the Hearing. The Reporter has no power to remove this information if it is shared.**
- 6.6 Where a placement is being recommended, the names and address of the proposed carers must be available to the Hearing. This is achieved, in a non-disclosure situation, by the local authority providing the information to the Reporter in advance of the Hearing and making a non-disclosure request (and the Reporter notifying the panel members that the information is available on request).
- 6.7 Rule 80 states that a Hearing cannot make or vary a compulsory supervision order to require a child to reside at a place where the child would be under the charge or control of someone who is not a relevant person unless:
- The Hearing has received and considered a report from the local authority which provides the local authority's recommendations on the needs of the child and the suitability to meet those needs of the place and the person being recommended, and
 - The local authority confirms that in compiling the report they have carried out the procedures and gathered the information described in regulations 3 and 4 of the Looked after Children (Scotland) Regulations 2009.
- 6.8 **Where possible:**
- Consider if the information is absolutely necessary for the Hearing to make a decision

- Ensure the information is not contained within your report
- Be clear what information is not to be disclosed, carers names, address, town, wider whereabouts
- Review the necessity for the order and make a clear recommendation and give reasons for ND or continued ND measure in your report – significant harm to the child
- Remind colleagues in other agencies so that they can prepare their reports accordingly.
- As above – care to be taken when referring to, for example the child's school, nursery or leisure activities if this might result in disclosure of the place of residence. Avoidance of headed paper, removing the school badge, referring to the professionals by their title rather than their name are further examples to be considered.

7. AGENCY RESPONSIBILITIES

- 7.1 Where a non-disclosure provision has been applied, all agencies involved with the child must have an appropriate system in place to ensure this is highlighted on the child's and/or carer's records.
- 7.2. As a non-disclosure measure is a statutory provision, it is legally binding on all agencies.
- 7.3. The process to be followed after the granting of a non-disclosure measure at a Hearing is attached at [Appendix 6](#).
- 7.4. The local authority should recommend and justify continued non-disclosure in their report for **each** Hearing. A new non-disclosure request is required for each hearing (other than a deferred Hearing).
- 7.5. Where a non-disclosure measure is included in an order, the local authority must keep this measure under review. If the measure becomes unnecessary, the local authority must request a review of the order.

8. RESPONSIBILITIES OF REPORTER

- 8.1. If the Reporter withholds information under any non-disclosure provision, the Reporter will provide the local authority with full details of the information which has been withheld and from whom.

9. BREACH AND LEARNING

- 9.1. A breach is where information is disclosed to an individual or individuals by any person or agency contrary to the terms of a current non-disclosure measure.
- 9.2. Where any person identifies a breach of a non-disclosure measure, they should immediately inform their line manager, the Lead Professional and SCRA. The Lead Professional should undertake a risk assessment and take any appropriate steps to safeguard the child. [See Appendix 7](#).

- 9.3. SCRA will make appropriate enquiries and report the breach at a national level.
- 9.4. A full review of how the breach occurred will be co-ordinated by SCRA. Any lessons to be learned from a breach will be reported to the Public Protection Committee and relevant agencies.
- 9.5. The Public Protection Committee, on behalf of the Chief Social Work Officer, will regularly review the number of children with a non-disclosure measure, the number of breaches, and provide an analysis of the cause of any breach and lessons learned. These reviews will be reported to the Chief Officers Group of the local authority.
- 9.6. Further to the collation and consideration by the Public Protection Committee, the Chief Social Work Officer will, on an annual basis, report to the Children's Hearing Improvement Partnership on areas of learning or improvement and this information will be collated and reported upon nationally.

10. RECORDING OF NON-DISCLOSURE

- 10.1. When the Lead Professional is giving consideration to non-disclosure, they should notify all relevant partner agencies, for example, education, health, etc.
- 10.2. When the non-disclosure request is being asked of the Reporter, the Lead Professional will update MOSAIC with immediate effect.
- 10.3. Following the creation, variation, or removal of a non-disclosure provision the Lead Professional will update MOSAIC immediately following the Hearing.
- 10.4. Where there is a delay in the Lead Professional updating MOSAIC, they must contact their locality looked-after children administrator team by email advising there is a non-disclosure in respect of a particular child/children. The email should be protectively marked and headed URGENT. LAC administration team will immediately update MOSAIC. Email addresses are provided below.
- 10.5. Upon receipt of the Children's Hearing decision regarding non-disclosure, social work administration will notify partner agencies.
- 10.6. Where a decision is reached outside daytime hours the Lead Professional will contact Out of Hours Social Work Team by phone on the number below as soon as practicable after the order is granted. They will provide the name and date of birth of the child and home address of the child's parent/parents and identify the information subject to non-disclosure.
- 10.7. Where an application for a Child Protection Order (CPO) has been granted during working hours, and where the Sheriff has ordered that the address of the place of safety should not be disclosed, legal services will notify children and families administration by secure email using the email addresses provided below before the close of business. The email should be protectively marked and headed URGENT. Where it is impractical to notify them before the close of business, legal services will provide notification as described for out of hours applications below.
- 10.8. Where an application for a CPO is granted out with normal working hours, and where the Sheriff has ordered that the address of the place of safety should

not be disclosed, Legal Services will contact the Out of Hours Team by phone on the number below as soon as practicable after the order is granted. The solicitor will provide the name and date of birth of the child and the home address of the child's parent/parents and identify the information subject to non-disclosure (e.g., their non-disclosure address). The solicitor will confirm this with the Out of Hours Team and the case worker in writing by secure email on the next working day.

Name	Phone Number	Email Address
Out of Hours Team	01387 273 660	socialworkoutofhours@dumgal.gov.uk
LAC Admin Teams		LACAdminEast@dumgal.gov.uk or LACAdminWest@dumgal.gov.uk

11. CIVIL COURT PROCEEDINGS

- 11.1. If there are civil proceedings the Lead Professional should ensure that legal services are aware that non-disclosure applies.

12. APPENDICES

1. Non-Disclosure Request: Reports/Documents for a Children's Hearing or Pre-Hearing Panel – Form 3
2. Non-Disclosure Request: Full Details of Information – Form 4
3. Guidance Note for Agencies on Completion of Form 3 (Non-Disclosure Request) and Form 4 (full information)
4. Pre-Hearing flowchart – Planned
5. Pre-Hearing flowchart – CPO
6. Post Hearing flowchart
7. Breach flowchart

Appendix 1 – Non-Disclosure Request: Reports/Documents for a Children’s Hearing or Pre-Hearing Panel (ND Form 3)

**Will be available via link on report request*

ND Form 3

Non-Disclosure Request Reports/Documents for a Children’s Hearing or Pre-Hearing Panel

This Form will be provided in full to the child (if able to understand), all relevant persons, any safeguarder and panel members. The Request will be considered by the Children’s Hearing or Pre-Hearing Panel.

Child’s Name:	Date of Birth:
Name of Person making Request:	
Job Title:	
Date of Request:	

1. Summary of the information requested to be withheld

Current address of the child

Current address of (specify relevant person)

Name of current carer(s)

Name of proposed carer(s)

Address of proposed placement

Child’s school/nursery

Child’s GP/health centre

Other information to prevent disclosure of an address

Please give outline description e.g. ‘name of headteacher’

Other information unrelated to an address

Please give outline description e.g. ‘medical history of X’, ‘previous behaviour by Y’, ‘family background of Z’

2. Person(s) from whom the information is requested to be withheld

3. Reasons for making the request

Reasons should explain why disclosure of the information to the specified person(s) would be likely to cause significant harm to the child.

4. Which Document(s) Contain the Information

Form 4

Ideally provide the information to be withheld only on Form 4 and not in any other document.

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Other document(s) – specify by name and date

If the request does not relate to the whole of the document specify all places within the document where the information appears e.g. by page and paragraph number.

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Please send to [team mailbox]

Appendix 2 – Non-Disclosure Request: Full Details of Information (ND Form 4)

*Will be available via link on report request

ND Form 4

Non-disclosure Request – Full Details of Information

Child's Name:	Date of Birth:
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Name of Person making the Request:
Job Title:
Date of Request:

The following is the full information referred to in the Non-disclosure Request:*Current address of child:**Current address of (specify relevant person):**Name of current carer(s):**Name of proposed carer(s):**Address of proposed placement:**Child's school/nursery:**Child's GP/health centre:**Other information to prevent disclosure of an address:**Non-address related information:*

The above information is contained only in this Form, not in my report.

☐

The above information is also contained in my report.

☐

Please send to [team mailbox]

Appendix 3 - Guidance Note for Agencies on Completion of Form 3 (Non-disclosure Request) and Form 4 (full information)

If making a non-disclosure request in relation to information you are providing, please use **Form 3**. The completed Form will be provided in FULL to the child (if able to understand), relevant persons, any safeguarder and the panel members.

The full information you want to be withheld should be provided on Form 4.

There are circumstances where it is not necessary or appropriate to make a non-disclosure request in order for information to be withheld. Please see the section at the end of this Note for details.

Completion of Form 3

Section 1

Please mark each box that applies, if any, to show the information you wish to be withheld.

If the non-disclosure request is about an address or whereabouts and you want additional information to be withheld to prevent indirect disclosure of the address or whereabouts - and the additional information does not fall within a category listed - please give a broad outline of the additional information at section 1(a). For example, 'name of headteacher'.

If the non-disclosure request is about information unrelated to an address or whereabouts, please give a broad outline of the information at section 1(b). For example, 'medical history of X (give name)', 'previous behaviour by Y (give name)' or 'family background of Z (give name)'.

Section 2

Specify the person or persons from whom you want the information to be withheld.

If you want different information withheld from different people, please make a separate non-disclosure request for each individual (or group of individuals), addressing the particular information to be withheld from that individual (or individuals).

Section 3

Give the reasons why you want the information to be withheld. The statutory basis for making a non-disclosure request is that disclosure of the information to the specified person or persons would be likely to cause significant harm to the child. Your reasons should therefore explain why disclosure is likely to cause significant harm to the child. Please ensure you do not include within your reasons any details of the information to be withheld as the Form will be copied to all parties.

Section 4

Provide details of which document or documents contain the information you want to be withheld. Please mark the relevant box or boxes. Ideally provide the information that you want to be withheld only on Form 4 and not within any other document.

However, if you do include the information in a document other than Form 4, please specify the name and date of the document. Unless the document contains nothing but the information you want to be withheld, please also specify where within the document the non-disclosure information is contained – for example by giving the page and paragraph number.

Completion of Form 4

Please use Form 4 to provide the full information which you are requesting to be withheld. Specify the full information under the relevant category.

Indicate, using the boxes, whether the information is contained only in Form 4 or is also contained in your report.

If you are making more than one non-disclosure request (because you want different information withheld from different people) please complete a Form 4 for each request.

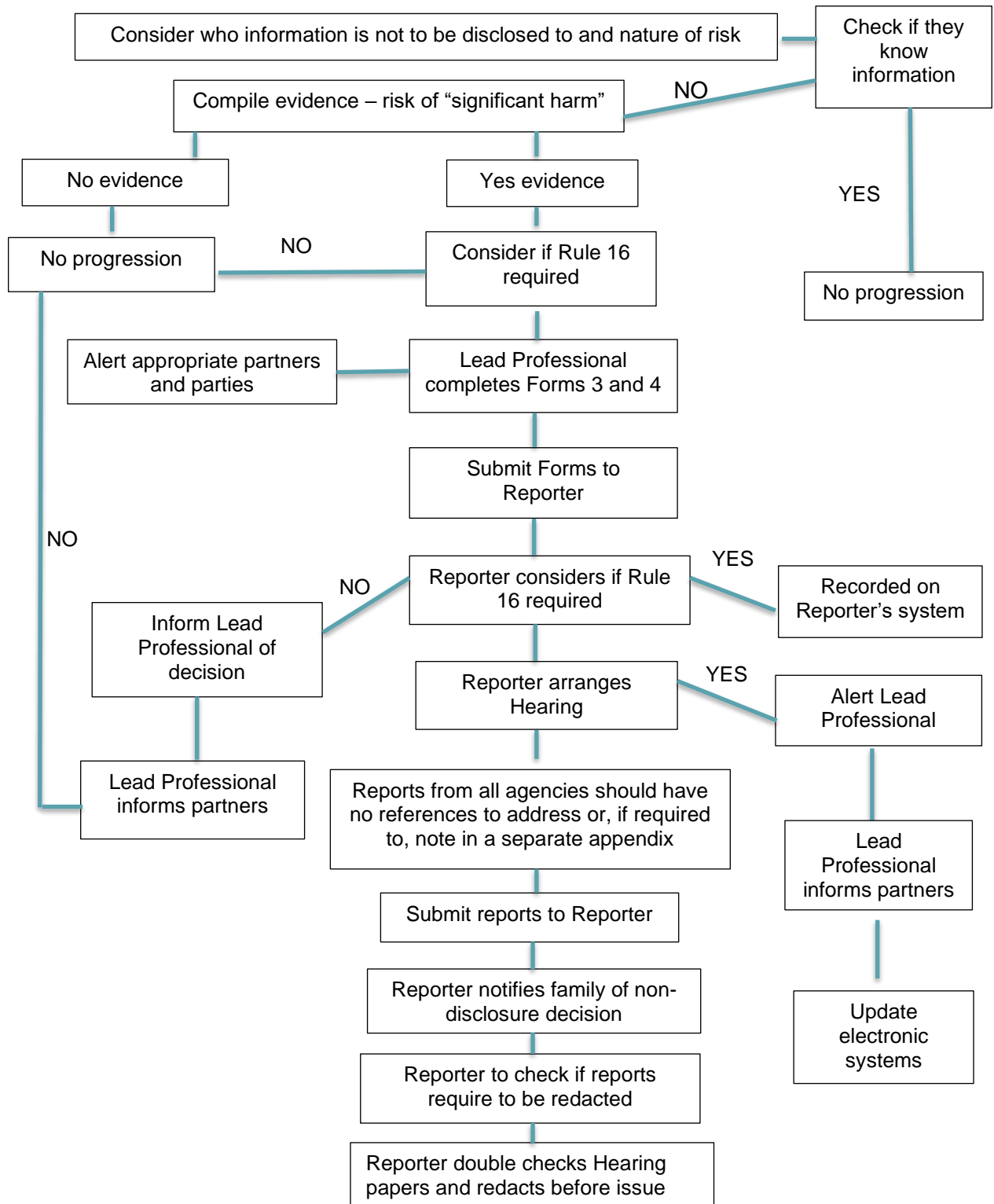
Interaction with other Non-disclosure Provisions

1. Where the child would not be able to understand a report or document, the Reporter will not provide the information to the child (rule 18 of the Children's Hearings Rules). There is no need for a non-disclosure request. The Reporter presumes that a child of 6 or older will understand Hearing notifications and that a child of 12 or over will understand Hearing papers, but each child will be assessed individually. If you consider that particular information should be withheld from the child (because of likely significant harm to the child) where the Reporter is **not** applying rule 18, you should make a non-disclosure request.
2. Where there is a non-disclosure measure in the child's order, the Reporter will withhold the placement address from the person(s) specified in the measure. The Reporter may also withhold additional information to prevent indirect disclosure, for example the name of the carer. There is therefore no need to make a non-disclosure request in relation to the placement details.
3. Where disclosure of the child's or a relevant person's current whereabouts is likely to cause significant harm to the child or a relevant person, the Reporter will withhold their whereabouts (rule 16 of the Children's Hearings Rules). There is therefore no need to make a non-disclosure request in relation to current whereabouts. The only exception would be if you have asked the Reporter to apply rule 16 and the Reporter has declined to do so.

Appendix 4 – Pre-Hearing Flowchart: Planned

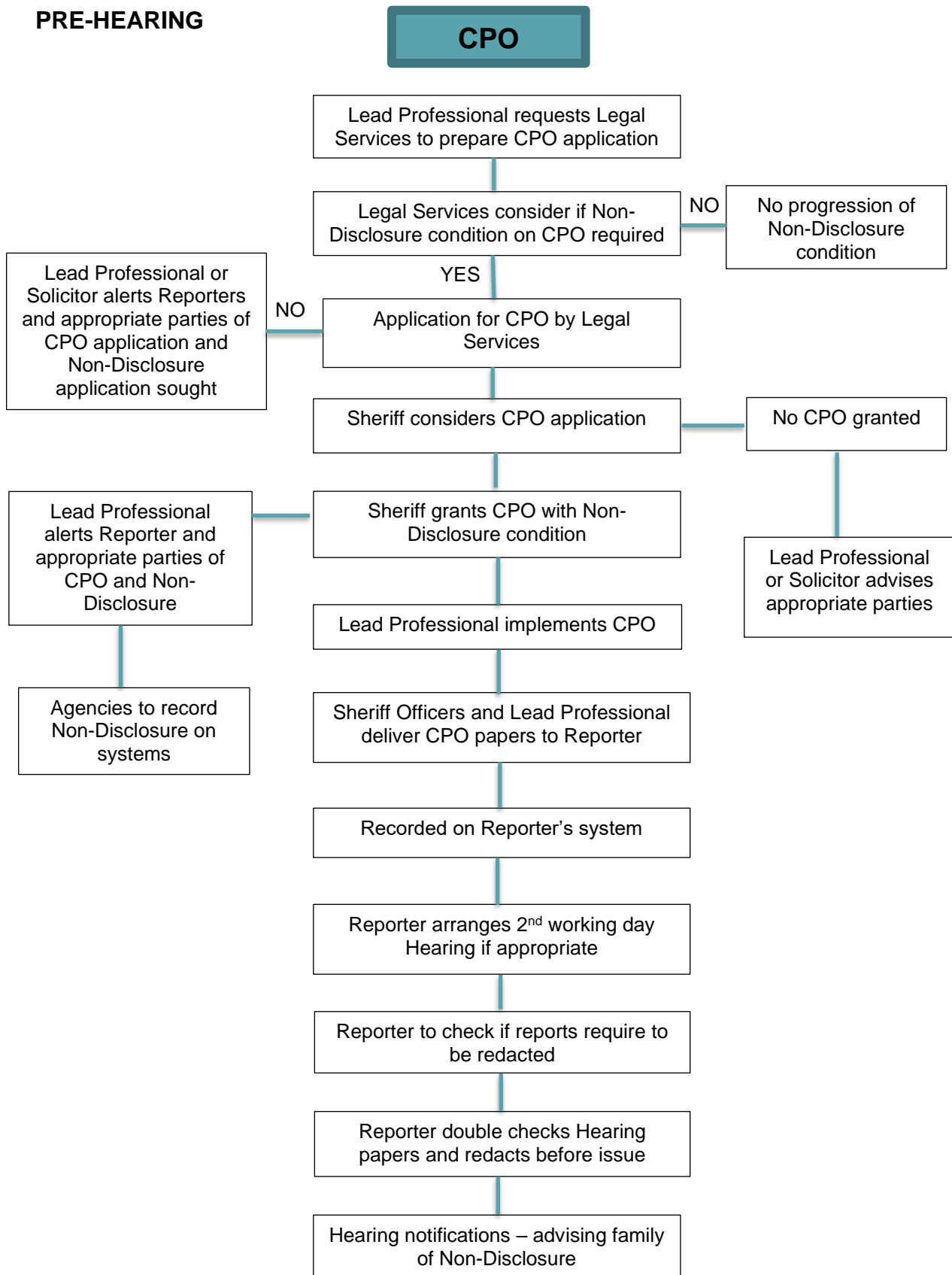
PRE-HEARING

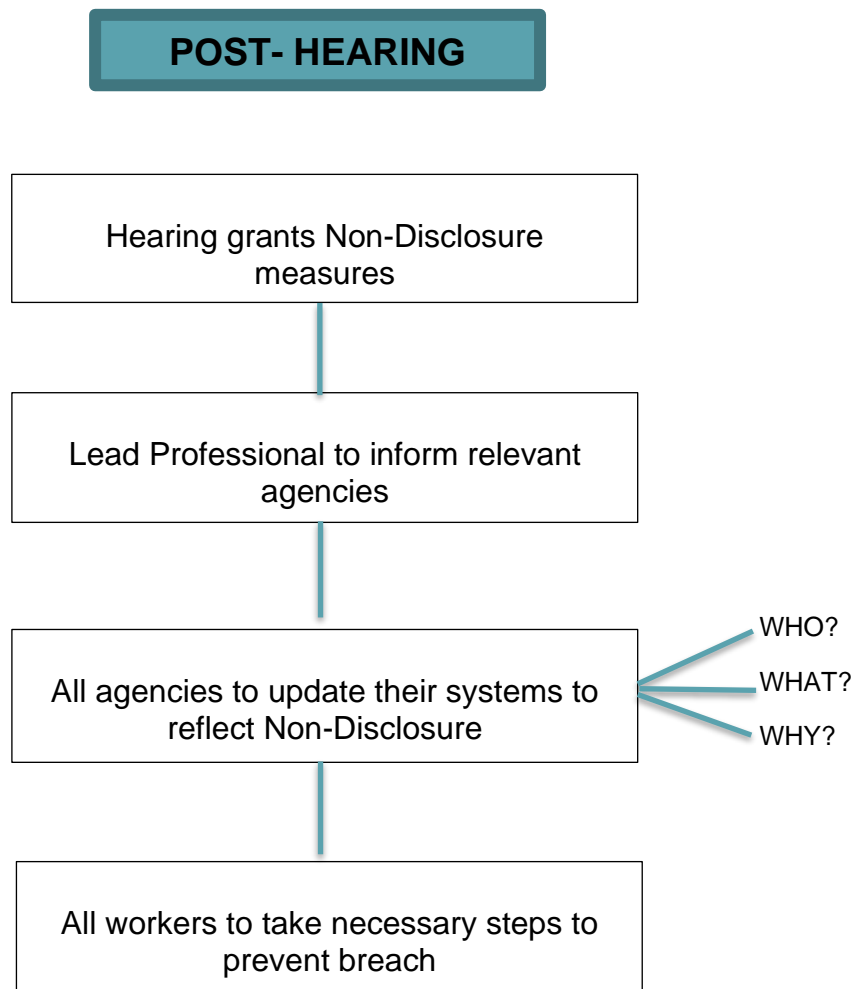
PLANNED



Appendix 5 – Pre-Hearing Flowchart: CPO

PRE-HEARING



Appendix 6 – Post-Hearing Flowchart

Appendix 7 - Breach Flowchart

