



NZLS EST 1869

FAMILY LAW SECTION NEW ZEALAND LAW SOCIETY

LAWYER FOR THE CHILD BEST PRACTICE GUIDELINES

ACTING FOR CHILDREN UNDER THE CARE OF CHILDREN ACT 2004 AND THE CHILDREN YOUNG PERSONS AND THEIR FAMILIES ACT 1989

1. INTRODUCTION

- 1.1 The appointment of a lawyer to represent a child occurs under the specific legislation the proceeding has been brought.
- 1.2 In all proceedings in the Family Court, the role of lawyer for the child as described in these guidelines is prescribed by section 9B of the Family Courts Act 1980 and guided by the United Nations Convention on the Rights of the Child (UNCROC).
- 1.3 The welfare and best interests of the child is the paramount consideration of the Family Court in proceedings that involve children under these Acts.
- 1.4 Except in circumstances where a child is exercising his or her right of appeal, (sections 143 of the Care of Children Act 2004 (COCA) and section 341(2) of the Children, Young Persons, and Their Families Act 1989 (CYPTF Act), and in limited circumstances as prescribed by these Acts (section 31 of COCA), a child is not a party to the proceedings.
- 1.5 At all times the lawyer shall conduct him/herself in accordance with the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.
- 1.6 These guidelines replace all previous guidelines issued by the New Zealand Law Society.

2. DEFINITIONS

- 2.1 The term 'child' includes child as defined in COCA and both 'child', 'children' and 'young person' as those terms are defined in the CYPTF Act.
- 2.2 References to 'the lawyer,' unless otherwise stated, means a lawyer appointed by the Court to act for a child.
- 2.3 References to 'report writer' means any social worker or report writer from whom a report has been requested under section 132 or 133 of COCA or under section 178, 186 or 187 of the CYPTF Act. 'Specialist report' has a corresponding meaning.

2.4 References to Child, Youth and Family (CYFs) means the Chief Executive of the Ministry of Social Development.

3. OBJECT

3.1 The object of these guidelines is to promote quality and consistency of practice without fettering the discretion of the lawyer in carrying out their role or exercising his or her professional judgement in assessing the welfare and best interests of the child as required by section 9B of the Family Courts Act 1980.

3.2 It is essential that the lawyer responds to the characteristics of each case and client.

4. GUIDING PRINCIPLES

4.1 A child has the right to competent representation from an experienced and skilled lawyer.

4.2 A child must be given reasonable opportunities to be heard (either directly or indirectly) in any judicial and administrative proceedings affecting them, as provided for by section 6(2)(a) of COCA, section 5(d) of the CYPTF Act and Articles 9.2 and 12.2 of UNCROC.

4.3 A child must be given a reasonable opportunity to express his or her views and any views expressed must be taken into account by the Court (section 6(2)(b) of COCA).

4.4 A child has the right to information about the case in which he or she is involved, including information on the progress and outcome of that case.

4.5 The manner of the discussion with the child shall take into account the child's age, maturity and level of understanding.

5. ROLE OF THE LAWYER FOR THE CHILD

5.1 The lawyer is to provide independent representation and advice to the child in a manner that the lawyer considers promotes the welfare and best interests of the child.

5.2 The lawyer has a duty to ensure that any views expressed by the child **to the lawyer** (and not expressed to another person, such as a psychologist, social worker or teacher), on matters affecting the child and relevant to the proceedings, are communicated to the Court.

5.3 Where a lawyer has been appointed to represent a number of children, the lawyer must be alert to the possibility of conflict. The lawyer may be obliged to seek separate representation for one or more children.

5.4 The lawyer has a duty to ensure that all factors relevant to the child's welfare and best interests, are before the Court.

5.6 The lawyer should remember that section 9C of the Family Courts Act 1980 does not necessarily mean that a lawyer to assist the court will be appointed for the sole reason that the views expressed by the child may be in conflict with the lawyer's assessment as to the child's welfare and best interests.

5.7 The lawyer must be aware of, and actively manage, the risk of the child being exposed to systems abuse.

6. RELATIONSHIP WITH THE CHILD

6.1 The lawyer must meet with the child he or she is appointed to represent unless, because of exceptional circumstances, a judge directs that it is inappropriate for the lawyer to meet with the child (section 9B(2) and (3) of the Family Courts Act 1980).

6.2 The lawyer should maintain appropriate professional boundaries with the child.

6.3 The lawyer must meet with the child and, if it is appropriate to do so, ascertain the child's views on matters affecting the child that are relevant to the proceedings.

6.4 In deciding whether or not it is appropriate to ascertain the child's views, the lawyer should consider:

- (a) whether the circumstances are such that the child should not be interviewed on a particular occasion or in a particular environment;
- (b) that having met the child, the issues are such that the lawyer should not attempt to ascertain the views of the child for reasons pertinent to that child;
- (c) that although it is necessary to meet the child (to have an idea of who is being represented), the issues are such that it is not appropriate to ascertain the child's views.

6.5 The timing and venue for such a meeting, and any further meetings, should be at the discretion of the lawyer. However, the lawyer shall meet with the child at a time which ensures that the child's views are up to date at the time of the hearing so that they can be taken into account by the Court.

6.6 When meeting with the child the lawyer shall:

- (a) emphasise to the child that they do not have to express any view (section 9B(1)(b) of the Family Courts Act 1980);
- (b) before any view is expressed by the child, tell the child that any views the child expresses must be communicated to the Court by the lawyer;
- (c) consider an appropriate process for disclosure of information the child would prefer to remain confidential; and
- (d) explain to the child that he or she is not responsible for any decision which will be made by the Court.

6.7 At the conclusion of the case the lawyer must provide advice to the child about:

- (a) the outcome of the case;
- (b) any right of appeal against a decision of the Court; and
- (c) the merits of pursuing any such appeal.

7. INTERVIEWING THE CHILD AT SCHOOL

7.1 When interviewing the child at school, attention is drawn to the New Zealand Law Society Protocol '*Liaison between Lawyer for the Child and Schools: A Guide for Lawyers Representing Children*' (see Appendix 1).

8. CASE MANAGEMENT

- 8.1 The lawyer should endeavour to move the case towards resolution, including where appropriate, in the lawyer's assessment of the child's welfare and best interests, assisting the parties to reach an agreement.
- 8.2 In all proceedings, except CYPTF Act proceedings, if the lawyer considers there are care and protection issues that may justify CYFs involvement, the lawyer should take the necessary steps to refer the matter to CYFs directly or via a judicial referral.
- 8.3 The lawyer should be alert to the possibility of records held by the Court, the Police, Child Youth and Family and the Ministry of Justice that may be relevant to the proceedings, and where appropriate, obtain copies of those records.
- 8.4 In CYPTF Act cases where there has been a referral to a Family Group Conference (FGC), the lawyer shall:
- (a) be pro-active in ensuring an FGC is held as soon as possible; and
 - (b) be present at the FGC to ensure that the focus is on the best interests of the child.
- 8.5 If the lawyer ceases to act for the child, he or she must ensure that the new lawyer receives all relevant information held by him or her.

9. BRIEFS BY THE COURT

- 9.1 It is the task of the Court to set the brief for the lawyer.
- 9.2 The lawyer should not accept any brief that requires an assessment of the safety of the child.

10. JUDICIAL MEETING

- 10.1 Prior to the hearing, the lawyer shall advise the Court whether it is appropriate for the child to meet the Judge.
- 10.2 The lawyer shall advise the parties and the Court of the child's views about such a meeting.

11. RELATIONSHIP WITH THE PARTIES AND THEIR COUNSEL

- 11.1 Where a party to a proceedings is represented by his or her own lawyer, the lawyer should obtain the consent of the parties' lawyers before making direct contact with any party.
- 11.2 The lawyer should explain the role of the lawyer to the parties so they have an understanding of the role of the lawyer and in particular, that any communication with a party is not privileged, nor confidential.
- 11.3 Any information provided to the Court by the lawyer must be provided to all of the parties except in circumstances where the disclosure of information would be:
- (a) likely to place at risk the health (including mental health) and safety of a child or any other person; or

(b) in breach of the law or in breach of an order of the Court.

12. ROLE OF THE LAWYER IN NEGOTIATION BETWEEN THE PARTIES

- 12.1 The lawyer should explore alternative methods of resolution where it is clearly in the child's welfare and best interests to have his or her parents negotiate a settlement, rather than have the matter determined by the Court.
- 12.2 The lawyer should consider whether safety issues would prevent a negotiated outcome.
- 12.3 It is the role of the Court and not of the lawyer to make findings on safety and the assessment of risk. If issues are disputed the Court will need to make findings of fact. The lawyer must not compromise, for the sake of expediency, on issues where a finding of fact must be made.
- 12.4 The lawyer should ensure that parties have the opportunity to seek legal advice during any settlement negotiation.
- 12.5 When negotiation between parties takes place the lawyer should ensure that lawyers for the parties are given the opportunity to be present.

13. OTHER PROFESSIONAL ISSUES

- 13.1 Before accepting any appointment the lawyer should be satisfied that he or she is able to give the time which the case requires.
- 13.2 Appointment of the lawyer is personal. The lawyer should not delegate substantive steps in the fulfilment of the brief to a non lawyer for the child. Where an agent is to be briefed, the agent is to be properly instructed and must be listed on the current court-approved lawyer for child list.
- 13.3 The lawyer must be aware of issues including gender, ethnicity, sexuality, culture, religion and disabilities, in dealing with issues in any particular case.
- 13.4 The lawyer must undertake professional supervision appropriate to the nature and extent of their lawyer for child practice.
- 13.5 The lawyer must undertake a minimum of 20 hours of active lawyer for the child practice and a minimum of 3.5 hours of verified continuing professional development (CPD) and 6 hours of non-verified CPD in areas specific to practising as a lawyer for the child within each CPD year. A CPD is defined in Rule 3.1(i) of the Lawyers and Conveyancers Act (Lawyers: Ongoing Legal Education – Continuing Professional Development) Rules 2013.

14. LAWYER FOR THE CHILD AND REPORT WRITERS

- 14.1 The report writer is the Court's witness.

- 14.2 The Court will make directions as to the briefing of the report writer (including any safety issues) and arranging for his or her appearance at the hearing.
- 14.3 Where a specialist report is obtained under COCA, the lawyer may give or show the report to the child only if the Court orders. The lawyer shall make a recommendation to the Court on this issue. However, in every case the lawyer should explain to the child the purpose and contents of the report, unless the lawyer considers that to do so would be contrary to the welfare and best interests of the child.
- 14.4 Where a report is obtained under the CYPTF Act, the lawyer may give the report to the child unless the Court orders that the whole or any part of the report not be disclosed to the child (section 192 CYPTF Act). The lawyer shall, before giving a report to the child, make a recommendation to the Court on this issue.

15. ROLE OF LAWYER FOR THE CHILD IN PREPARATION FOR AND AT A HEARING

- 15.1 If the lawyer wishes to call any person as a witness, the lawyer must ensure, prior to the hearing that the proposed witness knows of the hearing and is available. Nothing in this paragraph shall excuse the lawyer from complying with Rule 48(1) (evidence by affidavit) and Rule 52D (restrictions on steps to be taken after notice of hearing date given in non COCA cases) of the Family Courts Rules 2002.
- 15.2 At the hearing the lawyer should take all steps necessary to ensure that the Court can make the best possible determination of the welfare and best interests of the child. This will include:
- (a) identifying all relevant issues which need to be determined in regard to the child's welfare and best interests;
 - (b) ensuring that the Court has all the necessary information that is relevant to the welfare and best interests of the child, including the views of the child relevant to the proceedings;
 - (c) calling evidence where appropriate (other than any Court's witness);
 - (d) cross-examining to ensure that all relevant issues are fully explored, having regard to the time limits imposed by Rule 416ZF(2) of the Family Courts Rules 2002;
 - (e) making submissions on behalf of the child;
 - (f) with the consent of the parties, providing the Court with a statement of any views expressed by the child; and
 - (g) not giving evidence.

16. GUARDIANSHIP (WARDSHIP) OF THE COURT – section 31 of COCA

- 16.1 The lawyer should not make an application to the Court for wardship, nor accept an appointment as agent for the Court.
- 16.2 The lawyer should be aware that making an application for guardianship (wardship) will expose the lawyer to *inter partes* costs and the mandatory cost contributions award.

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Chair
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Ratified by the New Zealand Law Society Board on 20 February 2015

APPENDIX 1

PROTOCOL - Liaison between Lawyer for Child and Schools - A Guide for Lawyers Representing Children

INTRODUCTION

General

A school can be an important source of information for lawyers for children involved in cases relating to the care of children (guardianship, day-to-day care, contact, and care and protection matters).

Schools can be understandably cautious in providing information about children where Court proceedings are involved.

Most schools have now established their own protocols for dealing with enquiries from lawyers in such situations.

This document is specifically intended as a guide for lawyers who have been appointed by the Court to act for children and who wish to obtain information from, or interview children at, schools. It is intended to be of general application to primary, intermediate and secondary schools and may have some relevance to pre-school programmes (including kindergarten). Because of the different character of these educational facilities some adaptation to specific circumstances may be required.

This document may also be of benefit to schools in receipt of requests for information but should not be seen as a substitute for legal advice.

School Protocols

Under the Education Act 1989, schools effectively manage their own affairs.

Where a school has established a protocol for dealing with lawyers seeking information it is important to respect and abide the terms of that protocol. At the outset it may be both prudent and courteous for the lawyers to enquire as to the existence of any such protocol and to seek to ascertain its terms.

Point of Contact

Under the Education Act 1989 the Principal of a school is effectively the school's Chief Executive. Again as a matter of prudence and courtesy all enquiries of a school should be made, in the first instance, to the Principal rather than to individual teachers, guidance counsellors or administrative staff.

General Disclosure Principles

The statutory parameters within which a school operates in relation to the disclosure of information may be found in the Official Information Act 1982, Privacy Act 1993 and the Education Act 1989.

Official information is general information held by government agencies including schools. Schools sometimes have websites containing general information about the school, the school's Charter and pastoral care and other policies and, sometimes minutes of Board of Trustees meetings.

Other information will generally be provided by the Principal on request. If a request for information is refused a request can be made under the Official Information Act. There is a general principle the information should be made available unless there are good grounds for withholding it. If a request under the Official Information Act is refused an application may be made to the Ombudsman for a review of the decision.

The Privacy Act 1993 establishes twelve principles relating to the collection, storage, use and disclosure of information about individuals. Principle 11 prescribes the limits on disclosure of personal information and is set out at the end of the appendix. Principle 11 provides that personal information should not be disclosed unless one of the exceptions applies. These include that disclosure is:

- already publically available; or
- authorised by the student in respect of whom the personal information is held; or
- necessary for the conduct or contemplated proceedings before any court; or
- necessary to prevent or lessen a serious or immediate threat to the life or health of the individual concerned or another individual.

The Privacy Act 1993 also sets out reasons for which a request for information may be refused. For example, section 29(1) (d) provides for refusal where:

"In the case of an individual under the age of 16, the disclosure of that information would be contrary to that individual's interests"

Sometimes the various statutory provisions can appear to be in conflict but with care, tact and diplomacy a route through the various provisions can usually be found.

OBTAINING INFORMATION FROM A SCHOOL

Parental Consent

Lawyers for children do not need parental consent to access information about a child for whom they act. However, as a matter of practice the lawyer for the child should usually endeavour to obtain the consent of each parent and/or guardian of the child to the seeking and obtaining of information from the child's school. It is also desirable that each parent and/or guardian be encouraged to notify the school that their consent has been sought and obtained. The parents and/or guardians should be advised that their consent is not legally required to the lawyers seeking and obtaining information from the school.

Child's Consent

Article 12 of the United Nations Convention on the Rights of the Child requires that all children be given the right to express their views freely in matters which affect them but that the weight to be given to their views will depend on the child's age and maturity. There are two separate issues. The first is whether the consent of the child should be obtained before a request is made to the school for information. The second is whether the child's consent should be obtained in respect of information provided by the school being placed before the

Court. The child may be happy for most of the information to be disclosed to the Court but may not want other information disclosed.

Children will usually agree to their lawyer having access to school information but may want certain information withheld because it is incorrect or disputed or because it may cause friction if it comes to the notice of one or both parents. If the child alleges that the information provided by the school is incorrect or the details are disputed consideration should be given to either not passing the information on to the Court or ensuring the child's comments on the information are also placed before the Court. If the information has little relevance to the child's welfare and best interests counsel should consider complying with the child's wish that it not be passed on to the Court and the child's parents.

Parental Rights to Information

Principals have a statutory responsibility to advise parents of their child's progress at school and any difficulties they are experiencing. Parents have a legal entitlement to receive copies of school reports in respect of their child. However, a parent's right to this information is not absolute.

Subject to the school's other statutory obligations it may be preferable for the school to channel all information through the lawyer for the child. This will ensure that the child's rights are protected to the best possible extent and will reduce the possibility of the school, and in particular teachers and counsellors, being put in the position of having to take sides.

Consent from the parents or guardians for the disclosure of information by a school to the child's lawyer is not legally required but lawyers will often seek the parents/guardians consent anyway as a matter of courtesy.

It is desirable that each parent and/or guardian be encouraged to notify the school that their consent has been sought and obtained if this is so. Where consent is not forthcoming the lawyer may nevertheless pursue a request for disclosure of information from the school.

Contact with the School

It is recommended, in all circumstances, that initial contact by lawyer for the child with a school should be by letter, fax or email and if possible should enclose a copy of a letter of appointment from the Family Court. Such contact should also provide information to enable the school to corroborate with the Court the fact of the appointment.

Where circumstances preclude initial contact by letter, fax or email, contact may be made directly by telephone. In all cases correspondence should be directed to the Principal and marked "Strictly Private and Confidential". This practice should be followed even in cases where the school and the lawyer have had previous involvement with one another (in relation to the child in question or any other child).

At the first point of contact counsel should be reticent in discussing any matter relating to the child with anyone other than the Principal or Deputy Principal. Counsel should at all times be prepared to provide confirmation of their identity, their appointment and details of the information they are seeking.

Unannounced visits to a school are discouraged and are rarely appropriate.

It is inappropriate for counsel to require the school to keep the fact that contact has been made confidential.

Counsel may need to explain the nature of the particular proceedings. Counsel may need to explain legal concepts as guardianship, day-to-day care and contact, and to distinguish between private disputes being decided under the Care of Children Act 2004 and public disputes falling under the provisions of the Children, Young Persons and their Families Act 1989.

Counsel should also be prepared to discuss with schools the appropriate approach to the reporting of suspected child abuse and neglect pursuant to section 15 of the Children, Young Persons and their Families Act 1989. In particular it should be noted that schools will not be protected by the statutory immunity contained in section 16 of the Children, Young Persons and their Families Act 1989 by reporting suspicions to counsel.

Counsel should also make clear to the school that no *legal privilege* will attach to any information supplied by the school that information supplied may become known to all those involved in the proceedings; that there is no *property in a witness*; and that it is possible that members of the school staff may be required to give evidence in the event of a Court hearing ensuing. It is important not to offer 'confidentiality' where, in fact, that cannot be guaranteed.

In circumstances where counsel seeks to interview individual teachers and/or guidance counsellors the opportunity for those persons to be accompanied by the Principal, a member of the Board of Trustees or the school's own lawyer should be afforded. Furthermore it is preferable that notes be taken during the interview and that the staff member being interviewed be asked to confirm that the notes accurately record the information given.

A school counsellor may feel constrained by the ethic of counsellor/client confidentiality and this view should be respected. Care should be taken not to unwittingly compromise any professional relationship that may exist between a child and a school counsellor. The lawyer should be prepared to discuss with a school counsellor the existence of, and limits upon, client confidentiality.

It is important to remain clear about the school's role where a child at the school is subject to legal dispute. The school's primary role is to provide education for the child or children. It is part and parcel of that role to provide a safe physical and emotional environment for the child. Whatever the eventual outcome it is likely that the school will have an ongoing relationship with both the child and the child's parents/guardians/caregivers. For those reasons the school should be encouraged to frame such information as it is willing to provide in non-judgmental and neutral terms.

Whilst teachers do spend a considerable amount of time with children it is important to recognise that they are trained, primarily, as educators and should not, therefore, be encouraged to proffer views and opinions outside the range of their demonstrable expertise. Whilst teachers can be a valuable source of information counsel need to be careful not to invest in teaching staff (and their opinions) too much weight or significance. Whilst counsel and schools will probably agree that their mutual goal is *the welfare of the child* this may be viewed through slightly different perspectives.

Children faced with the turbulence of domestic upheaval may regard school as a place of relative security and stability. Counsel should be sensitive to this possibility and take care to ensure that no steps are taken which may compromise that situation.

In general terms it is desirable for schools to provide information to the Court about children through the lawyer appointed to represent the children. In the event that evidence is to be given by way of affidavit or orally many schools prefer to do so under the formal compulsion of a witness summons even where informal discussion has already taken place. Once such a summons has been issued and served it is appropriate that the

lawyer for the child then prepares the affidavit and/or the brief of evidence. Notwithstanding the liberal provisions relating to evidence in the Family Court it remains preferable that such evidence be derived from its primary source (i.e. the class teacher rather than the Principal) and that it be limited to matters of fact or opinion where the deponent is suitably qualified as an expert to tender such an opinion. In some cases the Court (and the parties) may be prepared to accept a written statement being admitted into evidence by consent. However care needs to be taken to inform schools that any evidence proffered may be the subject of cross-examination.

In the event that evidence has been filed it is important that counsel for the child take responsibility for adequately briefing and preparing the witness. It is both discourteous and inappropriate to assume that such witnesses will be comfortable attending Court without such a briefing. Steps should also be taken, so far as is practicable, to ensure that evidence is given at a time that is convenient to the school.

Before inviting a school to proffer evidence in any proceeding counsel should give careful and anxious consideration to whether or not such evidence is necessary and/or relevant.

MEETING CHILDREN AT SCHOOL

General

Counsel appointed to act for the child may speak to his or her client at any place including a school. The consent of the parents to such a meeting is not necessary. In the case of pre-school or primary school children, as a matter of courtesy the parents should be advised. If the parents refuse to agree to the child being interviewed the lawyer for child should consider seeking directions from a Judge.

The purpose of that meeting may be to provide the child with information about the Court process; it may also be to obtain information relevant to the assessment of the child's views.

Counsel should be especially sensitive to the potential embarrassment which a child may experience as a result of any meeting which takes place at school.

If such a meeting does take place at school the lawyer appointed to represent the child may want a teacher or someone else with whom the child is comfortable present at least for the initial part of that meeting. The school too may have a requirement that a member of the school staff be present.

Any meetings with the school (whether involving the child or not) should be planned to minimise disruption for the child and the school.

Lawyers for children should exercise caution before deciding to interview children at school. The school's consent is required before any such interview is conducted.

If counsel is to interview the child at school it is desirable to obtain the prior consent of the parents and to notify the school of these consents. If consents are not forthcoming counsel may need to seek a direction from the Court. Counsel must also comply with any protocols or requirements of the school. If a formal Order or letter appointing counsel is available this should be shown to the school principal.

Follow Up

As a courtesy counsel who have involved the school in interviews and the like should take responsibility for advising the school, so far as is practicable and desirable, of the outcome of any proceeding. This would include advice of any special conditions which might affect the right of one or other parent to information about their children, or to visit the school.

Counsel should advise the school that in the event of any disagreement or the need for any clarification contact with counsel in the first instance would be appropriate.

Urgent Intervention

In the event of a warrant being issued to enforce custody and/or access orders or under the Children, Young Persons and their Families Act 1989 there may be (rare) occasions when the execution of that warrant needs to take place at school. In such circumstances lawyer for the child should liaise with Police and Child, Youth and Family to ensure a minimum of disruption to the school and to the child when the warrant is executed.

Updated by the FLS Executive Committee – April 2015.

Principle 11 – Privacy Act 1993

Limits on disclosure of personal information

An agency that holds personal information shall not disclose the information to a person or body or agency unless the agency believes, on reasonable grounds,—

- (a) That the disclosure of the information is one of the purposes in connection with which the information was obtained or is directly related to the purposes in connection with which the information was obtained; or
- (b) That the source of the information is a publicly available publication; or
- (c) That the disclosure is to the individual concerned; or
- (d) That the disclosure is authorised by the individual concerned; or
- (e) That non-compliance is necessary—

To avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or

For the enforcement of a law imposing a pecuniary penalty; or

For the protection of the public revenue; or

For the conduct of proceedings before any court or [tribunal] (being proceedings that have been commenced or are reasonably in contemplation); or

- (f) That the disclosure of the information is necessary to prevent or lessen a serious and imminent threat to—
 - (i) Public health or public safety; or
 - (ii) The life or health of the individual concerned or another individual; or
- (g) That the disclosure of the information is necessary to facilitate the sale or other disposition of a business as a going concern; or
- (h) That the information—
 - (i) Is to be used in a form in which the individual concerned is not identified; or
 - (ii) Is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or
- (i) That the disclosure of the information is in accordance with an authority granted under section 54 of this Act.