

The Children's Hearings (Scotland) Act 2011 and being a Relevant Person

Under the new law the following people are automatically considered to be a Relevant Person:

- Any parent (whether or not they have parental rights or responsibilities)
- Any other person who has parental rights and responsibilities (obtained through the courts).

This means that other people, for example foster carers and kinship carers, are not automatically considered to be Relevant Persons, even if they were Relevant Persons at previous Hearings under the old law.

However, they can be deemed to be a Relevant Person. This is a decision that must be made by a Pre Hearing Panel or a Children's Hearing. The Reporter has no power to make someone a Relevant Person. The test for being deemed a Relevant Person is that the individual has, or recently has had, significant involvement in the upbringing of the child. Information to enable the Panel Members to make this decision can be provided in writing (via the Reporter). There is no requirement to attend the Pre Hearing Panel in person.

Some children and young people on Supervision may have been with relatives or foster carers for a number of years in a stable placement. This process should not be seen as a threat to that arrangement or to the placement. In the vast majority of these cases, the granting of Relevant Person status is likely to be a formality.

There is a right of appeal against the decision to deem someone a Relevant Person. The child, any relevant person and the individual concerned can appeal against the decision to make or not to make the individual a Relevant Person. In such an appeal, the Sheriff would consider if the person met the test or not. A person cannot appeal simply because they do not like the individual or wish them to be involved in the child/young person's life.

There does not need to be a Pre Hearing Panel for every subsequent Hearing. Once the Panel Members have decided that an individual is a Relevant Person, they retain that status for future Hearings, though it can be reviewed if the person no longer has, or recently has had, significant involvement in the upbringing of the child.

Some family members or foster carers may only be looking after a child or young person for a short period or on a temporary basis. They may not want to be considered to be a Relevant Person or they may not meet the test of significant involvement. They may still be able to attend the Hearing as a representative of the child/young person or a Relevant Person. The Panel Members also have discretion to allow them to attend.