

### Introduction

The Sheriff Court has some responsibility for some decisions within the Children's Hearings System.

As a result, speaking to a solicitor or getting independent legal advice from somewhere like the Citizens Advice Bureau may be something that you would want to do in advance of any Children's Hearing.

### When the Court becomes involved

- If a child or relevant people do not accept what is written in the Statement of Grounds, then a Sheriff would need to decide what facts are true or not, and whether the legal tests for the Statement of Grounds are met. This is called a Proof Application or Proof Hearing. It will take place in a court where the child who is the subject of the case lives; or if the Proof is about an offence said to have been committed by the child, in the court in the area where the offence was committed.
- If a child or relevant people do not agree with the decision of a Children's Hearing, then the decision can be appealed to the Sheriff Court. A Sheriff will decide whether there was any procedural irregularity in the conduct of the Children's Hearing, and/or whether the decision of the Children's Hearing was justified or not. This is called an Appeal.

### Timescales for Children's Hearings Court Proceedings

Both a Proof Application and an Appeal have very definite timescales specified in the legislation.

#### Proof Application - Lodging and 1<sup>st</sup> Calling dates

Day of Grounds Hearing	Last day for Lodging <sup>i</sup>	Lodge	1 <sup>st</sup> Calling <sup>ii</sup>
Monday	Sunday	Wednesday	28 days from day AFTER lodging
Tuesday	Monday	Wednesday	28 days from day AFTER lodging
Wednesday	Tuesday	Friday	28 days from day AFTER lodging
Thursday	Wednesday	Monday	28 days from day AFTER lodging
Friday	Thursday	Monday	28 days from day AFTER lodging

Following the first calling of the case a Proof Application can proceed in a number of ways. For example, the case may settle at first calling; or there may be a number of callings of the case which deal with procedure, and a number of days when evidence is led from witnesses. This process can take quite a long time and can become quite complex.

### Appeal time limits

There are a number of different kinds of appeal under the Children’s Hearings (Scotland) Act 2011, and this can be quite complicated. It may be that a child or relevant person would want to appeal more than one decision and that different timescales apply to those different appeals.

**The appeal time limits are statutory, not discretionary. If an appeal is not lodged in time there is no provision for it to be heard.**

<b>Appeal time limits under the Children’s Hearings (Scotland) Act 2011</b>		
<b>TYPE OF DECISION APPEALED</b>	<b>DEADLINE FOR LODGING APPEAL AT COURT</b>	<b>DEADLINE FOR DISPOSAL OF APPEAL AT COURT</b>
Make, vary or continue a CSO (except secure authorisation/MRC)	21 days beginning with the day the Hearing’s decision was made	None but a Hearing must be fixed no later than 28 days after the lodging of the appeal
Discharge referral of the Principal Reporter	21 days beginning with the day the Hearing’s decision was made	None but a Hearing must be fixed no later than 28 days after the lodging of the appeal
Terminate the CSO	21 days beginning with the day the Hearing’s decision was made	None but a Hearing must be fixed no later than 28 days after the lodging of the appeal
Make a CSO including a secure authorisation	21 days beginning with the day the Hearing’s decision was made	3 days beginning the day after the appeal is made.
Make a CSO including an MRC	21 days beginning with the day the Hearing’s decision was made	3 days beginning the day after the appeal is made.
Make an ICSO	21 days beginning with the day the Hearing’s decision was made	3 days beginning the day after the appeal is made.
Make an interim variation of a CSO	21 days beginning with the day the Hearing’s decision was made	3 days beginning the day after the appeal is made.



<b>Appeal time limits under the Children's Hearings (Scotland) Act 2011 (Cont.)</b>		
<b>TYPE OF DECISION APPEALED</b>	<b>TYPE OF DECISION APPEALED</b>	<b>TYPE OF DECISION APPEALED</b>
Make an MEO	21 days beginning with the day the Hearing's decision was made	3 days beginning the day after the appeal is made.
Grant warrant to secure attendance	21 days beginning with the day the Hearing's decision was made	3 days beginning the day after the appeal is made.
Determination of relevant person status	7 days beginning with the day the determination was made	3 days beginning the day the appeal is made.
Decision affecting a contact order / permanence order	21 days beginning with the day the decision is made	3 days beginning the day the appeal is made.
Implementation of secure authorisation / failure to implement	21 days beginning with the day the decision is made	3 days beginning the day the appeal is made.

<b>Appeal by stated case to the Sheriff Principal or Court of Session</b>	28 days beginning with the day on which the determination/decision appealed against was made
---	--

---

<sup>i</sup> The application must be lodged within seven days of the Grounds Hearing at which the direction to the Reporter was made, the day of the Hearing counting as the first day. Child care and Maintenance Rules 1997 r.3.45(1). If a safeguarder was appointed by the Children's Hearing the reporter must intimate this to the sheriff clerk and lodge along with the application any report made by the safeguarder; r. 3.45(2). If lodged late the application falls *McGregor v L 1983, SLT (ShCT) 7*.

<sup>ii</sup> It must be heard by the Sheriff no later than 28 days after the day on which it was lodged – 2011 Act s101(2). If not, the referral falls

---

