

## Children's Hearings (Scotland) Act 2011

### **Focused on children and young people most at risk, SCRA's fundamental purpose is to:**

- Make effective decisions about a need to refer a child/young person to a Children's Hearing
- Prepare for and participate in court proceedings where Statement of Grounds or Hearings findings are appealed, and ensure the wellbeing of children and young people – particularly vulnerable witnesses – are protected throughout the court process
- Support Panel Members (though we are not involved in making Hearing decisions) and ensure fair process in Hearings
- Enable children, young people and families to participate in Hearings
- Disseminate information and data to influence and inform the wider Children's Services community
- Provide premises for Hearings to take place
- Work collaboratively with partners to support and facilitate the Getting It Right For Every Child (GIRFEC) agenda

## Background

In January 2008, the Scottish Government announced plans to strengthen the Children's Hearings System, which was followed by a nationwide consultation process throughout 2008 and into 2009. The Scottish Government then published the Children's Hearings (Scotland) Bill in 2010. After receiving Royal Assent on 6th January 2011, the new Children's Hearings (Scotland) Act 2011 came into force on Monday 24th June 2013.

The most notable change of the new Act was the creation of Children's Hearings Scotland (CHS). Led by the National Convener, CHS has responsibility for recruitment, appointment, monitoring and training of Panel Members, as well as the setting of consistent national standards of practice.

## Significant changes in Practice

With a change in legislation comes a change in many practices and terminology for Children's Reporters, children, young people and families. Some of the more significant differences include:

## New Grounds for Referral

There are now 17 grounds on which a child or young person can be referred to the Reporter and these more appropriately reflect the kinds of concerns which might exist about a child or young person.

Several of the previous grounds – from the Children (Scotland) Act 1995 – remain the same. However, new additional grounds include; (f) the child has or is likely to have a close connection with a person who has carried out domestic abuse and, (q) the child has been, is being or is likely to be forced into a marriage.

## New Orders

Supervision Requirements are now called Compulsory Supervision Orders, while Place of Safety Warrants are replaced by a more flexible Interim Compulsory Supervision Order to be used in cases of urgent necessity. The timescales adhered to in the new orders are the same as previous timescales under the Children (Scotland) Act 1995.

## Pre-Hearing Panel

This is sometimes arranged when the Reporter decides to arrange a Children's Hearing for a child or young person. Children and young people, as well as their parents/carers can attend Pre-Hearing Panels if they wish but do not have to. Even if they don't attend they are entitled to have their views about the issue(s) being considered heard.

The Pre-Hearing Panel takes place before the Hearing and is where three Panel Members meet to consider certain issues in advance of the Hearing. This means they might talk about:

- whether to excuse a child, young person or relevant person from attending the Children's Hearing.
- whether to deem (make) someone a Relevant Person.
- whether it is likely the Children's Hearing will consider making a Compulsory Supervision Order with secure accommodation authorisation.

## Legal Aid

The scope and availability of legal aid within the Children's Hearings System has been extended and is now administered via the Scottish Legal Aid Board. A registration scheme and code of practice have been established to ensure that solicitors appearing at Children's Hearings proceedings are delivering the desired level of service to children, young people and families.

## 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).

Other people 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.



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August 2018